

EXHIBIT 15

Issue: Transgender benefits - faculty and faculty dependents have raised concerns regarding lack of coverage; requesting the State provide such benefits

Background:

- 1) Initially contacted by UA HR regarding faculty member requesting transgender coverage; media campaign/protest campaign prepared to launch if no movement in this direction; UA provides transgender studies, have experienced concerns raised by mixed message, recruitment issues for program due to lack of coverage (NOTE: UA provides domestic partner benefits under a separate plan)
- 2) New ACA draft rule requiring entities receiving federal funds to not discriminate against transgender (Consultants review of rule indicates that any of our vendors who have a plan on the exchange fall into this category; we also receive federal funds through our EGWP and may fall under the rule - under review.)
- 3) Law does not currently require coverage; some universities and State of Oregon cover transgender benefits
- 4) Recent Senate Faculty meeting - staff raised issue (employee may belong to campus group "OUTreach" - LGBT UA group - not exclusive to transgender issue but all LGBT concerns); letter writing campaign to President began regarding transgender issue, these individuals focus dependents seeking transgender reassignment and the out-of-pocket expense to cover costs; President of University; VP of HR present at meeting, may raise issue to ABOR

Steps to Date:

- 1) Consultants review of draft ACA Rule; confirmation current law does not require coverage
- 2) Vendors reviewing and information regarding book of business and transgender coverage and costs; also request review of impact of new ACA draft rule
- 3) Discussion regarding JLBC review requirement to change plans

would have to provide notice of material change (eg change hearing limit)

updating SP Description JBC ? OK

JLBC = ? eligibility plan change

October 15, 2015

- John Arnold
~~XXXXXXXXXX~~
 finalized 1557
 E group - sue -
 - friendly litigant
 - inevitable as
 of people as parents

- sue us

- Come & sit down
 with us
 - 3 way discussion
 - litigation best
 way

- GO - Liburd not
 heard back

- John Arnold
 Nancy Tribanay

Grant Davis = admin
 US

GRAND CANYON UNIVERSITY

11/17/15

- = Ralxtheon - covers transgender
- = children have to be 18
- = health care issue vs. discrimination

AHCCCS - call 11/7/16

Sara Salek et al

= Excluded surgery only
= hrt - transgendered
= counseling

remove gender edits
= edits (need for?)
(no need)

