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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

STACY SEYB, M.D.

Plaintiff,

v.

MEMBERS OF THE IDAHO BOARD OF
MEDICINE, in their official capacities; *et
al.*,

Defendants.

Case No. 1:24-cv-00244-BLW

**MEMBERS OF THE IDAHO BOARD OF
MEDICINE’S CLOSING ARGUMENT**

INTRODUCTION

Plaintiff Dr. Stacy Seyb (“Seyb”) has failed to meet his burden of proving that he has standing to sue the Members of the Board of Medicine because the undisputed evidence shows that any alleged injury faced by Seyb cannot be traced to the Members and is instead dependent upon the actions of a third-party. Further, Seyb has failed to present sufficient facts to overcome the Members’ Eleventh Amendment immunity. Thus, in addition to all of the reasons set forth in Intervenor Attorney General Raúl Labrador’s written closing argument, the Court should also reject Seyb’s claims against the Members for the Board of Medicine due to lack of standing and because of the Members’ Eleventh Amendment immunity.

JURISDICTION/STANDING

I. Seyb has not met his burden of proving by a preponderance of the evidence that he has standing to pursue his claims against the Members of the Idaho Board of Medicine.

In order to prove Article III standing, a plaintiff must prove that (1) he has suffered an injury in fact; (2) there is a “causal connection between the injury and the conduct complained of”; and (3) it is “likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992) (cleaned up). An “injury in fact” must be “an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical.” *Id.* at 560 (cleaned up). While the Court has previously allowed this case to proceed despite challenges to Seyb’s standing, Seyb has the burden on each element, and at trial facts showing standing “must be supported adequately by the evidence adduced at trial.” *Id.* at 561 (internal quotations omitted). Thus, his burden is higher now than at any previous stage of this case. And standing is an “indispensable part of the plaintiff[s] case,” *id.*, and “is not dispensed in gross.” *TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021). Thus, Seyb “must demonstrate standing for each claim that [he] press[es]

against each defendant, and for each form of relief that [he] seek[s].” *Murthy v. Missouri*, 603 U.S. 43, 61 (2024). “The ‘case or controversy’ requirement of Article III precludes the exercise of jurisdiction by a federal court unless the plaintiff has suffered some actual injury or faces a threatened injury fairly traceable to the action challenged and likely to be redressed by a favorable decision.” *Los Angeles Cnty. Bar Ass’n v. Eu*, 979 F.2d 697, 700 (9th Cir. 1992).

A. Seyb has not shown that his claimed injury is caused by the Members of the Board of Medicine.

In addition to failing to prove that he has suffered an injury in fact, as addressed by Attorney General Labrador’s written closing argument, Seyb has not shown that any alleged injury was caused by the Members of the Board of Medicine. “Causation requires the plaintiff to show that the injury was likely caused by the defendant.” *Diamond Alternative Energy, LLC v. Env’t Prot. Agency*, 606 U.S. 100, 111 (2025) (internal quotations and citations omitted).

In this case, the clear evidence before the Court is that the Board of Medicine will not, and cannot, discipline any physician for performing an unlawful abortion in violation of Idaho Code § 18-622 and Idaho Code §§ 18-8804, 8805 unless and until there is a criminal conviction for performing an unlawful abortion under either of those two statutes. Exh. 2011 at 21–22; Tr. at 653:23-656:15; *see also* Idaho Code § 19-101. Upon a criminal conviction, the license suspension required by the Defense of Life Act and the Fetal Heartbeat Preborn Child Protection Act is mandatory. Idaho Code §§ 18-622((1); 18-8805(3); Tr. at 655:15-19. The Members of the Board of Medicine have no discretion to not impose the mandatory license suspension. *Id.*

Because the Members of the Board of Medicine have no criminal prosecutorial authority, whether a physician’s license will be suspended for performing an unlawful abortion under Idaho Code § 18-622 or Idaho Code §§ 18-8804, 8805 depends entirely on the discretionary actions of third-parties who do have that criminal prosecutorial authority. “A third party’s ‘legitimate

discretion’ breaks the chain of constitutional causation.” *Turaani v. Wray*, 988 F.3d 313, 317 (6th Cir. 2021) (quoting *ASARCO Inc. v. Kadish*, 490 U.S. 605, 615 (1989)). “Federal courts may ‘act only to redress injury that fairly can be traced to the challenged action of the defendant, and not injury that results from the independent action of some third party not before the court.’”¹ *WildEarth Guardians v. United States Forest Serv.*, 70 F.4th 1212, 1216 (9th Cir. 2023) (quoting *Simon v. Eastern Ky. Welfare Rights Org.*, 426 U.S. 26, 41–42 (1976)).

The evidence is clear that any injury suffered by Seyb (which there is none) is not caused by the Members of the Board of Medicine given that any discipline that the Board of Medicine can impose depends entirely upon a third-party’s independent actions, over which the Members of the Board of Medicine have no authority. Thus, Seyb has not proven that his alleged injury was caused by the Members of the Board of Medicine.

B. The Members of the Board of Medicine Have Eleventh Amendment Immunity.

For the same reasons that Seyb has failed to prove that his alleged injury was caused by the Members of the Board of Medicine, he cannot overcome the Members’ Eleventh Amendment immunity. The Members of the Board of Medicine are only sued in their official capacities. *See* Dkt. 1 ¶ 16. An official capacity suit under *Ex parte Young* is only permissible where the defendant has “fairly direct” “connection with the enforcement” of the challenged laws. *Los Angeles Cnty. Bar Ass’n v. Eu*, 979 F.2d 697, 704 (9th Cir. 1992). To overcome Eleventh Amendment immunity, “there must be a connection between the official sued and enforcement of the allegedly unconstitutional statute, and there must be a threat of enforcement.” *Long v. Van de Kamp*, 961 F.2d 151, 152 (9th Cir. 1992).

¹ The fact that Seyb sued the county prosecutors as well, and thus the Ada County Prosecutor is before the Court, is irrelevant for purposes of whether Seyb has standing against the Members of the Board of Medicine. As mentioned above, Seyb must independently prove standing against each defendant. *Murthy*, 603 U.S. at 61.

Because the Board of Medicine’s disciplinary authority is wholly dependent upon there first being a criminal conviction for performing an unlawful abortion under the Defense of Life Act or the Fetal Heartbeat Preborn Child Protection Act, and because the Board of Medicine has no criminal prosecutorial authority, the Members of the Board of Medicine have no direct connection to the determination of whether there is an unlawful abortion. Because the Members of the Board of Medicine have no criminal prosecutorial authority and cannot impose discipline unless and until there is first a criminal conviction for performing an unlawful abortion, the Members of the Board of Medicine have done nothing (and *can* do nothing) to threaten enforcement of the act against Seyb. As such, Seyb has not presented sufficient evidence to overcome the Members of the Board of Medicine’s Eleventh Amendment immunity, and the case must be dismissed against them.

CONCLUSION

Because Seyb has failed to prove that his alleged injury was caused by the Members of the Board of Medicine, and because Seyb has failed to show sufficient facts to overcome the Members’ Eleventh Amendment immunity, the Court should dismiss all claims as against the Members of the Board of Medicine, and award Seyb no relief as against the Members.

DATED: June 30, 2026

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT on June 30, 2026, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

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