RPTS THOMAS

DCMN NORMAN

COMMITTEE ON OVERSIGHT AND

GOVERNMENT REFORM,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

TELEPHONE INTERVIEW OF: DR. TRACY RAY

Monday, September 24, 2007

Washington, D.C.

The telephone interview in the above matter was held at Room B-373, Rayburn House office Building, commencing at

10:03 p.m.

Appearances:

For: COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

BRIAN COHEN, SR., INVESTIGATOR/POLICY ADVISOR.

SAM BUFFONE, STAFF ASSISTANT

STEPHEN CHA, PROFESSIONAL STAFF MEMBER

SARA DESPRES, PROFESSIONAL STAFF MEMBER

JENNIFER SAFAVIAN, MINORITY CHIEF COUNSEL

BENJAMIN CHANCE, MINORITY CLERK

For: DR. TRACY RAY:

GERALD ALAN TEMPLETON, ESQ.

Ms. Despres. What I am going to do is turn this over to Brian Cohen who will start.

Mr. Cohen. This is an interview of Dr. Tracy Ray conducted by the House Committee on Oversight and Government Reform. This interview is part of the committee's investigation into the use of performance-enhancing drugs in professional wrestling.

Will you please state your full name for the record?

A Tracy Reese Ray.

Q Thank you.

Mr. Cohen. My name is Brian Cohen. I am a member of the majority staff.

Dr. Ray, are you represented -- I understand you are represented by counsel. Can your counsel state his full name for the record as well?

Mr. Templeton. Gerald Alan Templeton.

Mr. Cohen. Thanks.

Mr. Chance. Benjamin Chance with Republican staff.

Ms. Safavian. Jennifer Safavian with Republican staff.

Mr. Buffone. Sam Buffone with the majority staff.

Ms. Despres. Sarah Despres with majority staff.

Mr. Cohen. Before beginning the questions, I am going to go over the standard instructions regarding the interview.

We have a court reporter here who will be taking everything down you say. She cannot see -- and neither can we -- nods or gestures, so please give verbal audible answers to all questions.

I am going to ask you questions on a particular subject matter. When I finish with my questions, I will ask my colleagues if they have additional questions on this matter. We will make every effort not to take up any more time to collect the information that we need for our investigation.

This is not a deposition so you will not be placed under oath. However, you are required by law to answer questions from Congress truthfully.

Is there any reason you are unable to provide truthful answers in today's interview?

Dr. Ray. No.

Mr. Cohen. Thank you.

Because this is an interview by phone and we are not in the same room, I am just going to ask if you or your attorney are recording or transcribing this interview in anyway?

Dr. Ray. Are we prohibited from recording it?

Ms. Despres. The committee policy is we are the only ones permitted to record the interview.

Dr. Ray. I wanted to record it for my own use.

Ms. Despres. This is not permitted under the

committee's policy.

Dr. Ray. Okay.

Ms. Despres. So are you going to be recording?

Dr. Ray. No, we won't.

Mr. Cohen. Do you have any other questions before we begin?

Mr. Templeton. We are going to have to go a lot slower so I can take lots of notes, then.

Mr. Cohen. Fair enough. We will slow down if you need me to. Depending on how long things take, if we need to take a break or if you need a break, you can let me know, and we will take a break.

EXAMINATION

BY MR. COHEN:

Q Dr. Ray, from what medical school did you earn your degree?

A Medical College of Georgia.

Q And in what year?

A 1993.

Q Okay. And where did you serve your residency?

A Tuscaloosa, Alabama.

Q And what is your medical specialty?

A Sports medicine. My specialty is family practice. That is what I did my residency in, but my fellowship and what I practice is in sports medicine.

Q Okay. Great.

Are you currently a practicing medical doctor?

A Yes.

Q And where do you base your practice?

A Birmingham, Alabama.

Q Could you please provide us a brief description of your current practice?

A The majority of my practice is nonoperative orthopedics and sports medicine.

Q Can you give us a little bit more background on the kind of patients you typically see and the areas of -- and your practice?

A Matter of fractures that don't require surgery, sprains, strains. I do see surgical patients and prepare them for surgery. I do not perform surgery. But I also do some of the medical aspects of the sports such as concussions, exercise-induced asthma, and some other medically related kind of issues that athletes come across.

Q Do you have a background in endocrinology?

A I do not, other than my background in family medicine.

Q And do you have any specific expertise in endocrinology?

A No.

Q As part of your practice, do you ever prescribe

anabolic steroids?

A No.

Q Do you ever prescribe any other hormone treatments?

A Well, I use non-anabolic corticoid steroid injections.

Q Okay.

A But nothing anabolic.

Q Okay. Do you ever prescribe pain medications?

A Yes.

Q Okay. Are you a member of any specialty medical societies?

A Yes. The American College of Sports Medicine, I am a fellow; the American Medical Society for Sports Medicine; and I am also on the board of directors for the southeastern regional chapter of the American College of Sports Medicine.

Q Okay, thanks.

Has your medical license ever been suspended or revoked?

A No.

Q Do you have hospital privileges?

A Yes.

Q And where are they?

A St. Vincent's Hospital, Birmingham, Alabama.

Q And have you ever had your hospital privileges suspended or revoked?

A No.

Q Have you ever settled or lost a malpractice lawsuit?

A No.

Q Okay. Thanks very much. That is all I have on your background.

Is there anyone else with additional questions?

Okay. We will move on to our next set of questions, which will be on your relationship with the WWE and Dr. Black.

Can you please describe your role and responsibility with regard to the WWE testing policy?

A I am the medical review officer. The only time I become involved in any of the wellness programs is if information is sent from AEGIS and Dr. Black to me regarding the use of anabolic steroids. If talent has tested positive for anabolic steroids and they are -- that is prescribed by a practicing physician, it is my task to get as much information regarding that prescription and the legitimacy of the use of that prescription through faxes, lab work, clinic notes and, finally, a person-to-person telephone conversation with the treating physician.

Q Okay.

A And then subsequently, I give an opinion regarding the legitimacy of that prescription.

Q Okay. And that is a written opinion; is that

correct?

A Correct.

Q And that goes to Dr. Black -- or does that go to WWE?

A That goes to Dr. Black.

Q We will go into more detail in this as we move along. We want to move through this set of questions first.

Were you first contacted by WWE or by Dr. Black about becoming involved with the policy?

A I was first approached by one of my colleagues, Dr. James Andrews. Dr. Andrews has done a lot of orthopedic surgery on the talent, and he received a phone call from Linda McMahon, and I spoke with Linda by phone soon after Dr. Andrews had mentioned it to me.

So I was contacted by the WWE initially.

Q Okay. Prior to that contact, this specific contract regarding this drug policy, had you ever had contact with WWE or its wrestlers before?

A No.

Q Did you know Dr. Black before being contacted about the policy?

A I did not.

Q Do you know why you were chosen as a reviewer by Linda McMahon?

A You would have to ask her. She has not -- they have

not told me why they picked me.

Q Okay. Did you have any background in drug testing policies besides your involvement with the WWE policy?

A As a committee -- a subcommittee chair with the Competitive Safeguards and Medical Aspects of Sports Medicine, committee with the NCAA. As a physician on that committee, we review drug cases that include anabolic steroids, amphetamines and anything else that is on the ban list for the NCAA.

Q How many reviews have you been involved in through your -- with your role through the NCAA?

A It would be a guess, because I don't have that in front of me, but I would assume maybe, I guess, a dozen.

Q And when did that relationship begin?

A I would have to count backwards. I have been on the committee for a little over 2 years.

Q Okay. So since late summer of 2005?

A That sounds correct, yeah.

Q Okay. Did you have any role in the detailed development of the WWE policy?

A None at all.

Q Is there a formal written policy that governs your specific review process that is more detailed than the wellness policy?

A I am not sure I understand your question.

Q We have got a copy of the WWE wellness policy itself which essentially lists your role, gives it about one line.

Is there anything that gives any more specific detail on the processes and procedures that you go through?

A No.

In my contract, you know, it states what my services are, and my responsibilities. Do you have my contract?

Q We do not.

A Okay.

Mr. Templeton. It does have confidentiality provisions as to the agreement. We believe that is not a problem based upon the WWE is making him available for this conference call. But it does have confidentiality provisions in it, although I think he can generally talk about what they want him to do in that agreement.

