

PROCEDURAL HISTORY AND BACKGROUND

PFLAG is a national, nonprofit membership organization that provides support, education, and advocacy for LGBTQ+ people and their families in furtherance of its mission to create a more caring, just, and affirming world for LGBTQ+ people and those who love them. Tr. of Bench Trial on Merits (“Trial Transcript”) at 44:2-20; 45:2-19. PFLAG’s members in Texas include families with transgender youth who need access to medically necessary gender-affirming medical care. *Id.* at 63:17-64:16. The core of the support PFLAG provides to PFLAG members is peer-to-peer support groups, run by volunteers, in which members are supported in sharing deeply personal information about themselves and their families. *Id.* at 51:16-52:8. PFLAG has also advocated for these members by joining litigation on their behalf in *PFLAG, Inc. v. Abbott*, Cause No. D-1-GN-22-002569 (in the 459th District Court of Travis County, Texas), challenging the State’s treatment of gender-affirming medical care as child abuse, and *Loe v. Texas*, Cause No. D-1-GN-23-003616 (in the 201st District Court of Travis County, Texas), challenging the constitutionality of Senate Bill 14 (“SB14”), which prohibits physicians and other healthcare providers from providing, prescribing, administering, or dispensing gender-affirming medical care to transgender minors in Texas. *Id.* at 58:25-59:21.

PFLAG does not provide medical care; it does not offer any goods or services related to medical care; it does not provide any specific resources to medical providers, including as to how to bill for medical care; and it has never billed an insurance provider for medical care. *Id.* at 47:25-48:8. The only goods PFLAG sells in Texas are branded merchandise on its website—T-shirts and mugs, for example. *Id.* at 48:9-12.

On February 9, 2024, the OAG’s Consumer Protection Division served PFLAG with a Civil Investigative Demand (“CID”) and a Notice of Demand for Sworn Written Statement (“DSWS”). The Demands instruct PFLAG to provide information and documents purportedly related to the OAG’s “investigation of actual or possible violations” of Section 17.46 of the Texas Deceptive Trade Practices-Consumer Protection Act (“DTPA”) for issues related to alleged “misrepresentations regarding Gender Transitioning and Reassignment Treatments and Procedures and Texas law.”

The CID seeks documentary material for six requests, while the DSWS seeks nine information requests to be answered under oath. The Demands each attach two exhibits: (1) the Affidavit of Brian K. Bond, Chief Executive Officer of PFLAG, executed on July 11, 2023, and submitted in support of an application for temporary injunction in *Loe v. Texas* (“Exhibit B1”), and (2) a list of medical providers, some of whom provide or have provided gender-affirming care to transgender adolescents, including medical providers outside of Texas (“Exhibit B2”). Five of the eight requests in the CID and seven of the nine requests in the DSWS relate specifically to Exhibit B1. One of the eight requests in the CID and none of the nine requests in the DSWS relate specifically to Exhibit B2.

On February 28, 2024, PFLAG filed its Petition. The Court granted Plaintiff’s Application for Temporary Restraining Order (“TRO”) on March 1, extended the TRO until March 29, and granted Plaintiff’s Application for Temporary Injunction (“TI”) on March 25. Among other orders,

the TI extended the return date of the Demands “until the conclusion of the litigation.” Defendants filed an appeal of the TI on April 12. On April 17, the Texas Court of Appeals, Third District, temporarily ordered the TI to be reinstated pursuant to Texas Rule of Appellate Procedure 29.3.

Meanwhile, on April 12, 2024, Defendants filed their Counterclaim seeking to enforce the Demands. In their Counterclaim, Defendants assert that the Demands were issued in connection with an investigation into whether providers are fraudulently prescribing hormones under the guise of treating an “endocrine disorder,” when in fact the hormones are intended to treat “gender dysphoria” or another medical condition. Countercl. at ¶ 6. Defendants also assert that PFLAG likely had “information related to insurance fraud.” Countercl. at ¶ 7. In the Counterclaim, Defendants proposed modifications to the Demands which would “withdraw any portion of the original Demands that could be construed as requiring PFLAG to reveal member identities[.]” *See* Exhibits 3-6 to Countercl. (“Proposed Modifications”).

This Court held a bench trial on June 10, 2024, and took the matter under advisement. While the Court was considering and researching the matter in the summer of 2024, a new and uncertain appellate structure was taking effect in the State of Texas involving pending matters regarding the State of Texas and its agencies. After the Third Court of Appeals reinstated the Court’s Temporary Injunction, the OAG filed an unopposed motion to abate the appeal. This unopposed abatement was granted by the Third Court of Appeals on August 16, 2024. Pursuant to a Supreme Court of Texas Transfer Order issued August 26, 2024, the appeal of the Temporary Injunction was transferred to the 15th Court of Appeals on September 1, 2024. The 15th Court sought a status report, but no indication was given by the 15th Court of Appeals whether the abatement would continue forward, nor was the case reinstated. No additional action appears to have been taken at the intermediate appellate level.

This Court issued a Letter Ruling on September 13, 2024; the Letter stated that after careful consideration of the merits, the evidence, the pleadings, and arguments of counsel, the Court was granting the proposed modifications of the CID as set out in PFLAG’s motion, and set the matter for an entry hearing on the Declaratory Judgment and Injunction during the week of October 14, 2024. PFLAG sent the OAG certain documents on October 11, 2024, pursuant to the Court’s Letter; the Court intended to review the documents produced, hear any follow-up arguments, and rule on the nature and scope of the Injunction at that hearing.

