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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

AIDEN STOCKMAN; NICOLAS TALBOTT; TAMASYN REEVES; JAQUICE TATE; JOHN DOES 1-2; JANE DOE; and EQUALITY CALIFORNIA,

Plaintiffs,

v.

DONALD J. TRUMP, et al.

Defendants.

CASE NO. 5:17-CV-01799-JGB-KK

DECLARATION OF JOSHUA D. SAFER, MD, FACP IN SUPPORT OF PLAINTIFFS' JOINT OPPOSITION TO MOTION TO DISSOLVE THE PRELIMINARY INJUNCTION

STATE OF CALIFORNIA,
Plaintiff-Intervenor,

v.

DONALD J. TRUMP, et al.

Defendants.

I, Joshua D. Safer, declare as follows:

1. I make this declaration based on my own personal knowledge.

PROFESSIONAL BACKGROUND

2. I am a Staff Physician in the Department of Medicine at the Mount Sinai Hospital and Mount Sinai Beth Israel Medical Center in New York, NY. I serve as Executive Director of the Center for Transgender Medicine and Surgery at Mount Sinai. I also hold an academic appointment as Senior Faculty in Mount Sinai's Icahn School of Medicine. A true and correct copy of my CV is attached hereto as Exhibit A.

3. I am Board Certified in Endocrinology, Diabetes and Metabolism by the American Board of Internal Medicine, and I have been since 1997.

4. I graduated from the University of Wisconsin in Madison with a Bachelor of Science in 1986. I earned my Doctor of Medicine degree from the University of Wisconsin in 1990. I completed intern and resident training at Mount Sinai School of Medicine, Beth Israel Medical Center in New York, New York from 1990 to 1993. From 1993 to 1994, I was a Clinical Fellow in Endocrinology at Harvard Medical School and Beth Israel Deaconess Medical Center in Boston, Massachusetts. I stayed at the same institution, serving as a Clinical and Research Fellow in Endocrinology under Fredric Wondisford, from 1994 to 1996.

5. Since 1997, I have evaluated and treated patients along with conducting research in endocrinology. Since 2004, the patient care and research has been the medicine/science specific to transgender individuals. I have led several other programs either in transgender medicine or in general endocrinology. In particular, I served as Medical Director of the Center for Transgender Medicine and Surgery, Boston Medical Center, Boston, MA (2016-2018); as Director of the Medical Education, Endocrinology Section, Boston University School of Medicine, Boston, MA (2007-2018); as Program Director of the Endocrinology

Fellowship Training, Boston University Medical Center, Boston, MA (2007-2018); and as Director of the Thyroid Clinic, Boston Medical Center, Boston, MA (1999-2003).

6. I have authored or coauthored 71 papers in peer-reviewed journals, including many critical reviews; textbook chapters; and case reports in endocrinology and transgender medicine.

7. I have served as a Transgender Medicine Guidelines Drafting Group Member for the International Olympic Committee ("IOC") since 2017.

8. I currently serve as the President of the United States Professional Association for Transgender Health (USPATH). I am also Secretary and Co-Chair of the Steering Committee of TransNet, the International Consortium for Transgender Medicine and Health Research. I have served in several other leadership roles in professional societies related to endocrinology and transgender health. These societies include the Alliance of Academic Internal Medicine, the American College of Physicians Council of Subspecialty Societies, the American Board of Internal Medicine, the Association of Program Directors in Endocrinology and Metabolism, and the American Thyroid Association.

9. Since 2014, I have held various roles as a member of the World Professional Association for Transgender Health ("WPATH"), the leading international organization focused on transgender health care. WPATH has over 1,000 members throughout the world and is comprised of physicians, psychiatrists, psychologists, social workers, surgeons, and other health professionals who specialize in the diagnosis and treatment of transgender individuals. From 2016 to the present I have served on the Writing Committee for Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People.