Mr. Cohen. If you can get it to us, you probably have to talk to WWE about confidentiality issues, but we would like you to get us a copy.

Mr. Templeton. We will ask them.

Mr. Cohen. Okay. And assuming you get a "yes," you will provide us with a copy?

Mr. Templeton. I said we will ask them if they can.

Mr. Cohen. And if they say "yes," you will provide us a copy?

Mr. Templeton. Yes.

BY MR. COHEN:

Q Your contract, Dr. Black, is that a contract with WWE or with AEGIS?

A This is Dr. Ray.

Q Dr. Ray, I apologize.

A It is with WWE. It is not with AEGIS.

Q Can you give us a brief -- so you have no contractual relationship with AEGIS labs?

A No.

Q And how much are you paid by WWE for your services?

Mr. Templeton. It is a monthly amount. I don't know if we can discuss that. If they have not produced it in what they have produced to you all, which I had presumed that they had, I need clarification from them. I will have to contact someone there, I guess.

Mr. Cohen. Okay. Let us put that on the list of things you will check with them.

BY MR. COHEN:

Q You are kept on retainer? You are not paid per review?

A Correct.

Q Okay. That is all from me under this particular topic.

Anybody else?

Ms. Despres. I have a couple of other follow-up

questions.

Actually, no. I am going to hold off because these questions go more to the process and less to your relationship with WWE.

So I take it back. I am going to hold off.

EXAMINATION

BY MR. BUFFONE:

Q What started first, your involvement in the wellness policy or your NCAA review process?

A NCAA.

Q Our next set of questions will be on some of the specifics of the medical necessity review process.

Can you tell us how many medical necessity reviews you were asked to conduct in 2006?

A 2006? I just looked today. To date it has been 12. I would have to go back and look at the dates on these 12 to see which ones were in 2006 and 2007.

Q Why don't you get back to us with those specifics.

And were those for different wrestlers or were there cases where a single wrestler had multiple reviews?

A No. They were all different wrestlers, and they were dealing with all positive tests in each particular tests.

Q So -- I am sorry. The same tests -- the same drug in each of the 12 cases?

A Correct.

Q What was that drug?

A Well, sometimes -- it depends on which case you are talking about. I mean, each case may have been a positive for Nandrolone, may have been a positive for testosterone.

Q I thought you were saying before that it was the same drug across all 12 cases. But each -- can you --

A Okay. Let me say this again.

I have 12 different wrestlers and each wrestler had one or possibly two positive anabolic steroids as positive tests on their particular test. In none of the cases was I dealing with a wrestler who was positive one month and then positive again the next month. It was the same positive test, but it may have been two different positives within the same sample.

Q Okay.

A Now, there are also a couple of cases where we would give an opinion and then we would get additional information, and so I believe that generated two different letters on two or three different wrestlers.

But my opinion never changed. It was the same opinion, regardless of the information.

Q The letters that you sent, those are sent to Dr. Black or those are sent to the WWE, or both?

A Those are sent to Dr. Black. You should have those

letters in front of you.

Q We do not.

A Okay.

Q They did not provide them to us. So we will get some clarity on that through or other channels.

Can you give us a summary of your reviews? Of the 12 reviews you conducted, how many were approved -- how many medical-use exemptions did you approve and how many did you disapprove?

A Out of 12 different cases, 6 received an exemption. All 6 of those were exemptions with the idea that we would go forward but with kind of keeping an eye on it. We wouldn't just give an exemption and it was a done deal. They would continue in the program, and we would continue to monitor their use of that anabolic steroid.

Q With the presumption that the athlete would be expected to stop using it at a later date; or what was the presumption of the continued monitoring?

A Well, I mean at any point the talent could change their dose. The only exemption that we are going to give and that we have given so far is when a lab result has been shown to be low, that the athlete, the talent, is needing exogenous testosterone; and if they need it, it has to be dosed in such a way that the lab value is in the normal range.

We don't want these folks taking the testosterone and then their values being supertherapeutic. Kind of defeats the purpose.

So the monitoring program allows us to make sure that they are being supplemented properly to keep their testosterone from being down to low levels, but certainly we don't want them to supplement to a point where they are above normal levels.

Q Okay. So the six cases that you have approved, all six of those cases were for testosterone?

A Correct. We have not given an exemption for anything other than testosterone.

Q And can you list the drugs that you did not give -- the causes that were involved in cases where you turned over --

A Nandrolone.

Q In all cases?

A In all cases.

Q So you have approved six for testosterone and turned down six for Nandrolone?

A There were some of the six that were using both Nandrolone and testosterone. We did not give an exemption for the Nandrolone. Just the testosterone.

Q How many cases were there in that scenario?

A Out of the six, three and three. How about that?

Three received an exemption for the testosterone but they were told they were no longer to use Nandrolone; and within the policy, that means if they test again and they have Nandrolone again, they will be suspended.

Actually, I don't know this, but they may have been suspended just for the Nandrolone use the first time. Matter of fact, they should have been.

Q So am I understanding you, there were three cases where you had just exogenous testosterone?

A Correct.

Q Where you gave an exemption?

A Correct.

Q Three that involved exogenous testosterone and Nandrolone and you gave an exemption for testosterone?

A And that is out of about 600 tests a year.

Q And that would leave six that were just Nandrolone that you turned down?

A No. I mean, we turned down a few of these who were using testosterone as well. They just didn't have a good enough reason for using the testosterone.

Q Why don't you walk through the 12 reviews that you conducted? Just give us, you know, a one-sentence summary, "This was for exogenous testosterone." And, for example, This request was for exogenous testosterone; we approved or we declined. Just walk us through.

A Brian, I am going to give you dates so we don't -- so we know which case we are talking about but we don't know names.

Q That is fine.

A I have got a letter here April 30th, 2007. And the athlete tested positive for Nandrolone and an elevated TE ratio.

And we denied him -- he was -- I am sorry. My notes are wrong. He was on testosterone and Nandrolone. Wait a second. Hold on.

He was on -- he was prescribed testosterone and Nandrolone. So his urine test was positive for both of those, and we denied him on both drugs.

Q Okay.

A February 16th, 2007. Patient tested positive for Nandrolone, and we said no to Nandrolone.

Q Okay.

A And then November 20th, 2006, he had been prescribed -- we had records showing that he was prescribed human growth hormone, testosterone and stanazolol. And the medical reason for using those three medications was not felt to be generally medically acceptable.

Q So that was denied?

A Denied.

Q All right.

A March 5th, 2007 -- I apologize. These are not in any kind of particular order.

Q That is fine.

A He had an elevated -- this athlete had an elevated TE ratio and had been prescribed testosterone. And the reason for him being prescribed testosterone was not generally medically acceptable, and it was denied.

We subsequently got a little bit more information, and I wrote another letter on March 14th, and we gave an exemption.

Q Can you describe for us what led to the change in your conclusion?

A Yeah. I am looking at this. He had a lab value that showed an extremely low testosterone level, and that is a blood test. The drug screen is urine. But the blood test that we get from the practicing physician is serum, is blood. And he did show -- and had -- this is not an uncommon scenario where we -- we don't have adequate information but we have got to make a decision, and then when we make a decision, the wrestler comes back with more information.

So in this case this was an outside lab. It is a general lab doing the blood testing, recognizable lab, that showed an extremely low testosterone level.

Q And when you initially denied the exemption, was

there no blood or urine results?

A There was, but according to what I have written here, the information was faxed and it had been highlighted. And that darkened it to the point where it was basically black on the fax, and so they just sent me a better copy that was -- that I could read and it was there.

Q So it was not a different test? It was just -- or a legible copy that you were sent?

A Yeah, essentially.

Q Okay.

A All right. So I had that in the wrong pile.

Q I am going to let my colleague Steve Cha --

EXAMINATION

BY MR. CHA:

Q I had a couple of questions on that case. My name is Steve Cha. I am a primary care internist, so I know just enough to be a little bit dangerous. So maybe you could help me understand this a little bit better.

If they are taking exogenous testosterone, wouldn't there be some feedback loop that would in fact perhaps give you -- I guess this depends on the test that you are taking. I don't know the answer to this.

Could that give you a falsely low reading of testosterone if you suppress the production?

A Well, it is not falsely low. It is low. If your

testosterone level is 50 and the normal range for that lab is -- low end is 240, I mean, it is what it is. It is low.

