§ 3102. Method of obtaining disclosure. (a) Disclosure devices. Information is obtainable by one or more of the following disclosure devices: depositions upon oral questions or without the state upon written questions, interrogatories, demands for addresses, discovery and inspection of documents or property, physical and mental examinations of persons, and requests for admission.

(b) Stipulation or notice normal method. Unless otherwise provided by the civil practice law and rules or by the court, disclosure shall be obtained by stipulation or on notice without leave of the court.

(c) Before action commenced. Before an action is commenced, disclosure to aid in bringing an action, to preserve information or to aid in arbitration, may be obtained, but only by court order. The court may appoint a referee to take testimony.

(d) After trial commenced. Except as provided in section 5223, during and after trial, disclosure may be obtained only by order of the trial court on notice.

(e) Action pending in another jurisdiction. Except as provided in section three thousand one hundred nineteen of this article, when under any mandate, writ or commission issued out of any court of record in any other state, territory, district or foreign jurisdiction, or whenever upon notice or agreement, it is required to take the testimony of a witness in the state, such witness may be compelled to appear and testify in the same manner and by the same process as may be employed for the purpose of taking testimony in actions pending in the state. The supreme court or a county court shall make any appropriate order in aid of taking such a deposition; provided that no order shall be issued under this section in connection with an out-of-state proceeding relating to any legally protected health activity, as defined in section 570.17 of the criminal procedure law, unless:

(1) such out-of-state proceeding (i) sounds in tort or contract, (ii) is actionable, in an equivalent or similar manner, under the laws of this state, and (iii) was brought by the person who received reproductive health care or gender-affirming care, as such terms are defined in section 570.17 of the criminal procedure law, or the person's legal representative in a manner consistent with subdivision (g) of section three thousand one hundred nineteen of this article; and

(2) the petition for such an order is accompanied by an affirmation

compliant with subdivision (f) of this section.

(f) (1) Any petition for such an order brought under subdivision (e) of this section shall include an affirmation under penalty of perjury that the discovery either:

(i) is not related to, and that any information obtained shall not be used in, any investigation or proceeding that seeks to impose civil or criminal liability, professional sanctions, or any other legal consequences upon a person for any legally protected health activity; or

(ii) is related to such an investigation or proceeding, but falls within an exception provided in paragraph one of subdivision (g) of section three thousand one hundred nineteen of this article. Such affirmation shall identify which exception applies to the request.

(2) A party that submits a false affirmation pursuant to this section shall be subject to the jurisdiction of the courts of this state for any suit, penalties, or damages arising out of the false affirmation. A court shall assess a statutory penalty of fifteen thousand dollars per violation if the court finds the false affirmation was made intentionally, knowingly, willingly or recklessly. This shall be in addition to any other legal or equitable remedy lawfully available. The attorney general may commence an action or special proceeding for damages and/or penalties against any party that submits a false affirmation pursuant to this section. Any action or special proceeding brought by the attorney general pursuant to this section shall be commenced within six years of the date on which the inquiry, investigation, subpoena, or summons that such false affirmation accompanied was filed with the supreme court or county court.

(g) Action to which state is party. In an action in which the state is properly a party, whether as plaintiff, defendant or otherwise, disclosure by the state shall be available as if the state were a private person.