10. I have served in various roles as a member of the Endocrine Society since 2014. I served as a Task Force member to develop the Endocrine Treatment of Transgender Persons Clinical Practice Guideline from 2014 to 2017. As part of

this task force of nine experts, a methodologist, and a medical writer, I contributed to the "Endocrine Treatment of Gender-Dysphoria/Gender Incongruent Persons: An Endocrine Society Clinical Practice Guideline," ("Endocrine Society Guidelines").[1] These were an update to the "Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline," published by the Endocrine Society in 2009.

11. I served in the Wisconsin Army Reserve National Guard from 1987 to 1990 and remained in the Army Reserve until 1995. This service made me sympathetic to the unique needs of servicemembers and reflected my support for the military as an institution. Since then, I have continued to devote a significant part of my career to assisting people in the military and veterans, including from 2001 to 2006 when I served as a Staff Physician at the Veterans Administration Boston Health Care System in Boston, Massachusetts.

CONSULTING FOR THE DEPARTMENT OF DEFENSE WORKING GROUP BEFORE RELEASE OF THE OPEN SERVICE POLICY

12. In 2014 and 2015, the Department of Defense ("DOD") began a review of whether transgender people should be permitted to serve openly in the Armed Forces. In July 2015, then-Secretary of Defense Ashton Carter issued an order establishing a Working Group to carry out the analysis of this issue. It is my understanding that the Working Group met to discuss issues relating to military service by transgender people over the course of about a year, consulting personnel, training, readiness, and medical specialists from across the Department of Defense.

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[1] Wylie C. Hembree, Peggy T. Cohen-Kettenis, Lous Gooren, Sabine E. Hannema, Walter J. Meyer, M. Hassan Murad, Stephen M. Rosenthal, Joshua D. Safer, Vin Tangpricha & Guy T'Sjoen, "Endocrine Treatment of Gender-Dysphoria/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline," *The Journal of Clinical Endocrinology & Metabolism*, Vol. 102, pp. 3869-3903 (Nov. 2017).

The Working Group also consulted civilian medical professionals of which I was one. To assist the Working Group, I went to the Pentagon to advise the Working Group, answered questions from military and civilian leadership, and provided advice on endocrinology and transgender health.

CONSULTING FOR THE DEPARTMENT OF DEFENSE PANEL OF EXPERTS

13. Following his July announcement to the public over Twitter, President Donald Trump released a memorandum ("August 25 Memorandum") containing a formal directive to the current Secretary of Defense, Secretary James N. Mattis, and the Secretary of Homeland Security that, among other things, required the Secretary of Defense, in consultation with the Secretary of Homeland Security, to "submit to [the President] a plan for implementing" the ban on service by transgender people within six months.

14. Secretary Mattis, in turn, set up a process for "developing an Implementation Plan on military service by transgender individuals, in which the Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff would be "supported by a panel of experts" (the "Review Panel").

15. I reprised my earlier role as an advisor to the Working Group by serving as one of the outside expert consultants for the Review Panel. On November 9, 2017, Dr. Jillian Shipherd, a Clinical Psychologist and Director of the LGBT Health Program at the Veterans Health Administration; Dr. Loren Schechter, Visiting Clinical Professor of Surgery at the University of Illinois in Chicago and Director of the Center for Gender Confirmation Surgery at Weiss Memorial Hospital in Chicago; and I met with the Review Panel. About 15 to 20 people were present. Some of them were the same people who were on the Working Group conducted under Secretary of Defense Ashton Carter.

A. COSTS

16. After some preliminary discussion, costs of medical care for transgender service members did not appear to be a big concern for the Review Panel because the cost figures associated with transgender military health services were so low relative to the costs of other health conditions and to the overall military health budget.