Even though the September 13, 2024, Letter addressed only a portion of the claims and issues before the Court and ordered some records to be produced, Defendants appealed this Court’s Letter Ruling directly to the Texas Supreme Court on October 10, 2024. On February 7, 2025, the Texas Supreme Court abated that appeal, explaining that “[w]ithout addressing the merits of the complaint that jurisdiction is lacking, the Court notes that the alleged jurisdictional defect may be cured by the trial court’s entry of a final order on the Attorney General’s petition for enforcement.” The Texas Supreme Court instructed this Court to sign and enter a final order on the OAG’s petition to enforce while also encouraging it “to render a final judgment while the direct appeal is abated, to streamline appellate review.” The Texas Supreme Court removed the case from its active docket until March 10, 2025, “by which time the trial court must file the written final order with the clerk of this Court and the parties must file a status report.”

The Court's busy hearing and trial calendar, as well as responsibilities as the Local Administrative Judge in Travis County, did not allow a follow-up hearing to be held during the weeks allotted by the Supreme Court, so the Court hereby rules based on the record before the Court, and finds as follows:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT

On March 25, 2024, the Court held a Temporary Injunction hearing in this matter. One witness was presented to the Court: Aaron Ridings, Executive Vice President of Plaintiff PFLAG. Based on the specificity and consistency of their testimony, which was sworn under oath and on penalty of perjury and which has not been directly contested, the Court finds the testimony of Mx. Ridings credible. On June 10, 2024, the Court held a trial in this matter. Two witnesses were presented to the Court: (1) Brian Bond, CEO of Plaintiff PFLAG, and (2) Sam Weeks, an investigator with Defendant the Office of the Attorney General of the State of Texas ("OAG"). Based on the specificity and consistency of his testimony, which was sworn under oath and on penalty of perjury and which has not been directly contested, the Court finds the testimony of Mr. Bond credible. Based on the specificity and consistency of his testimony, which was sworn under oath and on penalty of perjury and which has not been directly contested, the Court finds the testimony of Mr. Weeks credible.

PFLAG

1. PFLAG is a national, nonprofit membership organization that provides support, education, and advocacy for LGBTQ+ people and their families in furtherance of its mission to create a more caring, just, and affirming world for LGBTQ+ people and those who love them. Trial Tr. at 43:18-44:5, Trial Pl. Ex 5.
2. PFLAG has over 1,600 members in Texas, and those members include families with transgender youth, some of whom have sought access to medically necessary gender-affirming medical care. T.I. Hr. Tr. at 41:24-42:1, 42:17-22; *see id.* at 45:16-46:1, 46:13-25.
3. The core of the support PFLAG provides to PFLAG members is peer-to-peer support groups, run by volunteer chapter leaders, in which members are supported in sharing deeply personal information about themselves and their families. These meetings have an expectation of confidentiality. Trial Tr. at 45:2-7, 51:14-52:16, 56:12-16.

PFLAG's Participation in Texas Litigation

4. As part of PFLAG's advocacy in furtherance of its mission, PFLAG has been a plaintiff in two lawsuits relating to the rights of transgender adolescents and their families in Texas, *PFLAG, Inc. v. Abbott*, Cause No. D-1-GN-22-002569 in the District Court of Travis

County and *Loe v. Texas*, Cause No. D-1-GN-23-003616 in the District Court of Travis County. Trial Tr. at 56:16-22, 58:25-59:3.

5. As an organizational representative of PFLAG, Mr. Bond submitted an affidavit in support of Plaintiffs' Verified Original Petition in *Loe v. Texas*. See Ex. B1 to CID and DSWs (*Loe v. Texas* Bond Aff.). In his affidavit, he described PFLAG's decision to participate in a lawsuit to try to block SB14, which prohibits medical professionals in Texas from providing gender-affirming medical care to minors, from taking effect. See *Loe v. Texas* Bond Aff. ¶¶ 13-20.
6. At the time of Mr. Bond's July 11, 2023, affidavit, SB14 had yet to go into effect and the provision of gender-affirming medical care for adolescents was still lawful in Texas. Trial Tr. at 61:11-21.
7. The concerns raised by PFLAG member families in Texas with transgender and nonbinary adolescents surrounding the passage of SB14 were some of the reasons Mr. Bond cited for PFLAG's involvement in the challenge to the law. *Loe v. Texas* Bond Aff. ¶¶ 13-20; Trial Tr. at 67:15-22.
8. In the affidavit, Mr. Bond stated: "PFLAG members had been actively engaged in fighting against SB14's passage, voicing their opposition regularly at the statehouse. Given the hostility of the climate in Texas towards transgender people in general, and toward youth in particular, its passage was met with both resignation at its predictability and tremendous fear. New families showed up in droves for chapter meetings and support groups, seeking information and support. Chapters planned and participated in events to provide comfort to and celebrate the unbreakable joy of the gender diverse community. PFLAG families with transgender and nonbinary adolescents shared their contingency plans—those with the resources to move or seek care out of state have begun firming up their plans to do so, while the vast majority without those resources have been asking chapters for alternative avenues to maintain care in Texas." *Loe v. Texas* Bond Aff. ¶ 13.
9. PFLAG does not provide medical care or any medically related goods or services. PFLAG does not provide any specific resources to medical providers, including as to how to bill for medical care, and it has never billed an insurance provider for medical care. Trial Tr. at 47:19-48:18. PFLAG does not provide any resources to its members regarding billing for medical care and has no communications with its members about how to bill insurance for gender-affirming medical care. Brian Bond's Affidavit in *Loe v. Texas* did not refer to anything related to insurance billing practices. Mr. Bond's Affidavit did not refer to discussions regarding fraudulent conduct, including insurance fraud, with PFLAG members or staff. The communications Mr. Bond had regarding PFLAG Texas members and gender-affirming medical care at the time of the *Loe* Affidavit related solely to PFLAG members' concerns about the passage of SB14 and what would happen if it were allowed to go into effect. Trial Tr. at 61:19-67:14, 70:20-73:17; *Loe v. Texas* Bond Aff.