Now, your assumption is absolutely correct. And could that indicate the long-term exogenous use of a testosterone or an anabolic steroid? Absolutely. But it still doesn't change the fact that the testosterone is low and there are significant symptomatology that goes along with a low testosterone level.

Q So what I am hearing is it is very possible -- I guess it is a follow-up question in general, which is that a low testosterone is a lab level. Number one, again from my recollection, you know, I remember these things very -- quite drastically by -- even by the day, even by the hour. I mean, how many lab tests did you do -- what exactly kind of lab tests did you do to confirm that, number one?

And then, number two, I mean, there is an underlying cause to all of this. And, I guess, how far did you go down that pathway?

A That is a very difficult path to go down with this particular group of people.

Q I am sorry. I am not understanding that answer.

A Well, I mean what I did is try to obtain as much past medical history, clinical notes, laboratory values, and then sat down with all of that and determined whether this was reasonable, generally accepted medicine or not. And if

it was not, then I denied it.

In this particular case, once I had information that looked reasonable, then I gave the opinion that I would -- I would recommend an exemption with continued follow-up.

Q And you had no -- again, what I am trying to get at is what was your underlying diagnosis for these low testosterones? As you know, it doesn't happen on its own. There is a cause for this.

Was it just simply your assumption that all these people were taking exogenous? Was there -- were you assuming trauma? Were there pituitary workups in terms of hormones? I mean, how far down that path did you go or did you not go? I am just trying to understand.

A I left that up to the treating physician.

Q I understand that. But I mean, how far did the treating physicians go, and what was acceptable in terms of your level of being comfortable with the medical exemption?

A If I gave an exemption, I was comfortable with it.

Q I understand that.

I guess what I am trying to get is the details that made you comfortable with that. And again, let me ask you just straight up, what was your underlying diagnosis in these six cases -- or what was your underlying assumption of diagnosis in these six cases?

A I don't think there was one single diagnosis in any

of this.

Q Let us just take this March 2007 one. What was your underlying -- given that you flipped on that, what was your underlying diagnosis assumption there?

A I am kind of struggling with the fact that -- I mean, it is not my job to make a diagnosis. It is not my job to make the diagnosis. The information coming from the physician was he -- he thought that the testosterone level was low because of second -- it was secondary to testicular atrophy from previous steroid use. That was his diagnosis.

Q That was my question. So testicular atrophy due to the previous steroid use?

A I thought that was a reasonable assumption. But, again, it is not my job to make a diagnosis. I am not making a diagnosis.

Q Right. But I mean, if you are going to grant a medical necessity designation, you are saying that that testosterone is medically necessary by definition.

A Whether the diagnosis is an orchectomy, whether it is hypogonadism -- I mean, to me that is neither here nor there, what the diagnosis is.

Q I guess I would beg to differ, and I would be interested to hear what other physicians would think. But it seems to me that if you are going to grant a medical necessity, you want to do more than treat the lab value.

You want to understand why they were taking that, especially in the case of a testosterone test --

A If I were the treating physician, I would absolutely agree with you. I am not the treating physician.

Q But you are determining medical necessity, correct?

A Correct. I am determining whether they should be given an exemption or not. I am determining whether I think this is a generally medically accepted use of this anabolic steroid. I am sticking to the policy.

Ms. Despres. I want to jump in with one other question as a follow-up to that.

In order to understand whether there is a legitimate use for the drug, don't you need to understand whether the underlying diagnosis is accurate?

Dr. Ray. If the treating physician has shown what I would feel is good medical judgment that fits within generally accepted medicine, that was good enough for me.

BY MR. CHA:

Q Can I just ask, in all of these cases was there a pituitary workup done? FSH, LH, those sorts of tests?

A In all of these cases, not all of that information was made available to me.

BY MR. COHEN:

Q Okay. Why don't we keep walking through these cases?

A March 5th, 2007, unfortunately that is going to be the same date as the other one.

Q Why don't we call that case B of 2007.

A That will be fine.

Tested positive for Nandrolone, and we denied it.

April 2007, April 16th, positive for Nandrolone, with an elevated TE ratio as well. Had been prescribed Nandrolone and testosterone and both were denied. Pardon me. Did not test positive for TE ratios. Had been prescribed testosterone but the urine test was negative. And that is not uncommon, because if they are not using it at the time, the urine drug screen will be negative.

So he was prescribed testosterone, but was not positive for testosterone. But my opinion was to deny both because the reasoning was flawed.

May 10th, 2007, elevated TE ratio. And information was also made available to me of a test that was done in August of 2006 that showed that this talent had -- I am sorry. March of 2006, which is when they did the first test where there was no penalty, he had been positive for testosterone and Nandrolone and opiates in the past before any penalties were placed. And that was a test in March of 2006.

So I had that background information. But the urine that was collected in March of 2007 was positive for a TE ratio and opiates, and I recommended no -- let me look at

something. I don't have this in my letter. But I think he was positive for Nandrolone in the urine that was collected in March of 2007 as well.

No, he was not. Interesting. Okay.

Just to go back, I apologize. Urine collected in March of 2007 had an elevated TE ratio but a negative Nandrolone, although he had been positive for that in the past, and we had a prescription for both testosterone and Nandrolone; and we denied the Nandrolone but gave an exemption for the testosterone.

Q What about the opiates?

A That is not anything that I deal with.

Mr. Cohen. Okay.

BY MR. CHA:

Q And, again, the underlying diagnosis, there was atrophy again?

A No. Testicular hypofunction.

Q Secondary to?

A I didn't put that in my letter, so I don't know.

EXAMINATION

BY MS. DESPRES:

Q Do you know what can cause testicular hypofunction?

A Yes.

Q Can you explain -- I am a lay person with no medical background.

A You can have your testicles removed if you had a testicular cancer. They certainly couldn't work in that case. You can get hypofunction of your testicles because of previous use of anabolic steroids. You can possibly have a tumor higher up in kind of the hormonal axis, which would be in the brain. All of the hormones that are made by the testicles is triggered by higher up in the brain with the hypothalamus and the pituitary gland. So you could have something that is misfunctioning higher up the axis.

Q Was there any evidence of that in this particular case?

A No.

Q Was there any history of cancer in this case?

A Not that I am aware of.

Ms. Despres. Okay.

BY MR. COHEN:

Q Would it be fair to say in your case your assumption was that it was previous steroid use?

A I don't think it does me any good to assume anything.

BY MS. DESPRES:

Q Was there any other cause, besides previous steroid use, that could have resulted in this particular case?

A I have no idea.

BY MR. COHEN:

Q All right. Next case.

A Okay. April 30th, 2007. Tested positive for Nandrolone and a TE ratio that was elevated. His physician provided a lab work that showed low testosterone level and reported symptoms that were consistent with that, and we gave an exemption.

Q What would those symptoms be?

A In this particular case, fatigue and inability to regain strength in an injured operated-on elbow. Those were the symptoms.

Q In general, in cases like this, has -- again, I am a lay person so you will have to pardon me a little bit. I would imagine that there are other possible explanations for fatigue?

A Oh, yes.

Q And inability to gain strength in an injured elbow?

A Sure.

Q Do you explore those other possibilities with the wrestler or with the prescribing doctor?

A I have not to this point.

The Nandrolone was denied.

Q Okay.

A August 15th, 2007. Positive for Nandrolone. And then other things, amphetamines and opiates, which I don't deal with.

He had a prescription for testosterone replacement and Nandrolone. This physician started growth hormone replacement and Adderall. So he had all of these prescriptions.

Diagnosis was postconcussive syndrome, growth hormone deficiency, testosterone deficiency, all thought to be secondary to panhypopituitarism from previous closed-head injury.

BY MR. DESPRES:

Q Can you describe what that means? Does that mean because of a head trauma, he wasn't producing hormones?

A That was her diagnosis.

Q Okay.

BY MR. CHA:

Q And again, the FSH and LH were to support that?

A Excuse me?

Q The FSH and LH levels were such to support such a diagnosis?

I am just saying that is a pretty big diagnosis. That is all I am saying.

A You are right.

Q I guess -- forget that question.

Was she also on other hormone replacements -- sorry. He. I usually think about this in the context of post-pregnancy syndrome. You know, the cortisol, growth

hormone, the whole nine yards. I mean, there should be a panhypopit diagnosis since there is a pan hormone deficiency, correct?