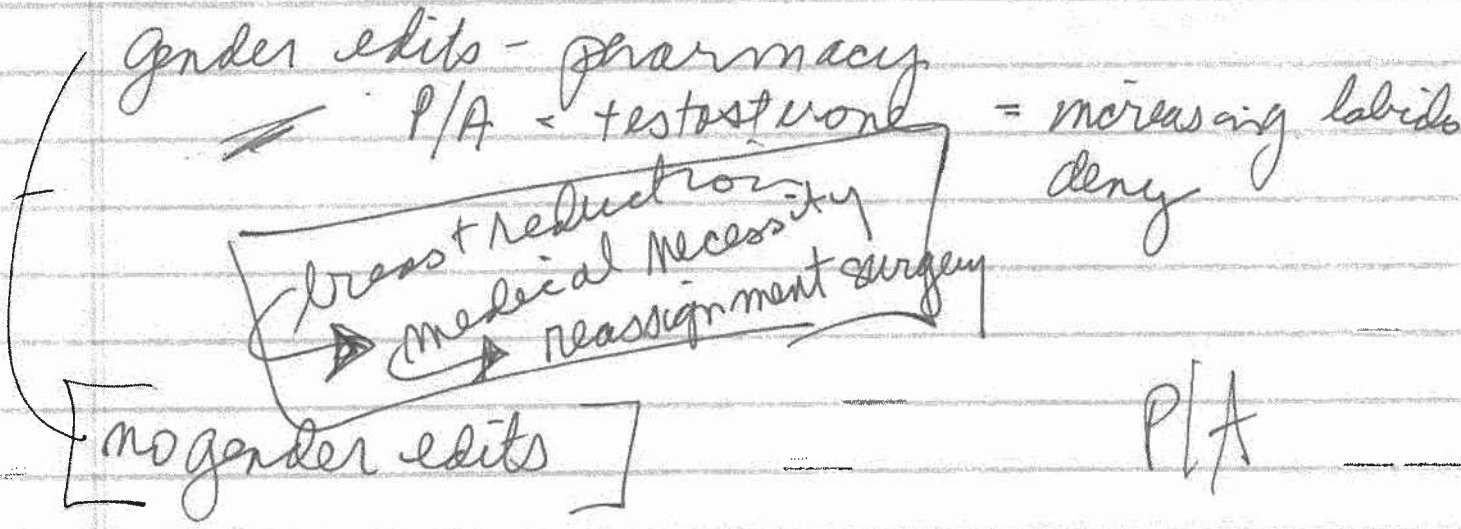
Final: wait for 11/18 meeting

= Overarching language K'ous resp to comply w/ regulations

= ensure they are complying w/ 1557

gender edits =

Lupron = injection = p/a for all use treatment guidelines approve to guidelines



gap or near = traditional remove all edits

- > Medicare is covering surgery
- > Medicaid covering it for other states too

how do they register in our system?

agree we should be uniform

• Transgender Law Center - S/F

- change communication (see survey)
 - post-card 2x a year
 - we don't know
 - how many health care providers w/in

• Exclusion of just reassignment surgery is out of compliance!

- NAU = fully insured will be covering transgender
- UA = domestic partner coverage?
- when will notices go out
 - grievance policy
 - " " coordinator

What language to use in plan

Transgender -

- self insured plans have flexibility of

- ✓ HRT

✓ Counseling

~~✓~~ Reassignment

✓ biological } needs coverage

✓ anatomical }

e.g. transgendered male

needs Pap smears

- Verify - funding from EBWP is it from HHS specifically
- CMS Medicare = Yes

- indemnification clause - vendors may want to push that we follow it based on their reg'nt to follow the rule

1) Comply w/ rule & provide coverage

2) challenge the rule = is it enforceable
file action in court

3) Ignore or delay implementation
wait for someone to sue or wait for

by admin rule expanded def of sex
in Title IX

- this is impermissible expansion
of sex

- Congress would have to amend
Title IX

private
cause of
action

Scenario 2

1) Which plans are self insured or fully insured
- all medical = 4 carriers
-

2) Athletic Assoc. - must be surgery
can it be

U's. Ess = sue ADOA = not ultimately
liable direct by

Options

1) Cover medically necessary
remove all exclusions from PD

2) Challenge the rule on grounds that
its inclusion of "Sex stereotyping"
and "gender identity" in the definition
of "discrimination" on the "basis of sex"
exceeds scope of § 1557 and is contrary
to statutory, Regulatory & Case law history
of Title IX

- NAU - fully insured

= ASU
= UA

} different
w/verge

Redacted

\$37M
\$10.2M

\$44M
\$58M
1072

47.2
44.

172013
31
810
424.2
1236

E Kratz T/C
5/25/16

get bullets of what we want

Termination of active es
for non-pay

PMLA = er must front coverage for ee share

EK • should have a policy for termination

😊
• beyond FMLA

= LTD = 6 mos waiting period

are they active es?

ER paid in full of
Std. Merit 10/10 to 10/9
Stability 11 = 12/31

use COBRA

policy = once you become disabled when accepted on LTD = terminate employment

= OK to accept Penalty B
not irrational to do this approach

ACA

- 1) look @ non-profit rules
 - who is control of organization
 - U's yes - separate employer

= do they get 2 checks or 1

Power Authority of
APAAC } not subject to mandate
large a

- 2) 125 Plan - eligible

- 4) Have leasing agent acknowledge they are resp for insurance; indemnity provision for ACA penalties; they would indemnify us.