The Demands

10. On February 9, 2024, the OAG’s Consumer Protection Division served PFLAG with a Civil Investigative Demand and a Notice of Demand for Sworn Written Statement (together, the “Demands”). The Demands instructed PFLAG to provide information and documents purportedly related to the OAG’s “investigation of actual or possible violations” of Section 17.46 of the Texas Deceptive Trade Practices-Consumer Protection Act (“DTPA”) for issues related to alleged “misrepresentations regarding Gender Transitioning and Reassignment Treatments and Procedures and Texas law.” Trial Pl. Ex. 1, Civil Investigative Demand (“CID”); Trial Pl. Ex. 2, Notice of Demand for Sworn Written Statement (“DSWS”). The Demands did not provide any additional explanation of the purpose of the investigation or PFLAG’s connection to the investigation. *Id.* The Demands did not state what alleged misrepresentations were being investigated, who was suspected of making the alleged misrepresentations, to whom the alleged misrepresentations were made, or when they were made. *Id.*
11. No other Civil Investigative Demand or Notice of Demand for Sworn Written Statement has been served on PFLAG.
12. The Demands sought information and documents related to the “contingency plans” and “alternative avenues to maintain care” described in Mr. Bond’s *Loe* affidavit. The Demands also sought documents and communications between “any PFLAG representative regarding, relating to, or referencing” a list of medical providers set forth in Exhibit B2 to the Demands. *See* CID; DSWS.
13. In the definitions and instructions, the Demands sought information and documents from March 8, 2023—the date on which SB14 was introduced in the Texas legislature—through the date of production and a broad range of information and documents that would reveal the identities and private communications of PFLAG members in Texas. For example, the Demands sought for PFLAG to “[i]dentify from whom PFLAG learned about such ‘contingency plans’ or ‘alternative avenues,’” and then the Demands defined “identify” to require a person’s “complete name, any alias(es), social security number, date of birth, occupation, title(s), job responsibilities, street and mailing address for both home and business at the time in question at the time of responding (if different), home, cellular, and business telephone numbers, and personal and business email addresses.” The Demands sought privileged information and documents and prohibited any form of redaction. *See* CID.
14. PFLAG was never a target of the OAG’s underlying investigation. *See* T. I. Hr. Tr. at 17:8-18:19; Trial Tr. at 39:16-18; 155:22-156:20.
15. The only evidence in the trial record as to the purpose of the OAG’s investigation in connection with which the Demands were issued are the Demands themselves, Mr. Weeks’ affidavit filed in support of the Defendants’ opposition to PFLAG’s request for a TRO, and Mr. Weeks’ testimony.
16. Defendants’ purported justification for the Demands centered on Mr. Bond’s statements in

his affidavit supporting the *Loe* matter.

17. The Defendants' position is that the OAG issued the Demands as a part of its investigation into potentially fraudulent insurance billing practices. *See* Defs.' Countercl. For Enforcement of the Demands ("Countercl.") at ¶ 7 ("On or around January 30, 2024, the Attorney General's Office became aware that PFLAG likely possessed information relevant to providers misrepresenting the purpose of and condition treated by their written prescription for hormone treatments. In other words, PFLAG likely possess information related to insurance fraud.").

After the Demands

18. PFLAG filed "a petition to extend the return date for, or to modify or set aside the demand" under the Deceptive Trade Practices Act (DTPA) to challenge the Civil Investigative Demands and a Notice of Demand for Sworn Written Statement. Tex. Bus. & Com. Code § 17.61(g).
19. Defendants filed a counterclaim for enforcement of the Demands pursuant to Tex. Bus. & Com. Code § 17.62(b). *See* Countercl. ¶ 27.
20. The Defendants' counterclaim proposed modifications to the Demands, which would have allowed for the redaction of individual member information. *See* Trial Defs. Ex. 3 and Ex. 4. Even with the proposed modifications, however, the Demands still sought private communications of PFLAG and its members related to Brian Bond's affidavit in *Loe v. Texas* and PFLAG's support of families with transgender adolescents in Texas, among other items, and a sworn statement from Brian Bond regarding the same. *Id.*
21. Defendants acknowledge that although they filed a plea to the jurisdiction, they did not set their PTJ for hearing and did not ask that it be heard by the court prior to trial. Trial Tr. at 17:20-18:8.
22. The parties were given a full opportunity to make their record and both acknowledged that they were able to do so. Trial Tr. 158:10-17.
23. The issuance of the Demands caused PFLAG members and volunteers to express fear and change their behavior, including in the following ways: members conveyed fear that their communications would be made available to the OAG's office; in-person meeting attendance decreased; some members who did attend PFLAG meetings chose to share less during the meetings; some volunteers stepped back from the organization; some chapters changed certain aspects of their meetings, including moving in-person meeting locations and no longer taking attendance; and some members became worried about engaging in new projects or engaging with people who presented as new potential PFLAG members. Trial Tr. at 73:18-76:2; T.I. Hr. Tr. at 49:1151:6.
24. Mr. Bond's statements in the *Loe* affidavit relating to "contingency plans," "alternative avenues to maintain care," and "affirming general practitioners" were based on information Mr. Bond received during regular meetings with PFLAG staff and conversations with chapter leaders, as well as what he heard of the *Loe* family plaintiffs' experiences. Mr.