A Correct.

Q So was this patient or this person on multiple hormone replacements?

A As far as I know, the only thing that -- the information we received is he on was on testosterone replacement, Nandrolone, growth hormone and Adderall.

Q No cortisol?

A No. Not that I am aware of.

Q And from a medical perspective, again, that would probably the most important one if you are panhypopit, right?

A The lab results that she sent me simply showed a low testosterone level. Growth hormone was -- the growth hormone was low as well.

Q I guess the question is, if they are not on cortisol, and you are diagnosed with panhypopit, at what point do you as a physician give a call to the doctor and say, yo, heads up, you know, they are not on cortisol; they could die from a cold; maybe you want to think about that?

A Are you ready to move on?

Mr. Cohen. No. I think Steve is waiting on the answer.

Dr. Ray. What is the question?

BY MR. CHA:

Q The question is if your diagnosis is panhypopit, and the patient is not on cortisol, at what point do you make any sort of communication back to the original referring physician for a life-threatening omission of a very important medicine, if the diagnosis is panhypopit?

A I guess I don't see the relevance of that question.

Ms. Despres. Relevance to what? We are trying to understand the length to which you make a determination that an underlying diagnosis that is the basis for a medical exemption is legitimate.

Mr. Templeton. Yes, but he is not the treating physician.

Ms. Despres. I understand that, but the question is what -- a treating physician could actually just diagnose someone with anything, and then a medical exemption could be granted on the basis of a faulty diagnosis.

And so the question is how far do you, as the doctor who is determining whether or not someone should be granted a medical exemption, looks at the underlying diagnosis to understand whether the underlying diagnosis is correct and legitimate?

Mr. Templeton. I understand that. I don't even know, what did you all do in this case? Did we even get what he

did in this case?

Mr. Cohen. No.

Mr. Templeton. I didn't think we did.

Mr. Cohen. So we do need to know what he did in this case, and then we can get back to Steve's question.

Dr. Ray. I said no to Nandrolone. I gave him an exemption with the testosterone.

Mr. Cohen. Okay.

Ms. Despres. And then the question is still --

Mr. Cohen. So that still begs Steve's question.

Ms. Despres. So what follow-up did you do with that treating physician?

Dr. Ray. I have not followed up with this physician.

Ms. Despres. Okay.

By Mr. Cohen. Thank you.

BY MR. COHEN:

Q All right. Next case?

A I am just really trying to decide if I want to go forward with this any longer. I guess I am trying to figure out if you guys want information, or if you are bringing my medical judgment, my license, and everything else into question. I guess I want to know the point.

Ms. Despres. The point is to understand --

Dr. Ray. You understand what I am saying.

Ms. Despres. We are trying to understand how the WWE's

wellness policy is being administered.

Dr. Ray. Then stick to those questions.

Ms. Despres. I know, except that your determination of an exemption for use of testosterone, for example, we need to understand what that process is.

And so understanding the contacts you have with the wrestlers, the contacts you have with the treating physicians who make the diagnoses that are the basis for your exemptions, is an important part of our understanding of how this policy is being administered.

Mr. Templeton. This is Gerry.

Without having his service agreement in front of you in the limited role that he -- like he said, when we first started, he is processing information forwarded to him on a positive test for anabolic steroids which has a prescription behind it. He gets what information he can from that physician. He is not the treating physician -- in none of these cases.

Ms. Despres. We understand that. But in order to understand whether or not what the treating physician did is actually correct, in order to decide whether or not the wrestler should actually be legitimately taking testosterone, we need to -- the relationship between, for example, Dr. Ray and the treating physician is important, and his review of the treating physician --

Mr. Templeton. The number of -- these guys are tested four times a year, I think. There are 600 tests. There are very few positives. He has granted very few exemptions. I mean, it is not like, you know, it is some blanket approval process at all. That is where -- it sounds like the question --

Mr. Cohen. That is what we are trying to decide, Gerry.

Mr. Templeton. Let me finish, please

It sounds like the tone of the question has changed. The other questioner -- we don't even know who it is. They are not identifying themselves. But the tone of the question changed. It is a marked tone,, the tonal change.

And, you know, I do agree with the doctor that, you know, what are you asking? He is trying to provide the information on the cases that are presented to him on which he has granted either an exemption or denied. Most of these cases I am writing "denied" beside most of them.

So I understand where he is coming from as well. He is trying to present the information to you.

Ms. Despres. Right. Six cases were denied, and six cases were granted. And what we are trying to understand is in the cases that were granted, how far he looked at the underlying diagnosis in order to determine whether or not an exemption was actually warranted. So understanding what the

diagnosis, the underlying diagnosis was and how correct that diagnosis was, is very important.

Mr. Templeton. I will give you that.

Mr. Cohen. We understand he is not the treating doctor for these wrestlers, but it is important to understand --

Mr. Templeton. It sounds like it. I mean, the questioning from the other questioner is like he is, you know, being interrogated for, you know, what he is supposed to know outside the context of this call.

RPTS MERCHANT

DCMN BURRELL

[11:00 a.m.]

BY MS. DESPRES:

Q Let's move on and keep going through the cases.

A May 15, 2007. Elevated T/E ratio. Has been given a prescription for testosterone. Demonstrated a low testosterone level on labs. Total free testosterone was low as well. And because of that and my conversation with the physician I felt it was reasonable to give an exemption.

BY MR. COHEN:

Q Was there an underlying diagnoses in that case?

A Moderate testosterone deficiency.

Q And was there an underlying cause given by the doctor?

A None given.

Q Okay. Next case.

A April 2, 2007 he was positive for an elevated T/E ratio. He has been prescribed Oxandrolone. That was not found in his drug screen.

Q I'm sorry, what was that that he was prescribed?

A O-X-A-N-D-R-O-L-O-N-E, Oxandrolone.

Q Okay.

A It did not show up on his screen. He had also been prescribed testosterone. And due to a low total and a low

free testosterone we gave an exemption -- let me back up. I keep saying we. I recommended. I don't know what was determined. My opinion was that an exemption would be given.

Q And, again, was there an underlying cause given for the low testosterone levels or low free testosterone?

A No.

Q Okay.

A And I think I have one more.

March 13, 2007. Elevated T/E ratio. Diagnosis was adult growth hormone deficiency and hypogonadism. Prescribed IM testosterone and growth hormones. Testosterone levels were low. Total testosterone was low. And a free testosterone level was low.

BY MS. DESPRES:

Q This is Sarah. This was injectable testosterone?

A Yes. They don't use any other kind.

Q So all of it was IM testosterone? I mean the previous cases as well?

A There has not been anything that has come across my desk that these guys were using oral testosterone. They would be foolish to do that.

Q Okay. Thank you.

BY MR. COHEN:

Q And in this case did you provide an exemption?

A I did.

Q Okay.

A I recommended it. But as I've said in all the other letters that I wrote that hopefully you guys will get, is that any exemption that was given it was recommended that we do follow-up.

Q All right. So that's all the cases?

A All that I'm aware of.

Q And there are no cases pending?

A I do have one case on my desk right now. I have not spoken to the physician yet.

Q Can you tell us what that was a positive for?

A I don't have it with me.

Q Okay. Fair enough.

I apologize. This next set, a few of these might be a little bit redundant. We're going to go from the general. I hadn't expected to go from the specific to the general. But the way things worked out that seems like the way we're going.

Can you walk us through your basic procedures, the basic procedures that you follow in conducting a medical exemption review once the positive test comes to you?

A Well, I review the information, and almost without exception the information is incomplete.

Q And that information consists of usually?

A Consists of what?

Q What information -- what does that information usually consist of?

A I get a report of the urine drug screen from Dr. Black. There is documentation of release of information from the patient so that I am given permission to speak to the treating physician. At times there is a letter written by the treating physician. At other times there is lab work, copies of the actual prescription that was written for the medication. They can come in a lot of different forms, simply due to the fact that different physicians are using different documentation and records in their offices. Some physicians do a better job of keeping up with that than others. A lot of these physicians I don't think understand what we need or are trying to protect their client or whatever. I don't know. But often-times it's sketchy. So I go through, I make notes as to what I feel I need to get as far as further information goes. Oftentimes I'll go ahead and make a phone call at that point and try to set up a time to speak to the physician while they've got the -- in other words, make an appointment so that they've got a chance to get their stuff together. And at that point I will usually request that they send the information that I feel like I need to AEGIS. And then it's forwarded on to me so that I've got it when I talk to the physician. On a

couple of occasions I have had to follow up again with a physician by phone. I take the information that is provided to me, and within the context of what I feel is just generally accepted I'll give an opinion. And generally medically accepted.