EXHIBIT 16

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9 (***admission under Arizona Rule 38(f) pending**)

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Attorneys for Plaintiff Russell B. Toomey

1
2 UNITED STATES DISTRICT COURT

3 DISTRICT OF ARIZONA

4 **Russell B. Toomey,**

5 Plaintiff,

6 v.

7 **State of Arizona; Arizona Board of Regents,**
8 **d/b/a University of Arizona**, a governmental
9 body of the State of Arizona; **Ron Shoopman**, in
10 his official capacity as chair of the Arizona Board
11 Of Regents; **Larry Penley**, in his official
12 capacity as Member of the Arizona Board of
13 Regents; **Ram Krishna**, in his official capacity as
14 Secretary of the Arizona Board of Regents; **Bill**
15 **Ridenour**, in his official capacity as Treasurer of
16 the Arizona Board of Regents; **Lyndel Manson**,
17 in her official capacity as Member of the Arizona
18 Board of Regents; **Karrin Taylor Robson**, in her
19 official capacity as Member of the Arizona Board
20 of Regents; **Jay Heiler**, in his official capacity as
21 Member of the Arizona Board of Regents; **Fred**
22 **Duval**, in his official capacity as Member of the
23 Arizona Board of Regents; **Andy Tobin**, in his
24 official capacity as Director of the Arizona
25 Department of Administration; **Paul Shannon**, in
26 his official capacity as Acting Assistant Director
27 of the Benefits Services Division of the Arizona
28 Department of Administration,

Defendants.

4:19-cv-00035-TUC-RM (LCK)

**PLAINTIFF'S FIRST SET OF
INTERROGATORIES**

23 Pursuant to the Rules of Practice and Procedure of the United States District Court for
24 the District of Arizona Rule 33 and the Federal Rules of Civil Procedure Rule 26 (together, the
25 “Rules”), Plaintiff Russell B. Toomey, by and through counsel undersigned, hereby requests
26 the Defendants answer the following interrogatories (the “Interrogatories,” and each an
27 “Interrogatory”) in writing and under oath within 14 days of service hereof.
28

DEFINITIONS

1
2 1. The term “communication,” as used herein, means the transmittal of information
3 (in the form of facts, ideas, inquiries, or otherwise), whether orally or in writing, or by any other
4 means or medium.

5 2. The terms “concerning,” “relating to,” “referring to,” “arising out of,” and their
6 cognates are to be understood in their broadest sense and each means concerning, constituting,
7 identifying, evidencing, summarizing, commenting upon, referring to, relating to, arising out of,
8 describing, digesting, reporting, listing, analyzing, studying, discussing, stating, setting forth,
9 reflecting, interpreting, concerning, recording, including, negating, manifesting, containing or
10 comprising the subject matter identified.

11 3. The terms “describe” and “description,” as used herein, mean to give a detailed
12 written account or representation of the subject matter – including, but not limited to, when used
13 with respect to any act, action, accounting, activity, audit, practice, process, occurrence,
14 occasion, course of conduct, happening, negotiation, relationship, scheme, communication,
15 conference, discussion, development, circumstances, service, transaction, instance, incident, or
16 event – setting forth the following: (a) its general nature; (b) the time and place thereof; (c) a
17 chronological account setting forth each element thereof, what such element consisted of and
18 what transpired as part thereof; (d) the identity (as defined herein) of each person who performed
19 any function or had any role in connection therewith (*i.e.*, speaker, participant, contributor of
20 information, witness, etc.) or who has any knowledge thereof, together with a description of
21 such person’s function, role or knowledge; (e) the identity (as defined herein) of each document
22 that refers thereto or that was used, referred to or prepared in the course of or as a result thereof;
23 and (f) the identity (as defined herein) of each oral communication that was a part thereof or
24 referred thereto.

