

UNITED STATES DISTRICT COURT  
CENTRAL OF DISTRICT OF CALIFORNIA

AIDEN STOCKMAN, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

No. 5:17-cv-1799-JGB-KK

**DECLARATION OF  
TERRY ADIRIM, M.D., M.P.H.**

I, Terry Adirim, declare as follows:

1. I am Terry Adirim, M.D., M.P.H., Deputy Assistant Secretary of Defense for Health Policy and Oversight in the Office of the Assistant Secretary of Defense for Health Affairs. I have held this position since July 2016. Before coming to the Department of Defense (DoD), my prior positions included Professor of Pediatrics and Emergency Medicine at Drexel University College of Medicine and attending physician at St. Christopher's Hospital for Children (2014-2016), Director of the Office of Special Health Affairs at the Health Resources and Services Administration in the U.S. Department of Health and Human Services (2010-2014), and Senior Advisor in the Office of Health Affairs at the U.S. Department of Homeland Security (2007-2010). I graduated from the University of Miami Miller School of Medicine with research distinction and completed pediatrics training at the Children's Hospital of Philadelphia. I completed pediatric emergency medicine and sports medicine fellowship training at Children's National Medical Center in Washington, D.C. I also earned a Master's degree in Public Health from the Harvard School of Public Health. I am board certified in pediatrics, pediatric

emergency medicine and sports medicine. I have been significantly involved since coming to DoD in matters of DoD policy on transgender health care.

2. Current DoD policy concerning treatment of military members for gender dysphoria is outlined in two primary documents. The first, attached as Exhibit 1, is a memorandum of July 29, 2016, from the then-Acting Assistant Secretary of Defense for Health Affairs, Karen S. Guice, M.D., “Guidance for Treatment of Gender Dysphoria for Active and Reserve Component Service Members.” It states that DoD will adhere to the 2009 Endocrine Society standards of care as the primary clinical practice guidelines, and that:

Key components of medical care for the purpose of treating gender dysphoria include initial assessment and, based upon that assessment of the individual’s needs, the establishment of a treatment plan which may include real life experience (RLE) . . . , cross-sex hormone therapy, and surgical transition.

It further provides that with respect to surgical interventions that military hospitals are not adequately prepared to perform, DoD will follow the existing waiver process for private sector care for active duty members under the Supplemental Health Care Program (SHCP).

3. The second of the two primary documents concerning treatment of gender dysphoria, attached as Exhibit 2, is a memorandum of November 13, 2017, from Vice Admiral R.C. Bono, M.D., Director of the Defense Health Agency (DHA), “Information Memorandum: Interim Defense Health Agency Procedures for Reviewing Requests for Waivers to Allow Supplemental Health Care Program Coverage of Sex Reassignment Surgical Procedures.” This memorandum notes that although there is a generally applicable statutory prohibition against paying non-DoD facilities for surgery for “sex gender changes,” this exclusion may be waived and that DHA’s waiver consideration will be based on the updated 2017 version of the Endocrine Society’s

clinical practice guidelines.<sup>1</sup> Those guidelines provide that medically necessary sex reassignment surgery is authorized as part of an overall treatment plan that generally includes behavioral health services, cross-sex hormone treatment, and real life experience as a precondition to surgical interventions. In the case of female-to-male transitions, a mastectomy may be recognized as medically necessary after initiation of cross-sex hormone treatment (unless medically contraindicated). For a hysterectomy or genital reconstruction surgery to be considered medically necessary, 12 months of cross-sex hormone treatment (unless medically contraindicated) and 12 months of full-time real life experience are required.

4. The President's memorandum of August 25, 2017, "Military Service by Transgender Individuals," directs that, effective March 23, 2018, DoD halt use of DoD funds for sex reassignment surgical procedures, "except to the extent necessary to protect the health of an individual who has already begun a course of treatment to reassign his or her sex." The Secretary of Defense memorandum of September 14, 2017, "Terms of Reference – Implementation of Presidential Memorandum on Military Service by Transgender Individuals," attached as Exhibit 3, directed a panel of experts to develop an implementation plan that will include a listing of surgical procedures that will be prohibited from funding unless necessary to protect the health of a service member. We anticipate that prior to March 23, 2018, the Secretary of Defense will, following review of the work product of the panel of experts, issue instructions to the Department of Defense on prospective policy on funding sex reassignment surgery, including guidance on implementation of the exception clause in the President's memorandum.

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<sup>1</sup> As noted in the DHA memo, the statutory limitations include that DoD may not pay for surgery in non-DoD facilities for "sex gender changes," but this is subject to "such exceptions as the Secretary of Defense considers necessary," as long as the waiver is based on a case-by-case medical determination that it would be necessary and appropriate for the patient and not "elective private treatment." 10 U.S.C. 1074(c)(2)(A), 1079(a)(11), 1074(c)(1).

5. I do not have knowledge of the medical circumstances or the treatment plan for John Doe 1 and John Doe 2, and I do not know their actual identities. John Doe 1's declaration says he has a medical treatment plan that includes initiation of cross-sex hormone treatment before the end of 2017 and "top surgery" in mid-2018, and possibly genital reconstruction surgery in or about 2020. John Doe 2's declaration says he has a medical treatment plan that includes hormone treatment, which began in March 2017, and a mastectomy projected for April 2018, but he now expects provision or funding of the mastectomy to be denied because of the President's memorandum. Although not mentioned in connection with his description of his treatment plan, he also says he intends to have genital reconstruction surgery by the end of 2021.

6. Under current policy and procedures, military hospitals are providing mastectomies under approved treatment plans as part of medically necessary care for military members with gender dysphoria. Also, the SHCP waiver process is in place and has been used to approve medically necessary genital reconstruction surgery. At this time, I do not know the specific criteria that will apply to the "necessary to protect the health" clause under the implementation plan for the President's memorandum. Because both John Doe 1 and John Doe 2 will, according to their declarations, have in place approved treatment plans and begun a course of treatment, including cross-sex hormone treatment, to reassign their sex, it may be that their request for surgical treatment will be considered under the same medical necessity criteria that are in place today. That cannot be determined at this time because the panel of experts review is ongoing. Additionally, no real determination about medical necessity can be made based solely on their court declarations and without assessment of their medical circumstances and treatment plans and how the Endocrine Society 2017 clinical practice guidelines apply to their treatment and clinical status. Any unresolved issues regarding the sex reassignment surgery directive should be

addressed in the ongoing policy review scheduled to result in a final implementation plan in March 2018 and in any event well in advance of the projected surgery dates for both patients.

7. I make this declaration in support of the Defendants' Supplemental Briefing in Support of its Motion to Dismiss.

Pursuant to 28 U.S.C. § 1746(2), I declare under the penalty of perjury that the foregoing is true and correct.

Executed on December 1, 2017.



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Terry Adirim, M.D., M.P.H.