Q Okay. Can you tell us what in your specific medical background allows you to make these determinations?

A Well, I've given you my credentials. I guess I would leave that up to you whether you think there are credentials enough to do what I've been asked to do.

Q Okay. Do you meet with the wrestlers themselves to speak with the wrestlers themselves?

A Never.

Q Do you consult with any outside doctors, any additional outside doctors aside from the prescribing doctor?

A Yes.

Q Can you give a description of those consultations and what areas of expertise the doctors are from with which you consult?

A Yes. They are endocrinologists here in Birmingham that I deal with just kind of in an every day kind of practice. They're people that I refer patients to if an endocrine kind of problem comes up in the patients that I see. They're the physicians that I refer patients to. And

they're available to me. And I've spoken on multiple occasions with one of two or three different endocrinologists.

Q Do you conduct reviews of the peer review medical literature?

A All of the medical literature?

Q Well, the medical literature that's relevant to the cases that you're reviewing?

A Yes.

Q How do you determine, to the extent you receive a prescription and you speak to a doctor, how do you determine that the doctor and the prescription written by that doctor are legitimate?

A Usually it's pretty easy to tell. A lot of these cases the physician has put them on it for a, kind of a ubiquitous kind of a complaint, such as fatigue or impotence or something along those lines. And none of those people receive exemptions. A common complaint is for just general pain, soreness, that almost everybody in this business seems to have. And those have been denied. I do give the treating physician, I do try to give the treating physician the benefit of the doubt. These are licensed physicians. They are seeing these folks in their practice. And I do try to give them the benefit of the doubt as far as I don't try to play Monday morning quarterback and try to figure out,

wow, I wouldn't have done it that way and how could he possibly have done it, bla-da bla-da bla. I give them the benefit of the doubt. And if they can document a reason for supplementing, then I trust that they're doing the right thing by their patient just like I do.

Q When you speak to these doctors, do you ask them for their credentials?

A Oh, absolutely.

Q To the extent that a doctor is prescribing testosterone or hormone treatment for a wrestler, do you require that that physician be an endocrinologist?

A We can't do that. Now, if you're asking me my personal opinion, I can give you my personal opinion. But that's not what we're talking about.

Q I would be interested in your personal opinion.

A Well, that really should not make a difference with this case with what we're talking about.

BY MS. DESPRES:

Q Actually, Dr. Ray, this is Sarah, it would be helpful to get your personal opinion as someone who has experience with both this testing policy and the NCAA testing policy in order to understand how the WWE testing policy stacks up. So if you could give us your opinion that would be very helpful.

Mr. Templeton. This is Geri. Personal opinion exactly

on what?

BY MS. DESPRES:

Q On whether the prescribing physician should be an endocrinologist?

A My personal opinion is that absolutely it should be an endocrinologist.

Q And can you tell us why WWE can't require that? You said that you can't require that.

A That is -- I mean, it's just like -- I mean these guys are independent contractors. My understanding is they're independent contractors. They're not employees. There's been a lot of discussion regarding follow-up and requirements such as what we've been talking about. And within those conversations it's been made pretty clear to me that that's a difficult, at best, difficult and quite possibly not possible to tell a contractor who he can and cannot see with regards to his medical care.

Q And have you expressed to WWE your position that if a wrestler is going to be prescribed hormones like testosterone that that should be from an endocrinologist?

A As we have discussed follow-up, that has been set out there as a goal. I can tell you that. I think ideally that's what we would eventually like to see. First of all, when you asked me about my history at the NCAA and the WWE you've got to realize that's apples and oranges as far as

I'm concerned. There is no advantage to performance enhancement with this group of wrestlers. They're not getting an unethical advantage over their adversary. I mean, that's ridiculous, that's silly. They're actors. So the drug testing program with the NCAA or any other sports organization is total different than what we're talking about here. It's just totally different. There's no, you know, ergogenic effect, performance enhancing effect that these guys are trying to get by using anabolic steroids.

Q So why would they be using anabolic steroids?

A Why would they be using it?

Q Right.

A They would be using it in very general terms, as someone who has never gone down that path, they do it to look better, to recover more quickly, to not be as tired and fatigued as they get with the profession that they've chosen. I would imagine that there would be a million and one reasons why they would use testosterone.

Q And those reasons may not give them a competitive advantage?

A It doesn't give them a competitive advantage. There's no competition taking place.

Q Right. I understand. But it is performance enhancing, I mean, if you're not as fatigued?

A It is anabolic. You would be hard-pressed to prove

to me that testosterone is truly -- I think it's a misnomer. Testosterone has not really been shown to be performance enhancing. It is anabolic. It can make you bigger, it can make you stronger. But does that help you hit more home runs? Does that help you block the defensive end? You can't measure that. So I think performance enhancing is a poor term. It is an anabolic steroid. In sports I think it should be banned. In general medicine I think it has a lot of really good uses. Do I think that all of these guys that are using are using it for a legitimate reason? No. But has this program gone a long, long way to try to protect the people that are involved? Absolutely. We've run these guys off from using the Internet. They at least, at least have to have a prescription now. If they don't have a prescription, it never even gets to my desk. It is our goal that just as we have run them away from getting it illegitimately, we can move them away from illegitimate physicians. But I can't make the assumption that just because a physician has prescribed testosterone to these guys that they are illegitimate, that they are not doing what is best for their patient. And so I try to give the treating physician the benefit of the doubt. We have given, I don't know, you guys can count it, but it's six, seven exemptions here out of an awful lot of athletes. Now, my understanding is there's about 150 of these individuals that

are involved. And they get tested for at least four times a year. But there is a lot of turnover, so there is a lot of -- there's probably a lot more people involved than just 150, and yet we've only given this many exemptions. And we are leaning, I am leaning on and trusting that these physicians have their patient's best interest at heart. There have been a couple of clinics where these guys have frequented, and we have not given an exception to any of these rejuvenation or longevity clinics and those kind of things. We have nixed every one of those. And so I think the program is working for what it was designed to do. And that is to take care and help -- help these guys take care of themselves by encouraging good medicine and discouraging, you know, quackery.

It's not perfect. There's still shadiness in almost every case that I've reviewed. But we're trying to do, I'm trying to do what I think is best for these individuals. And to a certain degree I have to trust that these physicians that I'm talking to are doing the same.

BY MR. COHEN:

Q Can I follow up on a couple things? Just to jump back real quick, the first question on the discussion of -- it sounds like, am I correct, that the WWE has basically told you that you cannot ask the appropriate questions or do the appropriate follow-up to determine if the prescribing

physicians in these cases are endocrinologists?

A I think there would be a big variety of opinion regarding what would be the proper follow-up. I mean, the physician that's in the room with you would probably disagree with me with regards to what the proper follow-up is. So, no, I have not been told point-blank you can't do that. My impression is that, just like when you start talking about Major League Baseball, the right thing to do was to do drug testing. But you have to deal with the players union and everything else. There are multiple hoops that would have to be jumped through, and it would be a very difficult thing to pull off, to even do what Dr. Black, myself and even Dr. Auchus, who has been consulted -- to do what we would like to do in increments would take a lot of doing and a lot of people would have to be involved in it and it would be difficult. I don't remember them telling me you cannot do that.

Q Dr. Auchus is a new name for us. He wasn't in any of the materials that WWE provided to us. Can you tell us who he is?

A I have looked at Dr. Auchus' CV. That was in that big folder. He is an endocrinologist who is affiliated and consulted by USADA. He is in Texas. He has a very reputable name in the area of endocrinology, toxicology, sports drug testing.

BY MS. DESPRES:

Q Can you spell his name for us?

A Yeah. As soon as I can see it, I can spell it. A-U-C-H-U-S. He's at the University of Texas Southwestern Medical Center in Dallas. He and Dr. Black have talked, and I've gotten information secondhand. Essentially he just didn't feel like he could -- he was asked to become involved and we had some discussions. And it just became obvious that he didn't have the time. So I don't believe that he is going to be involved in this program.