B. DEPLOYABILITY

17. The Review Panel's main focus was deployability, and in particular, the impact of hormone treatment on deployability. The Review Panel members also wanted information regarding how long an already-serving member of the Armed Forces would have to be on leave, nondeployable, or on limited duty as a result of initiating or being on hormone therapy as part of transgender medical treatment. In response to questions and in discussions, I stated that based on current research, I believe that the initiation of hormone therapy or being on hormone therapy would not prevent a servicemember from carrying out their military duties.

18. Secretary Mattis's February 22 Memorandum to the President cites the Endocrine Society Guidelines that I worked to develop to say that a person needs blood work to be done by a laboratory every 90 days for the first year of hormone therapy.[2] This is a misrepresentation of what my colleagues and I wrote in the Endocrine Society Guidelines. The Endocrine Society Guidelines suggest that clinicians measure hormone levels during treatment to ensure that "administered sex steroids are maintained in the normal physiologic range for the affirmed gender."[3] They also state, "We suggest regular clinical evaluation for physical changes and potential adverse changes in response to sex steroid

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[2] Pages 22 and 33.

[3] Para. 3.3.

hormones and laboratory monitoring of sex steroid hormone levels every 3 months during the first year of hormone therapy for transgender males and females and then once or twice yearly."[4]

19. The language we used made clear this was just a *suggestion*, not a requirement. The 3-month schedule is one that facilitates a relatively rapid dose advancement regimen within medically accepted standards. But that is not to say that a slower regimen would be less safe or not medically acceptable.

20. The Guidelines were written to aid endocrinologists in providing care for transgender patients. They do not state mandatory or essential treatment protocols.

21. When it is not practicable to perform quarterly blood work in the first year of hormone therapy, the patient's medication may simply be maintained at the prescribed level. The quarterly blood work is not necessary care. A doctor should check blood work after changing a patient's dose, but if a deployed service member cannot have a doctor check blood work, a patient can be maintained at the last known safe does with no negative health consequences and no impact on readiness.

22. When I met with the Review Panel, I explained that while hormone therapy is necessary medical treatment for some transgender patients, temporarily (even for up to a 12 month deployment period where laboratory monitoring was not available) freezing the level of hormones a service member receives does not risk any provision of inadequate treatment; nor does it pose any medical or mental health risks *per se*.

23. The February 22 Memorandum is not consistent with the statements and recommendations I made when I met with the Review Panel.

24. There is no genuine issue regarding whether hormones can be taken into the field just as other medications are. Hormone therapies do not generally

[4] Para. 4.1.

require special care or treatment such as refrigeration. There are versions that are stable and transportable.

25. A person receiving hormone therapy is in a steady state with hormones within weeks. There are no negative mental health consequences associated with not changing those levels for an extended period of time once a person's levels are in steady state.

26. The February 22 Memorandum states that "the available information indicates that there is inconclusive scientific evidence that the serious problems associated with gender dysphoria can be fully remedied through transition-related treatment and that, even if it could, most persons requiring transition-related treatment could be non-deployable for a potentially significant amount of time."[5] As an expert in the field of endocrinology and transgender health, I do not agree with this statement. My remarks to the Review Panel are not consistent with that conclusion.

C. LETHALITY

27. The Review Panel was also interested in lethality. I believe, and so stated, that there is no known correlation between hormone levels and lethality.

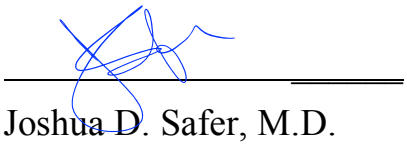
CONCLUSION

28. The February 22 Memorandum does not reflect the recommendations that I made to the Review Panel. As an expert qualified in the field of endocrinology and transgender health, it is my opinion that the February 22 Memorandum does not reflect the established scientific literature in this area. Based on my understanding of current data, statements that transgender people will be limited in their readiness to deploy based on hormone therapy needs are incorrect.

[5] Page 35.

I declare under the penalty of perjury that the foregoing is true and correct.

DATED: April 24, 2018



Joshua D. Safer, M.D.