25 4. The terms “document” and “documents” shall have the broadest meaning
26 allowable under the Rules and applicable case law, and shall include without limitation,
27 electronically stored information and written, printed, typed, recorded, or graphic matter of
28 every kind and description, both originals and copies and all attachments and appendices thereto.

1 Without limiting the foregoing, the terms “document” and “documents” shall include all
2 agreements, contracts, applications, communications, interoffice or intraoffice correspondence,
3 books, letters, telegrams, telexes, messages, memoranda, records, reports, books, summaries,
4 electronic mail, texts, chats, records of telephone conversations or interviews, summaries or
5 other records of personal conversations, minutes or summaries or other records of personal
6 meetings and conferences, summaries or other records of meetings and conferences, summaries,
7 entries, calendars, appointment books, time records, instructions, work assignments, visitor
8 records, forecasts, statistical data, statistical statements, work sheets, drafts, graphs, maps,
9 charts, tables, marginal notations, notebooks, telephone bills or records, bills, statements and
10 records of obligation and expenditure, invoices, lists, journals, advertising, recommendations,
11 files, printouts, compilations, tabulations, purchase orders, receipts, sell orders, confirmations,
12 checks, letters of credit, envelopes or folders or similar containers, vouchers, analyses, studies,
13 surveys, transcripts of hearings, transcripts of testimony, expense reports, microfilm,
14 microfiche, articles, speeches, tape or disc recordings, sound recordings, video recordings, film,
15 tapes, photographs, punch cards, programs, data compilations from which information can be
16 obtained (including matter used in data processing), and other printed, written, handwritten,
17 typewritten, recorded, stenographic, computer-generated, or electronically stored matter (or
18 printouts thereof), however and by whomever produced, prepared, reproduced, disseminated, or
19 made.

20 5. “Draft(s)” shall mean any formulation, outline, sketch, conceptualization, or
21 version of a document created prior to the final version of that document.

22 6. The term “factual and/or legal bases” includes, but is not limited to, any and all
23 documents, facts, communications or contentions.

24 7. The terms “identify,” “specify” and “state” mean to refer to the subject matter by
25 providing a detailed account or description of the subject matter, including, but not limited to,
26 the following:

- 27 a. when applicable to a document, to set forth in writing at a minimum and in the
28 following order: (i) the name of the document; (ii) the nature of the document

1 (e.g., letter, contract, memorandum) and any other information (i.e., its title, index
2 or file number) which would facilitate in the identification thereof; (iii) the date
3 the document was prepared or created; (iv) the identity of each person who
4 performed any function or had any role in connection therewith (i.e., author,
5 contributor of information, recipient, etc.) or who has any knowledge thereof,
6 together with a description of each such person's function, role or knowledge; (v)
7 its subject matter and substance, or, in lieu thereof, annex a legible copy of the
8 document to Your answers to these interrogatories; (vi) identification of all
9 persons who are in possession of the original and any copy of the document; (vii)
10 its present location and the identity of its present custodian, or, if its present
11 location and custodian are not known, a description of its last known disposition;
12 (viii) where a document is other than a paper (i.e., computer or recording tape,
13 microfilm disk, microfiche, etc.), a full description of the tangible thing on which
14 the information is recorded, and the device or the devices needed to read or listen
15 to the document; and (ix) if the document has been destroyed or is otherwise no
16 longer in existence or cannot be found, the reason why such document no longer
17 exists, the identity of the person(s) responsible for document no longer being in
18 existence and the identity of the document's last custodian.