Bond's references to "contingency plans," "alternative avenues to maintain care," and "affirming general practitioners" referred solely to families moving out of state either entirely or partially, accessing medically necessary care outside of the state of Texas, or to primary care doctors continuing to provide gender-affirming medical care after the passage of SB14, but before its effective date. Trial Tr. at 64:17-67:22.

25. These references did not relate to plans to access gender-affirming medical care from providers in Texas after SB14's effective date. Trial Tr. at 61:19-67:14.
26. Mr. Bond's statements in the *Loe* affidavit do not describe efforts to use deception to obtain or offer care. *Id.*
27. PFLAG does not provide medical care or any medically related goods or services. PFLAG does not provide any specific resources to medical providers, including as to how to bill for medical care, and it has never billed an insurance provider for medical care. PFLAG does not provide any resources to its members regarding billing for medical care and has no communications with its members about how to bill insurance for gender-affirming medical care. Trial Tr. at 47:19-48:18.
28. PFLAG does not have any communications relating to its members in Texas with any of the entities identified in Exhibit B2 to the Demands, which are the targets of the OAG's investigation. Trial Tr. at 71:4-73:17.
29. Defendants did not produce evidence to suggest that PFLAG likely possessed information relevant to the OAG's investigation into potential fraud related to insurance billing practices.
30. Defendants described in their Counterclaim and in the affidavit of Sam Weeks attached to their TRO Response that internet research led an investigator at the OAG to conclude that "providers may be fraudulently prescribing hormones under the guise of treating an 'endocrine disorder,' when in fact the hormones are intended to treat 'gender dysphoria' or another medical condition." Countercl. at ¶ 6; Defendant TRO Response, Aff. of Sam Weeks. Defendants' assertion was based on online statements from two providers, neither of which are in Texas. The statements do not relate to providing medical care to minors in Texas after the implementation of SB14. *See* Ex. 1 and Ex. 2 to Defs.' Resp. To Pl.'s Application for TRO; Trial Tr. at 116:12-117:23, 120:18-121:7; 126:24-130:10.
31. Mr. Weeks' knowledge of the investigation upon which his affidavit in support of the Demands is based was "administrative" and "rudimentary." Trial Tr. at 136:6-137:12.
32. Mr. Weeks could not justify the legitimacy of the OAG's investigation into PFLAG. Mr. Weeks did not have knowledge of the Civil Investigative Demand at issue in this case. Trial Tr. at 134:9-135:5. He did not have knowledge of the *Loe v. Texas* case, of Mr. Bond's affidavit in *Loe* upon which the Demands were based, or that his own affidavit was used to support Defendant's Response to Plaintiff's Petition. *Id.* at 105:7-106:7; 139:1-140:7; 142:1-13.
33. Mr. Weeks saw exhibits upon which his affidavit was based for the first time on the day he

signed the petition. Trial Tr. at 120:18-121:7

34. Mr. Weeks did not provide any further information to justify the legitimacy of the OAG's investigation and in fact refused to answer questions regarding the justification for issuing the Demands. There is no evidence before the court, through Mr. Weeks or otherwise, as to why the OAG sought the relevant information from third-party PFLAG rather than through another source. *See* Trial Tr. at 118:17-19; 120:18-121:7; 122:17-123:8; 125:24-125:2; 130:21-23; 140:24-141:7.
35. Plaintiff's ability to cross examine Mr. Weeks was severely limited by objections lodged by counsel for the Defendants. As the representatives of the Office of the Attorney General, the Court gave them wide birth to assert privilege where they represented that it existed.
36. Defendants proposed modifications to the Demands in attachments to various court filings, but modified Demands were never served on PFLAG. Trial Tr. at 91:23-92:17; 162:20-25.

Post-Trial Developments

37. The Court takes judicial notice that since the June 10, 2024 trial in this matter, the OAG has filed lawsuits against three Texas physicians for alleged violations of SB 14 and the DTPA. The defendant physicians are Dr. May Lau (District Court of Collin County, 493rd Judicial District, Cause No. 493-07676-2024), Dr. M. Brett Cooper (District Court of Collin County, 493rd Judicial District, Cause No. 493-08026-2024), and Dr. Hector Granados (District Court of Kaufman County, 422nd District, Cause No. 118832-422).¹
38. The lawsuits brought against Drs. Lau, Cooper, and Granados evidence that the OAG already has other avenues in which it can seek to access medical records and other documents to investigate persons allegedly evading the mandates of SB14 and committing fraud—the purpose of the Demands sent to PFLAG.
39. In accordance with the Court's September 13, 2024 Letter Ruling, on October 11, 2024, PFLAG produced documents to the OAG responsive to the CID as modified pursuant to PFLAG's proposed final judgment.