BY MR. CHA:

Q Dr. Ray, this is Steve Cha, the unidentified questioner from before. To some degree I'm sympathetic where you're coming from in terms of these are some pretty complicated decisions. Do you think an endocrinologist should be involved with every one of these decisions or not?

A Yeah. I mean, what I told you is that I think as this wellness program has evolved, and you got to realize that it just really started with this extensive drug testing 18 months ago. I believe the cardiology portion of the wellness program predates the drug testing. But the wellness program is still, in my mind, in evolution. I think it's progressing.

Q And so they tried to bring on Dr. Auchus, is that what I'm hearing you say now?

A There was some discussion regarding, yeah, bringing him on as an outside consultant.

Q Of these six cases, how many of those involve an endocrinologist either as an outside consultant or curbside consultant?

A Of these 12?

Q Of the six that were approved.

A All six? Yeah.

BY MS. DESPRES:

Q In all six cases was it you consulted the endocrinologist you worked with or the wrestlers -- let me rephrase. In how many of the cases were the wrestlers seeing endocrinologists of the six?

A None of the documentation that I have on any of the 12 were they seen by an endocrinologist.

Q So the only consulting that occurred with an endocrinologist that you're aware of was your consultations with the doctors in Birmingham that you regularly consult with about endocrine issues?

A Correct.

BY MR. CHA:

Q And were those official consults or were those just more friendly phone calls?

A They had to be just phone calls because I couldn't share the information. That would not be -- I don't think

that would be -- I don't think it's allowed, and it certainly would not be smiled upon to share that full information. I simply did phone conversations.

Q Were you told that directly that you shouldn't?

A No. I assumed that from the information that I have.

BY MS. DESPRES:

Q Isn't it standard for doctors to consult other doctors when dealing with specific cases?

A I would say on the cases that I declined, there was no need to consult at all. To say that it's standard, I would say no. I would say that most of what I do in my daily practice I do not consult. If it's something that I'm uncomfortable with, if I have an athlete with an ACL, I don't do surgery, so certainly I would consult on that. But to say standard, I would disagree with that term. I would say if it's beyond what I'm comfortable with, that I'm qualified to do, then yeah, I consult.

Q I guess I'm trying to understand if you have an athlete with an endocrine issue, is it standard for you to consult an endocrinologist?

A Yes.

Q And I'm trying to understand what limitations WWE has placed on you?

A They have not put any limitations on me. I have carried that out. I have done exactly what I would normally

do. I just didn't provide the written information with these individuals' names on it. I just spoke to a physician on the phone. And I do that often.

Q Okay.

A If I have a hand fracture and I call the hand doctor on the other end of the phone, you know, I just tell him about the case and he says, well, this is what I would recommend.

Q If you needed an official consult with someone, an endocrinologist or some other expert, would you be able -- is it your understanding that you would be able to have that official consult and if there was some kind of charge incurred in carrying out your duties, as per your contract with WWE or with AEGIS, would you be able to do that kind of official conduct?

A I don't see any problem with doing that at all.

Q Okay. My understanding was that you said before that you couldn't do that. Maybe I misheard you.

A No. I think what I'm saying would be very difficult and would take a lot of people's involvement in doing is to require that these individuals are, you know, followed and seen and that kind of thing before we would give an exemption. We're not there at this point.

Mr. Templeton. Sarah, this is Geri. I think he's talking about these phone conversations he would not

identify that the person was a wrestler or their name is what he's talking about, he would not feel free to disclose any of that.

BY MS. DESPRES:

Q Right. I understand that. I guess I'm just trying to understand?

A No, I think the difference is the question, as I understood it before, is before I give an exemption they would have to have been seen and that kind of thing with an endocrinologist as a requirement for an exemption. And, again, speaking personally, I would like to see us move that way. However, if one of these cases they come up and I felt like it would expedite things and I knew of an endocrinologist that could see them and that was a reasonable thing to do, then I don't think that AEGIS, WWE or anybody, other than maybe the wrestler himself, would have any heartburn about actually setting that up.

Q Okay.

A I don't think -- no, I don't think that would be prohibitive. I think that that could be done. Again, just logistically this is a nightmare too, because these guys are all over the country. And trying to find an endocrinologist in every city that these guys are in to make it work logistically I just don't know that many endocrinologists. So, you know, there's a lot of, there's a lot of battles to

be fought to make that happen. I don't think it's just an easy thing to do.

Q Okay. Thanks.

BY MR. COHEN:

Q Why don't we do a few more questions, then we'll take a short break.

When a positive test is sent to you, do you require, and you're given prescriptions for the drug in question, do you require that those prescriptions be dated before the positive test result or do you accept prescriptions that are written after the fact?

A No. It's got to be stuff that shows that they were prescribed it prior to the urine drug screen.

Q And, again, this is probably obvious for Steve, he having walked through, but to the extent you are given diagnoses for the use of testosterone and allowed medical use exemptions, do you allow medical use exemptions for non-FDA approved uses?

A No.

Q So every exemption you have given for testosterone is for an FDA approved use?

A Correct.

BY MS. DESPRES:

Q This is Sarah. Just to make sure I understand, would you ever give an exemption for an off-label use?

A No, not in this case.

Q Not in which?

A Not in the situation of testosterone in this setting.

Q Okay.

BY MR. COHEN:

Q Again, when presented with a diagnosis and making a determination of a medical use exemption, do you determine if there are any alternatives, either alternative drugs or alternative treatments, to testosterone -- let me ask this question again. When making decisions on medical use exemptions, do you determine if there are any alternative treatments, either alternative drugs or other alternative treatments to the drug that the wrestler is using and for which he has tested positive?

A Always.

Q And if there are, do you require that the -- do you then turn down the medical use exemption?

A Correct.

Q To the extent -- again, I apologize. I'm a layman and I apologize if this is not -- I hope you can walk through with me. For athletes that, or performers that are taking steroids and have, as a result of that have low testosterone levels, if they were to stop taking exogenous testosterone, would their natural testosterone production

rebound?

A Wow, you've asked a good question. Eventually, yes, it can. It's kind of on a case by case. This is like testicular atrophy. Sometimes that will rebound as well. You can get testicular atrophy and then they return to normal size. I'm trying to pick out who is going to be able to rebound and who isn't. I don't know of anybody that can predict that. Intuitively I think it would depend on how long and how much had been used. But you still can't predict it. Those that you think would not rebound, sometimes do. And those that you would think absolutely would, sometimes don't. And everybody that does rebound seems to rebound at a different rate. If you're used to being 35 years old with a testosterone level in that normal therapeutic range, or even in the high end of the range, and you drop down to below normal, you're going to be pretty miserable until you do rebound. So there is some fairly significant symptomatology that takes place for as long as you are low, and they can be quite disabling, quite frankly.

BY MS. DESPRES:

Q Does prescribing therapeutic doses stave off the natural rebound or will the natural rebound occur if you're only taking therapeutic doses to bring you up to some kind of normal level?

A I don't know the answer to that, Sarah.

Q And I guess the question I'm going to is in terms of a nondrug alternative treatment to low testosterone, could it be that just letting your body rest and recover itself is a potential treatment?

A I can share with you anecdotally that some of these individuals in this program have done that, but they have not rested, they have continued to try and work. I think ideally, you know, these guys would stop and that they -- I think the better way to go about waiting for that rebound would be to supplement at very low levels so that the individual is not feeling the symptomatology quite so heavily while their bodies recovered. But they haven't always done that --

Q Okay. Thank you.

A -- anecdotally.

BY MR. COHEN:

Q Are you familiar with the previous WWE policy that was in effect in 1996?

A I have no -- no, not at all. I don't know anything from before 18 months ago.

Q Okay. What that policy required was that prescriptions be declared in advance of the drug test. Am I correct you only receive -- to the extent that you receive a list of prescriptions for the wrestlers, you only receive that after the fact of a positive test?

A Correct.

Q Okay. The '96 policy required that prescriptions be declared in advance of the drug test. This is the same way that USADA and WADA testing programs worked?

A Correct.

Q In terms of discouraging inappropriate drug use, do you have a view as to which approach is more effective and less prone to abuse?

A Yeah, I have an opinion.

Q Would you care to share it with us?