- 19 b. when applicable to a natural person, to set forth in writing at a minimum and in
20 the following order: (i) his/her full name; (ii) his/her present and/or last known
21 business and residence address and telephone number, or an undertaking that the
22 person may be contacted through responding counsel; (iii) his/her present or last
23 known business affiliation; and (iv) his/her present or last known business position
24 (including job title and a description of job functions, duties and responsibilities);
- 25 c. when applicable to any entity or person other than a natural person, to set forth in
26 writing at a minimum and in the following order: (i) its full name; (ii) the address
27 and telephone number of its principal place of business; (iii) the jurisdiction under
28 the laws of which it has been organized or incorporated and the date of such

1 organization or incorporation; (iv) the identity of all individuals who acted and/or
2 authorized another to act on its behalf in connection with the matters referred to;
3 (v) in the case of a corporation, the names of its directors and principal officers;
4 and (vi) in the case of an entity other than a corporation, the identities of its
5 partners or principals or all individuals who acted or who authorized another to
6 act on its behalf in connection with the matters referred to;

7 d. when applicable to an oral communication, to set forth in writing at a minimum
8 and in the following order: (i) the date, time, place, manner and substance of such
9 communication; (ii) the identity of all persons who participated in, listened to, or
10 had access to transcripts or summaries of such communication or copies thereof;
11 (iii) each such person's function, role, or knowledge; and (iv) the identity of all
12 documents which memorialize, commemorate, summarize, record or directly refer
13 or relate, in whole or in part, to such communication.

14 8. The term "including" means "including, but not limited to," and shall not be
15 construed to limit the scope of any definition or request herein.

16 9. The term "person" means any natural person, corporation, partnership,
17 proprietorship, association, joint venture, group, governmental or public entity, or any other
18 form or organization of legal entity, and all of their directors, officers, employees,
19 representatives, and agents.

20 10. "Defendants" mean Defendants State of Arizona, Arizona Board of Regents, d/b/a
21 University of Arizona, Ron Shoopman, Larry Penley, Ram Krishna, Bill Ridenour, Lyndel
22 Manson, Karrin Taylor Robson, Jay Heiler, Fred DuVal, Andy Tobin, and Paul Shannon and all
23 of their predecessors and successors in interest, and all of their representatives, attorneys, and
24 agents.

25 11. "You" and "Your" refer to Defendants individually and collectively.
26
27
28

INSTRUCTIONS

1
2 1. If You object to any of the Interrogatories in whole or in part, state with
3 particularity each objection, the basis for it, and the categories of information to which the
4 objection applies. You must respond to any portion of the Interrogatory to which You do not
5 object.

6 2. Each interrogatory shall be answered separately, and Your answer shall set forth
7 verbatim the interrogatory to which it is in response. The answer to an interrogatory shall not
8 be supplied by referring to the answer to another interrogatory unless the answer to the
9 interrogatory being referred to supplies a complete and accurate answer to the interrogatory
10 being answered.

11 3. You are required to answer each interrogatory set forth below, regardless of
12 whether the information is possessed by You or by any successors, assigns, agents, accountants,
13 experts, representatives, attorneys and/or consultants or anyone else acting or purporting to act
14 on Your behalf.

15 4. If You withhold any information or decline to fully identify any person, document
16 or communication in response to any of the interrogatories set forth below on grounds of
17 privilege or pursuant to the work product doctrine, provide the basis for Your claim of privilege
18 or attorney work product and answer the interrogatory to the extent You do not claim a privilege.

19 5. The interrogatories set forth below shall be deemed to be continuing in nature in
20 accordance with Rule 26 so as to require supplementation in the event that You obtain or become
21 aware of any additional information responsive to these interrogatories.

22 6. In construing any interrogatory, instruction or definition, the singular form of a
23 word shall include the plural and the plural form of a word shall include the singular.

24 7. The connectives “and” and “or” shall be construed disjunctively or conjunctively
25 as necessary to bring within the scope of the request all documents that might otherwise be
26 construed to be outside of its scope.

27 8. The terms “all” and “each” shall be construed as all and each, as necessary to bring
28 within the scope of the request all information that might otherwise be construed to be outside

1 of its scope.

2 **RELEVANT TIME PERIOD**

3 The relevant Time Period for these Requests shall be through the date in which the
4 interrogatories are answered, unless otherwise specified.