CONCLUSIONS OF LAW

1. PFLAG followed the proper procedure under the Deceptive Trade Practices Act ("DTPA") to challenge the Civil Investigative Demands and a Notice of Demand for Sworn Written Statement by timely filing "a petition to extend the return date for, or to modify or set aside the demand." Tex. Bus. & Com. Code § 17.61(g). The Defendants extended the return date of the Demands to March 4, 2024 and PFLAG filed its petition on February 28, 2025—within 20 days of the Demands' service on February 9, 2024.
2. There is no basis in Texas law for an expedited proceeding to adjudicate a petition to extend the return date for, or to modify or set aside a demand filed pursuant to Tex. Bus. & Com.

¹ The Court can take judicial notice of these publicly filed suits.

Code § 17.61(g) or a petition for enforcement filed pursuant to Tex. Bus. & Com. Code § 17.62(b). The only way a trial court can summarily rule on either petition is through a motion for summary judgement or a trial on the merits.

3. There is no basis in Texas law for applying the “*Powell*” factors—the standard advocated by Defendants—to assess the enforceability of either a Civil Investigative Demand or a Demand for a Sworn Written Statement.
4. Even if the *Powell* factors applied, Defendants would not have met their burden for enforcement. The Defendants have not shown that the relevant investigation is being conducted pursuant to a legitimate purpose, that the inquiry may be relevant to the purposes, that the information sought is not already within the OAG’s possession, and that the administrative steps required have been followed. There is no basis for the standard advocated by the OAG.
5. Civil Investigative Demands and Demands for a Sworn Written Statement must provide sufficient clarity regarding the statutory basis for the demands and the general subject matter of the investigation to which they allegedly relate. A recipient must be able to assess or challenge a defendant’s authority to have issued the demands in the first instance and to determine whether the information and documents they seek can meet a relevance standard. *See Consumer Fin. Prot. Bureau v. Source for Pub. Data, L.P.*, 903 F.3d 456, 459 (5th Cir. 2018). Because a demand’s validity is measured by the purposes stated therein, the sufficiency of the statement of their purpose “is an important statutory requirement.” *Id.* at 459 (quotation omitted).
6. Section 17.61 and Section 17.60 of the Texas Business and Commerce Code authorize this Court to set aside or modify civil investigative demands and demands for sworn written statements upon a showing of good cause.
7. Section 17.61 and 17.60 of the Texas Business and Commerce Code only authorize the State of Texas to request information and documents which would be discoverable under the Texas Rules of Civil Procedure. The Demands seek information irrelevant to the OAG’s investigation into alleged insurance fraud that is available from other sources and is overly burdensome.
8. Under Section 17.60(1) of the Texas Business and Commerce Code, the State of Texas may only demand sworn written statements from “the person” suspected of violating the DTPA and not from third parties.
9. Because PFLAG was not the target of the OAG’s investigation, PFLAG is not obligated to respond to the Demand for a Sworn Written Statement.
10. PFLAG’s participation in the lawsuits *PFLAG, Inc. v. Abbott* and *Loe v. Texas* is constitutionally protected activity and advocacy.

11. PFLAG member names, identifying information, and private communications are protected by the rights to free expression, assembly, and association under both the U.S. Constitution and the Texas Constitution.
12. In seeking information and documents that are not reasonably relevant to the purported purpose of the investigation and in failing to comply with the requirements of the DTPA, the Demands infringe the right to be free from unreasonable search and seizure under both the U.S. Constitution and the Texas Constitution.
13. A petition to enforce can succeed only against a party that has “fail[ed] to comply with a directive of the consumer protection division.” PFLAG has not failed to comply.
14. During the pendency of this litigation, PFLAG’s obligation to respond to the Demands was suspended by temporary orders issued by this Court and the Court of Appeals. The only exception was the Court’s September 13, 2024, Letter Ruling that PFLAG respond to narrowed versions of certain requests contained in the Civil Investigative Demand.
15. PFLAG complied with the Court’s September 13, 2024, Letter Ruling by producing responsive documents to the OAG.
16. Through the provision of Mr. Bond’s affidavit, the provision of sworn testimony of Mr. Bond at trial, and its production of documents, PFLAG has complied with its obligations in relation to the Demands.
17. Defendants have failed to establish the relevance of or need for any additional information in response to the remaining requests in the demands.

II. PFLAG’S REQUEST TO SET ASIDE OR IN THE ALTERNATIVE MODIFY THE DEMANDS

The Civil Investigative Demand

Section 17.61(g) of the Texas Business and Commerce Code authorizes this Court to set aside or modify the CID upon a showing of good cause.

This Court FINDS that PFLAG has shown good cause to modify the CID.

IT IS FURTHER ORDERED that the CID is hereby modified pursuant to Section 17.61(g) of the Texas Business and Commerce Code as follows:

The Demands Generally

The Demands may only request information and documents “which would be discoverable under the Texas Rules of Civil Procedure.” See Tex. Bus. & Com. Code § 17.61(c). Pursuant to the Texas Rules of Civil Procedure, information that is not relevant is not discoverable. Tex. R. Civ. P. 192.3(a). “Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” Tex. R. Evid. 401.