A I think you can probably figure out what the opinion was based on my work with the NCAA first. But, you know, again -- and I don't know all the inner workings of the relationships, employment and contracts and everything else with these individuals in the WWE -- but we had discussed setting up a program that would require getting a therapeutic exemption prior to testing, is what you're basically getting at with NCAA --

Q Exactly.

A -- USADA and everything else. But, again, you're dealing with a different animal from the standpoint of contractual agreement, you're dealing with a different animal regarding number of individuals. I mean, talking about 150 and you've only got a few that you kind of have to handle. So I think there are some barriers within the

program as it exists to doing it that way. And I can see the -- it would make my life a lot easier, to be honest with you, but I can see the reasoning for continuing the way the program is set up. Just to let you guys know, I was told just this past week, within the past week, there are only two individuals who are still involved with the WWE out of these 12 cases. There's only two people. Let me change that. Of the exemptions there are only two people. So WWE and AEGIS have indicated to me that when you're talking about just a very few people, they feel like it's better to handle it case by case because you're talking about just two or three people that you're actually having to follow and that kind of thing. And I think there's some wisdom in that as well, instead of making blanket statements. If you just got a few people to deal with, then you really can deal with it on a case-by-case basis.

BY MS. DESPRES:

Q This is Sarah. I just want to make sure the record is clear. With regards to a policy like the NCAA or USADA which requires a therapeutic use exemption before a test, as compared to the WWE policy, in your judgment as someone who has been involved in both kinds of programs, which program is better suited to discourage inappropriate drug use, regardless of the barriers to administering or developing such a program? For the purpose of discouraging

inappropriate drug use, which program is more effective?

A I'm just thinking, Sarah. I hear what you're saying and I understand the question. And I'm thinking if I'm in a group of 150 people and I can be suspended without pay for a lot of money, I think that would be a very large deterrent. And I would prefer my case to be handled on a case-by-case program because I think that's more likely to be fair. Does it deter -- is the other way of doing it like the NCAA and the other sporting folks, does that deter it more? I don't know. I would think so, but there's no way to measure that. That's just opinion, that's just my opinion. I think that the way that you saw a lot of NCAA, the way they do it probably does deter the use. But I would also have to say that this program over the last 18 months, there's just no way you can't look at it and say it's not working. It is. So intuitively I think, yeah, a TUE that comes in before the testing I think would work and would deter the use better, but I can't measure that. There's no study to show that. And I can tell you firsthand that the way that this program has been set up it's working. And most of these guys that were given exemptions are no longer even, you know, with the WWE anymore. So even though an exemption was given the WWE was not, evidently was not real crazy about continuing to try to have to deal with it.

BY MR. COHEN:

Q So it sounds like, and just to back up a little bit, you mentioned you've had discussions about requiring that prescriptions be produced in advance. But WWE has decided not to use that approach?

A Those conversations have basically taken place between me and David Black.

Q Okay.

A If David has talked with the folks at WWE, I'm not aware of those conversations.

Q Okay. That sounds good. I'm actually going to ask the next question and then we're going to take a five-minute break. I'll ask the question and you don't have to give an answer. You may want to go back to your files for this one, so that's probably why I'm going to ask the question and then we'll take a break. And after the break we're just about wrapped up. We shouldn't be too much longer.

A Well, if it's not going to be too much further, I would prefer to just keep going.

Q All right. Let's go then. Sports Illustrated and other press reports have listed approximately 11 wrestlers. Their names were Chavo Guerrero, John Hennigan, Ken Anderson, Shoichi Funaki, Brian Adams, Charles Haas, Edward Hatu, Edward Copeland, Sylvain Grenier and Chris Benoit. Press reports have listed all those athletes as being clients of Signature Pharmacy and have indicated that those

wrestlers were suspended for their, with the exception of Benoit, those wrestlers had been suspended from WWE for 30 days because of their involvement with Signature Pharmacy, but that those wrestlers did not test positive or receive -- that the testing process did not result in those wrestlers being suspended for the 30 days, meaning either they did not test positive or they tested positive and received therapeutic use exemptions.

Without going into specifics on the names, have you approved or disapproved TUEs for any of these 11 wrestlers that I've just named?

Mr. Templeton. This is Geri. He can't answer that question without identifying names.

Mr. Cohen. We're not asking him to identify names?

Mr. Templeton. I understand. He can't answer that question.

Mr. Cohen. Why not?

Mr. Templeton. Because he can't. You're giving names. We're not here to identify anything other than what we've done. I just think it crosses the line.

Mr. Cohen. Fair enough.

Mr. Templeton. There's no way to unring that bell if he answers one way or the other. And we're not here to identify them because there's a lot of rules and regulations out there he's not going to violate.

BY MR. COHEN:

Q Fair enough.

You had mentioned that it's not uncommon for wrestlers who provide you with their prescriptions to have multiple prescriptions and in some cases for more than one steroid and have a steroid for which they have a prescription that does not test positive, that does not show up in their test. That could of course mean one of two things. It could mean they have the prescription but are not taking the drug. It could mean that they're taking the drug and for one reason or another they don't test positive.

Do you think the fact that, as you noted, it's not uncommon for wrestlers to have a prescription that does not show up on a drug test, do you think that points to the fact that there may be more use than, more drug use going on than the positive test alone would indicate?

A The obvious answer to that is I have no idea.

Q To the extent that the press reports were accurate regarding the 11 wrestlers that I just listed --

A I don't think any press report is ever accurate, but go ahead.

Q Fair enough. To the extent that press reports indicate that there were athletes or clients of Signature Pharmacy and other Internet pharmacies that had received drugs from these providers and did not test positive through

the WWE drug testing program, do you think this would indicate that the WWE drug testing program is not catching all wrestlers who are using drugs?

A Let me just say this. You guys are going to be talking with David Black tomorrow, and I think your question is going to be answered when you talk to David. AEGIS has been doing this for a while. They're very good at it. David Black is very good at what he does. You know, if the insinuation is that the WWE went out and contracted with a slipshod kind of irreputable group, you're going to find real quick that that's just not true. AEGIS uses, from what I understand, uses very, very up-to-date testing and does a very good drug testing program. I mean, all I can say is that if the drug test was negative, then at that point you have to assume that that athlete did not have that substance in their body, for whatever reason.

Q Have you ever had any contact with Dr. Fred Feurbach, who runs the cardio portion of the wellness policy?

A No.

Q All right. A couple wrap-up questions here. You had earlier described the goals of the NCAA policy and the goals of the WWE policy as being vastly different. What would you describe, in your view, what are the goals of the WWE policy?

A Quite frankly, I think that for whatever reason I believe that the WWE had concerns and has concern for the individuals that are involved in their production. And without trying to put blame or anything else on some of the deaths that have occurred with individuals that had previously been involved with the WWE, I think there was just concern about their long-term health and wellness. Some of those deaths were due to cardiac reasons. Some of those deaths possibly were due to the drug use, both narcotic amphetamine and antibiotic steroids. And I think they've addressed both of those. Now, again, I can't tell you exactly why. Are they truly concerned and it's humanitarian and altruistic or is it because they feel like it tarnishes their image and it's bad marketing? I can't answer that. But as I look at the bad outcomes, if you will, I think they've addressed two of the major issues with the wellness program. I think that's their goal. I think their goal is to keep these guys healthy while they're performing and then try to be a big brother and lead them the right way as far as their medical care and what they do to their bodies, both for now and for when they get done with their careers. Again, I think it's naive to think that that would be totally just because they care. They've got an image and I think they want to clean up their image. There's got to be at least some concern there for these

people as individuals. I think that's their goal.

Q Okay. You've approved six medical use exemptions for wrestlers in the last 2 years?

A Well, I believe last year. I think the first case that I got was about this time last year.

RPTS THOMAS

DCMN NORMAN

[12:00 p.m.]

My contract actually is dated September 30th. So I would have probably gotten my first case in October.

The program was going on. They just didn't have a M.D. as a medical review officer until September 30th.

Q During that time period, there were approximately about 180 wrestlers who were tested?

A Okay. That is news to me.

Q This seems to point to an occurrence of low testosterone of approximately 7 percent among this group of otherwise -- of young athletes.

Again, I am a lay person. Can you tell me in the general population what the occurrence of low testosterone is?

A I don't know what that value would be. I do not. I will tell you that I would -- I would have to assume that 7 percent is a pretty high percentage for the general population.

