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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

JANE ROE, JANE POE, JANE DOE,

Plaintiffs,

v.

RAUL LABRADOR, in his official capacity
as Attorney General of the State of Idaho;
BRAD LITTLE, in his official capacity as
Governor of the State of Idaho; JOSH
TEWALT, in his official capacity as the
Director of the Idaho Department of
Corrections; BREE DERRICK, in her official
capacity as the Deputy Director of IDOC;
CENTURION OF IDAHO, LLC;
CENTURION HEALTH,

Defendants.

Case No. 1:24-CV-00306-CWD

**RESPONSE BY DEFENDANT
CENTURION OF IDAHO, LLC TO
PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER,
PROVISIONAL CLASS
CERTIFICATION, AND PRELIMINARY
INJUNCTION**

Defendant Centurion of Idaho, LLC (“Centurion”)¹ files this response to Plaintiffs’ motion for a temporary restraining order and other preliminary relief (Dkt. [2]).

BACKGROUND

Plaintiffs Jane Roe et al., transgender incarcerated individuals in custody of the Idaho Department of Correction (“IDOC”), have sued to enjoin House Bill 668 (“HB 668”), which was enacted by the Idaho Legislature and signed by the Governor on March 27, 2024. HB 668 prohibits the use of state funds or state facilities to provide certain gender-affirming medical treatments, including surgery and hormones, “for purposes of altering the appearance of an individual in order to affirm the individual’s perception of the individual’s sex in a way that is inconsistent with the individual’s biological sex.” H.B. 668, § 2(2), (6). Public officers or employees who violate HB 668 are subject to criminal penalties, including fines and jail time. H.B. 668, § 2(7).² The law became effective on July 1, 2024.

Plaintiffs’ complaint alleges that HB 668 is a “blanket prohibition” on necessary medical treatment that violates the Eighth Amendment. (Dkt. [1]). In their emergency motion, Plaintiffs seek to temporarily restrain enforcement of HB 668, which they describe as Idaho’s “blanket ban” on the use of public funds and public facilities to treat gender dysphoria. (Dkt. [2-1], at 1). Plaintiffs argue that gender dysphoria is a serious medical need, that HB 668’s ban on the specified treatments amounts to deliberate indifference, and that HB 668 should be enjoined. *Id.* at 9-14.

¹ The complaint names “Centurion Health” as a defendant, but there is no legal entity with that name. “Centurion Health” has not been served with the Complaint. At the appropriate time, “Centurion Health” should be dismissed from this suit.

² Plaintiffs allege Centurion’s providers could be subject to criminal prosecution as agents of IDOC if they provide gender-affirming care in violation of HB 668. *See* (Dkt. [1], ¶ 96). Centurion is without sufficient information to admit or deny this allegation at this time.

They also seek provisional certification of a class of transgender inmates for purposes of applying preliminary injunctive relief. *Id.* at 15-20.

On July 1, 2024, this Court granted a provisional temporary restraining order of HB 668, which applied to the three named Plaintiffs only. (Dkt. [13]). The Court also set a briefing schedule and set a hearing on Plaintiffs' motion for July 15, 2024. *Id.*

CENTURION'S RESPONSE

Centurion and its Idaho providers are obligated to follow Idaho law or, in the case of HB 668, face possible criminal prosecution. Plaintiffs assert that HB 668 is unconstitutional under the Eighth Amendment of the United States Constitution. (Dkt. [1] & Dkt. [2-1]). Centurion understands that the State of Idaho intends to defend HB 668 and will respond to Plaintiffs' arguments. (Dkt. [7]). Ultimately, Plaintiffs have asked this Court to decide if HB 668 is enforceable or unconstitutional.

Centurion is still analyzing Plaintiffs' allegations and arguments, but offers a few preliminary points for the Court's information. *First*, Centurion understands the purpose of this suit is to challenge HB 668. Plaintiffs' lawsuit challenges the State of Idaho's prohibition on the use of public funds and public facilities for certain medical interventions. Centurion presumably is a defendant because it is the contract medical provider for IDOC, which is impacted by HB 668. Neither Centurion nor its providers were deliberately indifferent to the named Plaintiffs or putative class members, and Centurion does not read Plaintiffs' complaint to claim or suggest otherwise.

Second, while Centurion must and will abide by HB 668's mandate, it will not immediately "cut off" hormone therapy for any plaintiff or putative class member. Each affected patient will be individually evaluated, assessed, and cared for to ensure that prohibited medical interventions are withdrawn according to an individualized plan for each impacted patient. Centurion's providers

will also ensure that other available, non-prohibited medical interventions and treatments are provided, as medically indicated, to individual patients impacted by HB 668.

Third, since the Court entered its provisional temporary restraining order on July 1, 2024, Centurion has identified the three named Plaintiffs and is continuing to provide their prescribed treatment until further order from the Court.

Centurion reserves the right to supplement this response or provide additional argument and information to the Court as this suit progresses.³

DATED this 5th day of July 2024.

DUKE EVETT, PLLC,

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Christina M. Hesse – Of the Firm
Attorney for Defendant Centurion of Idaho, LLC

BRADLEY ARANT BOULT CUMMINGS LLP,

By: /s/ Michael J. Bentley
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³ Centurion has not been served with the complaint and has not had an opportunity to respond to the allegations or assert affirmative defenses. Given the emergency nature of Plaintiffs' motion and the Court's order on briefing and a hearing, Centurion files this response without waiving any defenses to the suit or Plaintiffs' allegations.

CERTIFICATE OF SERVICE

I certify that on this 5th day of July 2024, I electronically filed the foregoing document with the U.S. District Court. Notice will automatically be electronically mailed to the following individuals who are registered with the U.S. District Court CM/ECF System:

Paul Carlos Southwick	<input type="checkbox"/>	U.S. Mail, postage prepaid
Emily Myrei Croston	<input type="checkbox"/>	Hand-Delivered
ACLU OF IDAHO FOUNDATION	<input type="checkbox"/>	Overnight Mail
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/s/ Christina M. Hesse

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