The information sought from PFLAG—a nonprofit membership organization that does not provide medical care, does not offer any goods or services related to medical care, does not provide any specific resources to medical providers, including as to how to bill for medical care, and it has never billed an insurance provider for medical care—is not relevant to the OAG’s investigation into potential insurance fraud.

To the extent any of the information sought is relevant, it is more readily available from other sources and overly burdensome in this context.

Accordingly, the Court FINDS that the Demands seek information and documents beyond the Texas Rules of Civil Procedure and are therefore *ultra vires*.

Definitions and Instructions

Applying the included definitions and instructions, the Demands sought a broad range of information and documents that would reveal the identities and private communications of PFLAG members in Texas. In Defendants’ proposed modifications to the Demands, the definitions and instructions would allow for the redaction of individual member information. Even with the proposed modifications, however, the Demands would have still sought private communications of PFLAG and its members related to Brian Bond’s affidavit in *Loe v. Texas* and PFLAG’s support of families with transgender adolescents in Texas.

Accordingly, the Court FINDS that the Demands even with the modifications proposed by Defendants seek privileged information and documents, including the free speech, assembly and association privileges and attorney-client communications and attorney-work product privileges.

IT IS FURTHER ORDERED that PFLAG is not required to produce privileged information and documents in response to the Demands.

Specific CID Requests

CID Request 1:

“All Documents and Communications that form the basis of, or relate to, Brian K. Bond’s personal knowledge of the information contained in the affidavit attached hereto as ‘EXHIBIT B1.’”

The Court FINDS that this request:

- Seeks information that is not relevant to Defendants’ investigation.
- Does not seek information that is likely to lead to the discovery of admissible evidence.

- To the extent it actually seeks information regarding billing codes used in connection with gender-affirming medical care, seeks information that is more readily available from sources other than PFLAG, which is a third-party in the context of any medical care.
- Amounts to a fishing expedition.
- Is overbroad because:
 - The request seeks all Documents and Communications that form the basis of, or relate to, all of the information contained in a very lengthy affidavit, instead of specifying certain portions of the affidavit.
 - The term “relate to”, in the context of an affidavit that describes PFLAG’s entire history, organization, and mission, covers far more than information related to Defendants’ investigation.
 - The request is unlimited in time—the affidavit covers time spanning the entire history of PFLAG.
- Is vague and ambiguous as to what is meant by personal knowledge.
- Is harassing to the extent it intentionally seeks attorney-client privileged communications.

IT IS FURTHER ORDERED that: PFLAG shall not be required to respond CID Request 1

CID Request 2:

“All Communications to, or from, any PFLAG representative regarding, relating to, or referencing, ‘contingency plans’ and/or ‘alternative avenues to maintain care,’ as those phrases are used in the affidavit attached hereto as ‘EXHIBIT B1’”

The Court FINDS that this request:

- Seeks information that is not relevant to Defendants’ investigation.
- Does not seek information that is likely to lead to the discovery of admissible evidence.
- To the extent it actually seeks information regarding billing codes used in connection with providing gender-affirming medical care to minors in Texas, seeks information that is more readily available from sources other than PFLAG, which is a third-party in the context of any medical care.
- Amounts to a fishing expedition.
- Is overbroad because:
 - The request covers “any PFLAG representative” rather than being narrowed to particular custodians.
- The request is unlimited in time.
- The request vague and ambiguous as to “personal knowledge”
- The request is harassing to the extent it intentionally seeks attorney-client privileged communications.

THE COURT HAS PREVIOUSLY ORDERED that: PFLAG provide non-privileged documents showing what was meant by ‘contingency plans’ and/or ‘alternative avenues to maintain care,’ as those phrases are used in the affidavit, sent to or from Brian Bond between March 8, 2023 and July 11, 2023 (the date of the Affidavit).

CID Request 3:

“All recommendations, referrals, and/or lists of pediatric and/or adolescent ‘health care providers’ (as that term is used in paragraph 13 of the affidavit attached hereto as ‘EXHIBIT B1’) in Texas, that PFLAG (or any of its representatives) has created, maintained, received, or distributed since March 8, 2023”

The Court FINDS that this request:

- Seeks information that is not relevant to Defendants’ investigation.
- Does not seek information that is likely to lead to the discovery of admissible evidence.
- To the extent it actually seeks information regarding billing codes used in connection with the provision of gender-affirming medical care to minors in Texas, seeks information that is more readily available from sources other than PFLAG, which is a third-party in the context of any medical care.
- Amounts to a fishing expedition.
- Is overbroad because:
 - It is not reasonably narrow in time, including to the extent it seeks information beginning before gender-affirming medical care for minors was banned in Texas.
 - It requests not only documents PFLAG created, maintained, or distributed, but also those it received, without any limitation as to specific custodians.
- Is vague as to what sort of recommendations, referrals, or lists would be responsive.

THE COURT HAS PREVIOUSLY ORDERED that: PFLAG provide any list of ‘health care providers’ providing gender-affirming care to minors in Texas after September 1, 2023, which PFLAG has created, maintained, or distributed.

CID Request 4:

“All Communications to, or from, Brian K. Bond regarding, or relating to, the contents and preparation of the affidavit attached hereto as ‘EXHIBIT B1’”

The Court FINDS that this request:

- Seeks information that is not relevant to Defendants’ investigation.
- Does not seek information that is likely to lead to the discovery of admissible evidence.
- To the extent it actually seeks information regarding billing codes used in connection with the provision of gender-affirming medical care to minors in Texas, seeks information that is more readily available from sources other than PFLAG, which is a third-party in the context of any medical care.
- Amounts to a fishing expedition.
- Is harassing to the extent it intentionally seeks attorney-client privileged communications.