Q Does it surprise you that these -- that it is such a high rate?

A No.

Q Do you have any views on what might account for such a marked difference?

A I think it is interesting that you asked me if I am surprised, because I think most everybody would be surprised because I think that the general public feels that 100 percent of the wrestlers would use testosterone. I would have to defer again to David Black with regards to what the percentages were when testing was done when there was no penalty.

It certainly was not everybody tested positive, but it was a much higher percentage than, you know, way higher than what you would expect in a general population and higher than what you would expect in most groups of, quote, athletes. Again, I don't necessarily put this group of people with, you know, true athletes. They are more actors than athletes.

But, no, I think some people were surprised at how few tested positive the first time when there was no penalty.

So am I surprised that the number that have low testosterone in this population, I am not surprised that it is as high as 7 percent. I am a little surprised it is not higher than that, because I would have to say that -- you know, I would have to say that probably most of these guys that have low testosterone levels is because they have knocked out their own endogenous way of making it from previous use.

So if you have got a group of people that a lot of them

previously used, then it is not at all surprising that it is 7 percent that have low levels.

Q Now, you don't make the ultimate decisions on whether the athlete, entertainer, is penalized under the policy; you just make a recommendation?

A I give an opinion.

Q On whether they do or do not receive a medical use exemption?

A Correct.

Q To your knowledge, have there been any cases where you have recommended against a wrestler receiving an exemption and that wrestler has not been penalized?

A No. I don't know of any cases like that.

Q And you are told the ultimate outcome of the cases?

A No, I am not.

Q So you don't know the outcome of the cases at all?

A I do not.

Q Let me ask a question in a slightly different way.

I know the WWE policy allows wrestlers who test positive to be fined 30 days' salary but still allows them to perform while under penalty.

Have you recommended against a wrestler receiving a medical-use exemption and observed them performing within that 30-day window?

A First of all, I was not aware of that policy, so

therefore I don't know.

Q Okay. Would you describe yourself -- on a personal level, would you describe yourself as a wrestling fan?

A No. Not at all.

Q Do you ever watch wrestling matches? Do you ever attend?

A I have been to one in Baltimore last fall. Mr. McMahon thought it was important that I just come up and be introduced to the guys during the day, and I stayed for the performance. And that is -- I was actually in Nashville last week while they were there, and I did not go to the performance. I don't care anything for it.

Mr. Templeton. This is Alabama. We only care about football, remember.

BY MR. COHEN:

Q Wrestlers have described to us doctors that they refer to as "marks." Doctors that are such big fans that these doctors will write prescriptions for whatever drugs they want, and count on them basically to back them up to the extent that they have legal problems or are caught in a testing,

Have you ever heard this term?

A No.

Q Have you ever come across any doctors that you would describe this way that you believe would perhaps act

unethically in an effort to assist wrestlers?

A The only individuals that I would say that I wondered about that are those that I have actually spoken to with regards to these 12 cases.

Q Uh-huh.

And have there been cases where you had those concerns about a doctor, and yet still approved or still recommended that the medical-use exemption be approved?

A Absolutely not. I would say that the exemptions that I gave -- the physicians -- I would have to go back and look at that.

But overall, that impression that I get from a physician in, you know, conversation with them does affect how I look at their records and that kind of thing. I would say that it is not 100 percent objective as I have conversations with these physicians.

Q Okay.

A Have I come across what I would call quackery and expediency and "just give me what I want"? Yeah. And none of those have been given exemptions.

Q Okay.

Do you think -- what precautions do you take to ensure your independence from WWE, as a contractor involved in these decisions, that could mean millions of dollars for the individual wrestlers, for WWE as a corporate entity? How do

you ensure your independence in these cases?

A From the very get-go that has been a major concern of mine. And I think -- I think basically the way I have described my relationship is what I have done to keep my distance. I am not a fan. I am not interested. I don't know who these guys are. I don't know their stage names. I don't know their real names. This is not something that I freely share with friends about what I do in this role with the WWE, you know.

And I brag -- at Andrews Sports Medicine we have seen an awful lot of high-profile athletes. And so we practice this pretty much on a daily basis with regards to trying to keep the distance and try to keep from getting awestruck and that kind of thing with these folks.

So I would just say that, you know, I don't interact with them. I have been to two events and have only seen one of them in a full year.

I think I have been able to keep a professional distance quite well.

Q Okay.

Last question, slightly off the topic of use of steroids and performance-enhancing drugs.

When researching you and your background, we found that you commented multiple times on the increased risk of injuries athletes face due to overuse. Little League

pitchers and those kind of things.

A You did your homework.

Q I have got to give Sam credit.

Are you familiar with the rigors of the WWE schedule?

A You know, fairly, fairly familiar with it.

And even though the practicing physician that travels with these guys is not directly involved in the wellness program -- and that is by design -- I have had two or three conversations with him, and, you know, that is his big concern. He is kind of like the family doctor with this group of athletes.

And so he travels with them, so he feels the rigor of it. It is a lot of travel. It is like being a rock and roll star where you are on tour in a different town two or three times a week. And the difference would be you are not just playing a guitar; it is like playing a football game every two or three nights.

So it is very demanding. It is hard work. It is very rigorous. No doubt about it.

So, you know -- I guess, second-hand, I am somewhat aware of the rigors.

Q It sounds like you have had these conversations and if you haven't raised these concerns, the concerns have been raised to you by the WWE doctor?

A Correct. And, you know, just intuitively you can

just look at their schedule, and I certainly wouldn't want to do that type of travel. If it was nothing but the travel, I would think that would be very draining.

Mr. Cohen. All right. I am done.

Mr. Buffone. I have two quick questions.

BY MR. BUFFONE:

Q You stated before that you had received prescriptions for HGH, but HGH is not tested for under the wellness policy, is it?

A I don't believe it is.

Q So those were provided voluntarily by the wrestlers?

A Correct. Which often just comes out as we ask for information.

Q Okay. And on the wellness policy, under its list of prohibited drugs, it has the A section of performance-enhancing drugs, which is the steroids, the HGH; and the B section of other prohibited drugs.

Are you involved at all with the use of other prohibited drugs such as stimulants, overuse of pain killers and that type of thing?

A I have not been.

In my records I came across one letter that I was actually carbon-copied on, and I have got to assume that was simply just a mistake -- with an athlete; I was getting a letter that showed that he had been suspended for -- and I

can't remember if it was a narcotic or an amphetamine. But that is the only piece of information I have ever received that didn't involve testosterone or anabolic steroids.

Q And do you know if that is because there have been no incidents where a wrestler had a prescription for the other prohibited drugs and was misusing it, or is that because Dr. Black makes those decisions if the other prohibited drugs are being misused?

A I don't know.

Q Okay.

BY MS. DESPRES:

Q Your role is limited only to medical necessity exemptions for anabolic steroids and nothing else?

A Well, Sarah, I can tell you that is all that has been sent to me.

BY MR. BUFFONE:

Q Under your contract, could you be sent someone who has a prescription for pain killers that they think is abusing pain killers? Does that fall under your contract? Or do you have to have an extra provision written into your contract for that to be the case?

A I am sitting here with my contract in front of me. It doesn't seem to spell out that it is only anabolic steroids. That is all that has ever been --

Q So if they sent you a pain-killer case, you would

have no objections to making a decision on that?

A No. I mean, if that is what they wanted me to do.

Q Yeah. Okay.

Thank you.

Mr. Cohen. We really appreciate your time.

Sarah, you want to walk through what we are going to do?

Ms. Despres. With regard to the transcript, once we get the transcript, once it comes in, I will then send it to Representative Davis' office, who has agreed to facilitate your review of the transcript. So I will get in touch with you once we have received the transcript. I am not sure how long it will take to actually get the transcript. But this should all be in the next couple of weeks.

Mr. Templeton. Just to go back over.

The things you were looking for me to try obtain permission from WWE are a copy of Dr. Ray's contract and then his letters, the letters that he has written -- redacted, of course -- from him to Dr. Black. That is all I have got. Is there anything else we have discussed?

Mr. Cohen. I can't think of anything. We will review our notes afterwards. We will let you know if we think of anything else.

Ms. Despres. Thank you again for your time, and we will let you know about the transcript. If we have

follow-up questions, Gerry, we will get in touch.

[Whereupon, at 12:15 p.m., the telephone interview was concluded.]