5 **INTERROGATORIES**

6 **INTERROGATORY NO. 1:** Identify and describe all reasons why the State of
7 Arizona’s self-funded health plan controlled by the Arizona Department of Administration (the
8 “Plan”) excludes coverage for “[g]ender reassignment surgery” (the “Challenged Exclusion”)
9 including, but not limited to, (a) each and every State or governmental interest that you contend
10 is advanced by the exclusion, (b) a detailed explanation for why you contend that the exclusion
11 furthers that state interest, and (c) all facts in support of your explanation.

12 **INTERROGATORY NO. 2:** Identify all persons with knowledge of the reasons why
13 the Plan excludes coverage for “[g]ender reassignment surgery,” and state what each such
14 person knows.

15 **INTERROGATORY NO. 3:** Identify all persons with knowledge of the genesis,
16 formulation, adoption, maintenance, or continuation of (a) the Challenged Exclusion and (b) any
17 earlier versions of the exclusion before the current language was adopted, and state what each
18 such person knows.

19 **INTERROGATORY NO. 4:** Identify all persons who participated in formulating,
20 adopting, maintaining, reviewing, approving, or deciding to continue the exclusion of coverage
21 for “[g]ender reassignment surgery” from the Plan, including any experts consulted, and state
22 what each such person knows.

23 **INTERROGATORY NO. 5:** Identify all persons who assisted in preparing the answers
24 to these Interrogatories or provided information contained in the answers, and state his or her
25 title, duties, role in preparing the answers, and the interrogatory answer(s) to which he or she
26 provided information or assistance. This identification should also indicate whether the
27 information provided is within his or her knowledge or was obtained from some other person or
28 source; if the information was obtained from another person or source, that person or source

1 should also be identified.

2 **INTERROGATORY NO. 6:** Identify all public or non-public meetings of Defendants
3 in which the Challenged Exclusion and/or the Plan’s coverage for medical or surgical treatments
4 or services to treat gender dysphoria (or “transition-related care”) was discussed, listing the date
5 of each meeting, the nature of each meeting, and the attendees of the meeting; and identifying
6 any documents or other materials relating to those meetings in Defendants’ custody or control.

7 **INTERROGATORY NO. 7:** Identify all research, studies, data, reports, publications,
8 testimony, or other documents considered, reviewed, or relied on by Defendants relating to the
9 Challenged Exclusion, including identifying the date or approximate date of consideration,
10 review, or reliance by the Arizona Board of Regents (“ABOR”) and the Arizona Department of
11 Administration (the “ADOA”); and the ADOA and ABOR employee(s) who considered,
12 reviewed, or relied on such documents and their role(s). A complete answer to this interrogatory
13 should include documents relating to the medical necessity, safety, and efficacy (including
14 whether a procedure is deemed experimental) of excluded treatments and services; the public
15 health effects of enforcing, amending, or eliminating the Challenged Exclusion; and the
16 cost/fiscal impact to ADOA or ABOR of enforcing, amending, or eliminating the Challenged
17 Exclusion.

18 **INTERROGATORY NO. 8:** Identify and describe any formal or informal
19 consideration by Defendants of amending or eliminating the Challenged Exclusion, including
20 identifying the date or approximate date of consideration, the ADOA and ABOR employees or
21 offices involved in such consideration and their role(s), the nature of the considered changes,
22 and what (if any) actions were taken by ADOA and ABOR.

23 DATED this 5th day of June, 2020.

24
25 ACLU FOUNDATION OF ARIZONA

26 By /s/ Christine K. Wee

27 Victoria Lopez

Christine K. Wee

3707 North 7th Street, Suite 235

Phoenix, Arizona 85014

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CERTIFICATE OF SERVICE

I, Christine K. Wee, hereby certify that on June 5, 2020 I served the foregoing *Plaintiff's First Set of Interrogatories* to Defendants via email:

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/s/ Christine K. Wee