IT IS FURTHER ORDERED that PFLAG shall not be required to respond to CID Request 4.

CID Request 5:

“In reference to the affidavit attached hereto as ‘EXHIBIT B1’ produce all Documents, meeting minutes, and Communications that support Brian K. Bond’s sworn statement that ‘PFLAG families with transgender and nonbinary adolescents ... have been asking chapters for alternative avenues to maintain care in Texas.’”

The Court FINDS that this request:

- Seeks information that is not relevant to Defendants’ investigation.
- Does not seek information that is likely to lead to the discovery of admissible evidence.
- To the extent it actually seeks information regarding billing codes used in connection with the provision of gender-affirming medical care to minors in Texas, seeks information that is more readily available from sources other than PFLAG, which is a third-party in the context of any medical care.
- Amounts to a fishing expedition.
- Is harassing to the extent it intentionally seeks information protected by the attorney-client privilege and the U.S. and Texas constitutions.

IT IS FURTHER ORDERED that PFLAG shall not be required to respond to CID Request 5.

CID Request 6:

“All Communications to, or from, any PFLAG representative regarding, relating to, or referencing any of the individuals or entities identified in the document attached here to as ‘EXHIBIT B2’ since March 8, 2023.”

The Court FINDS that this request:

- Seeks information that is not relevant to Defendants’ investigation, including, potentially, news articles and press releases.
- Does not seek information that is likely to lead to the discovery of admissible evidence.
- To the extent it actually seeks information regarding billing codes used in connection with the provision of gender-affirming medical care to minors in Texas, seeks information that is more readily available from sources other than PFLAG, which is a third-party in the context of any medical care. The OAG can go, and apparently has gone, directly to the listed organizations to request documents. There is no basis for now going to a third party when they have not said that the information is unavailable from a third party.
- Amounts to a fishing expedition.
- Is overly broad because:
 - It seeks communications regardless of whether they relate to gender-affirming medical care.
 - It seeks communications regardless of whether they relate to the treatment of minors.
 - It seeks communications regardless of whether they relate to the treatment of people in Texas.

- Is harassing to the extent it intentionally seeks information protected by the U.S. and Texas Constitutions.

IT IS FURTHER ORDERED that PFLAG shall not be required to respond to CID Request 6.

CID Request 7.

“Any and all contractual and charter agreements between PFLAG’s Texas chapters and national chapter.”

The Court FINDS that this request:

- Seeks information that is not relevant to Defendants’ investigation.
- Does not seek information that is likely to lead to the discovery of admissible evidence.
- Amounts to a fishing expedition.

IT IS FURTHER ORDERED that PFLAG shall not be required to respond to CID Request 7.

CID Request 8.

OAG requests:

“The governing documents and bylaws of PFLAG’s Texas chapters and national chapter.”

The Court FINDS that this request:

- Seeks information that is not relevant to Defendants’ investigation.
- Does not seek information that is likely to lead to the discovery of admissible evidence.
- Amounts to a fishing expedition.

THE COURT HAS PREVIOUSLY ORDERED that: PFLAG provide the governing documents and bylaws in its possession.

The Demand for Sworn Written Statement

Tex. Bus. & Com. Code § 17.60 states that when the Consumer Protection Division either has reason to believe a person is engaging in a deceptive trade practice or reasonably believes it is in the public interest to ascertain whether a person is doing so, “the division may: (1) require the person to file on the prescribed forms a statement or report in writing, under oath or otherwise, as to all the facts and circumstances concerning the alleged violation and such other data and information as the consumer protection division deems necessary.” *Id.* (emphasis added). Unlike § 17.61(a), which allows CIDs to be sent to “any person” believed to have relevant information, § 17.60(1) makes clear that demands for sworn written statements may only be sent to “the person” suspected of violating the DTPA.

Based on Defendants’ representations, the Court FINDS that PFLAG is not the target of the underlying investigation by the OAG. The DTPA does not authorize Defendants to take actions

pursuant to § 17.60 against a person who is not the target of an investigation by the Consumer Protection Division. Therefore, the DSWS served on PFLAG is *ultra vires*.

This Court FINDS that PFLAG has shown good cause to set aside the DSWS.

IT IS FURTHER ORDERED that the DSWS is hereby set aside pursuant to Section 17.61(g) of the Texas Business and Commerce Code.

III. PFLAG’S PETITION TO EXTEND RETURN DATES

Section 17.61(g) of the Texas Business and Commerce Code authorizes this Court to “extend the return date for” the Demands upon a showing of good cause.

This Court FINDS that PFLAG has shown good cause to extend the return date for the CID and that the petition to extend the return date for the DSWS is moot.

As set forth in the Court’s September 13, 2024, Letter Ruling:

IT IS FURTHER ORDERED that PFLAG had until October 11, 2024, to produce the responsive CID documents as modified by the Court in this Order to the Consumer Protection Division.

IV. OAG’S PETITION TO ENFORCE DEMANDS

The Demands were served upon PFLAG on February 9, 2024. The OAG extended the return date of the Demands until March 4, 2024. Twenty days following service of the Demands is February 29, 2024. Thus, February 29 is the shorter period under the DTPA by which PFLAG had to file its Petition. *See* Tex. Bus. & Com. Code § 17.61(g).

