

*Alvarado v. Austin*

**22-cv-00876-AJT-JFA**

**Exhibit 4**

**Sec. Austin Abortion Memo**



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

OCT 20 2022

MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP  
COMMANDERS OF THE COMBATANT COMMANDS  
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Ensuring Access to Reproductive Health Care

The recent Supreme Court ruling in *Dobbs v. Jackson Women's Health Organization* has impacted access to reproductive health care with readiness, recruiting, and retention implications for the Force. Since the Supreme Court's decision, we have heard concerns from many of our Service members and their families about the complexity and the uncertainty that they now face in accessing reproductive health care, including abortion services. We also recognize that recent developments may create legal and financial risk for our health care providers as they carry out their lawful federal duties. I am committed to the Department taking all appropriate action, within its authority and consistent with applicable federal law, as soon as possible to ensure that our Service members and their families can access reproductive health care and our health care providers can operate effectively.

Service members and their families should have time to make private health care decisions. To ensure consistency across the Force, I am directing the Department to:

- Establish additional privacy protections for reproductive health care information, including standardizing and extending the time Service members have to fulfill their obligation to notify commanders of a pregnancy to no later than 20 weeks unless specific requirements to report sooner, such as those necessitated by occupational health hazards, are set forth in policy.
- Disseminate guidance that directs Department of Defense health care providers that they may *not* notify or disclose reproductive health information to commanders unless this presumption is overcome by specific exceptions set forth in policy, such as risk of harm to mission, occupational safety requirements, or acute medical conditions interfering with duty.
- Disseminate guidance that directs commanders to display objectivity and discretion when addressing reproductive health care matters and underscores their duty to enforce existing policies against discrimination and retaliation in the context of reproductive health care choices.

Department of Defense health care providers should not be held personally liable for performing their official duties and should not have to face criminal or civil liability or risk losing their license for doing so. To support our health care providers, I am directing the Department to:

- Develop a program to reimburse applicable fees, as appropriate and consistent with applicable federal law, for Department of Defense health care providers who wish to become



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licensed in a different state than that in which they are currently licensed in order to support the performance of official duties.

- Develop a program to support Department of Defense health care providers who are subject to adverse action, including civil or criminal penalties or loss of license or reprimand, for appropriately performing their official duties, to include the indemnification of any verdict, judgment, or other monetary award consistent with applicable law.

Our Service members and their families are often required to travel or move to meet our staffing, operational, and training requirements. Such moves should not limit their access to reproductive health care. The practical effects of recent changes are that significant numbers of Service members and their families may be forced to travel greater distances, take more time off from work, and pay more out of pocket expenses to receive reproductive health care. In my judgment, such effects qualify as unusual, extraordinary, hardship, or emergency circumstances for Service members and their dependents and will interfere with our ability to recruit, retain, and maintain the readiness of a highly qualified force.

To ensure that we can recruit, retain, and maintain the readiness of a highly qualified force and mitigate the practical effects identified above, I am directing the Department to:

- Create uniform Department of Defense policy that allows for appropriate administrative absence consistent with applicable federal law for non-covered reproductive health care.
- Establish travel and transportation allowances for Service members and their dependents, as appropriate and consistent with applicable federal law and operational requirements, and as necessary amend any applicable travel regulations, to facilitate official travel to access non-covered reproductive health care that is unavailable within the local area of a Service member's permanent duty station.

The Department of Defense has long offered comprehensive access to contraception and family planning services for our Service members and their families. That will not change. All military medical treatment facilities with appropriate clinical capability will expand their services to include dedicated hours for walk-in contraceptive care for Service members and, on a space available basis, for all other eligible beneficiaries.

Additionally, to improve awareness of the resources and support available to Service members, their families, and other eligible beneficiaries, I am directing the Department to:

- Conduct a comprehensive contraception education campaign to enhance Service members' awareness of the resources available to them and their families, including emergency contraception. That education campaign will also highlight the fact that the Department of Defense has eliminated TRICARE co-pays for medical contraceptive services, including intrauterine devices.
- Expand publicly displayed information on these topics which will highlight the resources available to Service members and other eligible beneficiaries if they experience difficulties

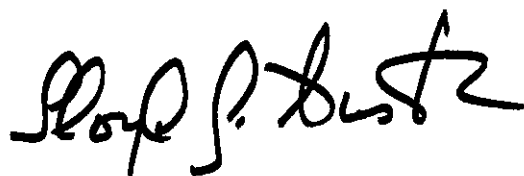
accessing reproductive health care at military medical treatment facilities.

- Improve the TRICARE and other Military Health System websites to clarify the types of medical care that are available through the Military Health System following any abortion, regardless of whether it is performed, or paid for, by the Department of Defense at a military medical treatment facility or by a TRICARE authorized provider.
- Update the Military Health System websites, HEALTH.mil and TRICARE.mil, to include a clear and easy-to-find point of contact that Service members or beneficiaries can contact to request assistance if they experience difficulty accessing reproductive health care.

The Under Secretary of Defense for Personnel and Readiness will oversee implementation of the above directed actions, to include through policy memoranda, prioritizing first the issuance of departmental policies on privacy protections, as well as policies on administrative absence and travel and transportation allowances for non-covered reproductive health care. The Under Secretary's implementation may include additional actions, as appropriate and consistent with applicable federal law, to give full effect to the goals set forth in this memorandum.

The actions outlined in this memorandum will be executed as soon as possible. All actions will be completed no later than the end of this calendar year, to the maximum extent possible.

Our greatest strength is our people. There is no higher priority than taking care of our people, and ensuring their health and well-being. The Department of Defense will continue to closely evaluate our policies to ensure that we continue to provide seamless access to reproductive health care as appropriate and consistent with federal law.

A handwritten signature in black ink, appearing to read "Royce J. Gust". The signature is written in a cursive, somewhat stylized font.