The OAG concedes that it had granted an extension related to the Demands to March 4, 2024. After the filing of PFLAG’s Petition, the OAG now contends that it could not extend the return date for purposes of Section 17.61(g). This Court is unpersuaded; setting the Demands’ return dates is entirely within the OAG’s power. Alternatively, the Court exercises its equitable authority to prevent the arbitrary abuse of process. *See Kramer v. Kastleman*, 508 S.W.3d 211, 217 (Tex. 2017); *cf. Sec. & Exch. Comm’n v. ESM Gov’t Sec., Inc.*, 645 F.2d 310, 316-17 (5th Cir. 1981).

PFLAG’s Petition was filed on February 28, 2024—the day before the statutory period expired for PFLAG to file “a petition to extend the return date for, or to modify or set aside the demand, stating good cause[.]” The Court finds that PFLAG filed its Petition within the time period required by Section 17.61(g) of the Texas Business and Commerce Code.

Successive court orders from this Court and the Third Court of Appeals temporarily shielded PFLAG from having to respond to the Demands and extended the return date for them until the end of this litigation. *See* Tex. Bus. & Com. Code § 17.61(h) (“A person on whom a demand is served under this second shall comply with the terms of the demand *unless otherwise provided by a court order.*”) (emphasis added). As set forth above and in the Court’s September 13, 2024, Letter Ruling, the Court has modified and extended the return date for the Demands pursuant to Section 17.61(g) of the Texas Business and Commerce Code.

A petition to enforce is only available when a person “fails to comply with a directive of the consumer protection division.” Tex. Bus. & Com. Code § 17.62.

This Court FINDS that PFLAG has not “fail[ed] to comply” with Demands under Section 17.62(b) of the Texas Business and Commerce Code. Instead, PFLAG timely filed a petition to set aside or modify the Demands pursuant to Section 17.61(g) of the Texas Business and Commerce Code and was shielded by court orders extending the time to respond to the Demands. Pursuant to the Court’s September 13, 2024, Letter Ruling, PFLAG produced documents responsive to the CID as modified by the Court to the Consumer Protection Division on October 11, 2024.

IT IS FURTHER ORDERED THAT the Counterclaim filed by Defendants to enforce the Demands is hereby **DENIED** because PFLAG has been required to comply with the CID as modified by the Court and has never “fail[ed] to comply” with the Demands. All other relief requested by the OAG in its Petition to Enforce is denied.

V. DECLARATORY JUDGMENT

It is the judgment of this Court that most of the Demands exceeded the OAG’s authority under the DTPA for the following reasons:

1. The Demands failed to identify both the specific section and subsection of the statute under which the alleged violations were being investigated;
2. The Demands failed to identify the general subject matter of the investigation, such that PFLAG could determine whether the information and documents sought were discoverable under the Texas Rules of Civil Procedure;
3. The Demands sought information and documents that were not discoverable under the Texas Rules of Civil Procedure, such as privileged documents; and
4. The Demands included a demand for a sworn written statement to PFLAG, which was not the target of the investigation.

It is the judgment of this Court that PFLAG, having filed its Petition seeking to modify or set aside the Demands and by obtaining injunctive relief, did not fail to comply with the Demands. During the pendency of this proceeding, PFLAG’s obligation to comply with the Demands was suspended.

It is the judgment of this Court that in seeking information and documents including PFLAG member names, identifying information, and private communications, the Demands seek

information and documents protected by the rights to free expression, assembly, and association under both the U.S. Constitution and the Texas Constitution.

It is the judgment of this Court that in seeking information and documents that are not reasonably relevant to the purported purpose of the investigation and some of the documents sought are already in the OAG's possession, and in failing to comply with the requirements of the DTPA, the Demands infringe the right to be free from unreasonable search and seizure under both the U.S. Constitution and the Texas Constitution.

VI. PERMANENT INJUNCTION

The Clerk of this Court shall issue a Permanent Injunction against the persons and entities named below, with the following force and effect:

- Defendants OAG and the Attorney General, and their respective officers, agents, servants, employees, and attorneys, as well as any individuals or entities in active concert with them, directly or indirectly under their control, or participating with them, who receive actual notice of the Order by personal service or otherwise.

Each of you are hereby RESTRAINED and ENJOINED from taking any and all of the following actions:

- Demanding information or documents from PFLAG in response to the Demands that would reveal the identities or private communications of PFLAG, its officers, members, chapters, agents, servants, employees, attorneys, and associated persons, including but not limited to, volunteers and donors.
- Demanding information or documents from PFLAG relating to the Demands other than those specifically modified by this Court Order.
- Taking any adverse action in relation to the Demands against PFLAG, its officers, chapters, agents, servants, employees, and attorneys, and upon and its members, and such restraint encompasses but is not limited to taking any affirmative steps to revoke, suspend, forfeit, dissolve, or void the ability of PFLAG or any of its chapters to operate in Texas, except as provided above.

VII. OTHER ORDERS

This Order shall issue and become effective immediately in full force and effect. This is a final and appealable Order.

SIGNED in Austin, Travis County, Texas, on this 10th day of March 2025, at 2:30 P.M.



JUDGE AMY CLARK MEACHUM

WARNING: FAILURE TO OBEY A COURT ORDER MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT.