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February 10, 2026

Via: Email and Hand Delivery

April J. Tabor
Secretary
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
atabor@ftc.gov

Re: FTC Matter No. P264800

Dear Madam Secretary:

Pursuant to 16 C.F.R. § 2.10 and § 4.2, enclosed please find the Endocrine Society's Petition to Quash or Limit the United States Federal Trade Commission's Civil Investigative Demand dated January 15, 2026, in the above-referenced matter.

Respectfully submitted,

Heather Sawyer

Enclosures

CC: Via Email

Office of the Secretary
Jonathan Cohen
Gregory Ashe
Annie Chiang
Jennie Hitchcock
Hans Clausen

Via Hand Delivery

Office of the Secretary

BEFORE THE UNITED STATES
FEDERAL TRADE COMMISSION

In the Matter of The Civil Investigative Demand dated January 15, 2026, to The Endocrine Society	FTC Matter No.: P264800

PETITION TO QUASH OR LIMIT CIVIL INVESTIGATIVE DEMAND

Pursuant to 16 C.F.R. § 2.10(a), Petitioner the Endocrine Society hereby respectfully requests that the United States Federal Trade Commission ("FTC" or "Commission") quash the Civil Investigative Demand dated January 16, 2026 (the "CID", attached as Exhibit 1). The CID should be quashed in its entirety or, at minimum, substantially narrowed because it exceeds the Commission's authority; violates the Endocrine Society's constitutional rights; and is overly broad, unduly burdensome, vague, and ambiguous.

BACKGROUND AND PROCEDURAL HISTORY

The Endocrine Society is a 501(c)(3) nonprofit that was founded in 1916. It is the largest and most active organization in the world devoted to the study of hormones and clinical practice in endocrinology. The Endocrine Society's mission is to advance excellence in endocrinology by promoting scientific discovery, medical practice, and human health. It pursues that mission by publishing peer-reviewed journals, hosting forums for the exchange of clinical and scientific information, and supporting its membership—over 18,000 clinicians, researchers, and scientists—at all stages of their professional development. The organization's flagship journal, *Endocrinology*, has been published since 1917, and since the journal's inception it has been the forum for foundational advances in the understanding of endocrine science. The Endocrine Society also publishes dozens of clinical practice guidelines for treatment of endocrine disorders, scientific statements, and position statements concerning endocrinology in the public sphere.

Among those is a guideline entitled *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons*, which was last published in 2017 (the "Guidelines"),[1] and a position statement published in 2020, entitled *Transgender Health* (the "Position Statement").[2]

The Endocrine Society received the CID on January 20, 2026. The CID says that the "purpose" of the Commission's investigation is "to determine whether [the Endocrine Society] or any other Person, . . . have made, or assisted others in making, false or unsubstantiated representations or engaged in unfair practices in connection with the marketing and advertising of Pediatric Gender Dysphoria Treatment." CID 1. The CID notes that "according to the Organization," such treatments "purport[]" to treat minors with gender dysphoria. *Id.* The CID makes dozens of sweeping requests for documents, information, and communications from every employee, officer, and "affiliate[]" of the Endocrine Society. CID 8.

The Endocrine Society initiated the meet and confer process on January 27, 2026; met with Commission staff on January 30, 2026; exchanged email correspondence with Commission staff on February 3, 2026, and February 4, 2026; met again on February 5, 2026; and corresponded by email and letter on February 6, 2026, and February 9, 2026. During that process, the Endocrine Society raised all of the issues discussed in this Petition. *See* 16 C.F.R. § 2.10(a)(2).

ARGUMENT

The Commission should quash the CID in its entirety for three independent but interrelated reasons. *First*, the CID exceeds the Commission's authority. *Second*, the CID is unconstitutional

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[1] Wylie C. Hembree et al., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinal Practice Guideline*, 102 J. Clinical Endocrinology & Metabolism 3869 (Sept. 13, 2017), https://academic.oup.com/jcem/article/102/11/3869/4157558 [https://perma.cc/9CSM-2KXC].

[2] Endocrine Society, *Transgender Health Position Statement* (Dec. 2020), https://www.endocrine.org/-/media/endocrine/files/advocacy/position-statement/position_statement_transgender_health_pes.pdf [https://perma.cc/8PMD-2U9P].

under the First and Fourth Amendments of the U.S. Constitution. And *third*, the CID is overly broad and unduly burdensome.

I. The CID is *ultra vires* because the Commission cannot regulate nonprofits such as the Endocrine Society or investigate non-commercial statements of scientific opinion.

A subpoena issued by a federal agency is proper only where "the inquiry is within the authority of the agency, the demand is not too indefinite and the information sought is reasonably relevant." *United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950). Investigatory subpoenas are therefore unenforceable "when there is 'a patent lack of jurisdiction' in an agency to regulate or investigate." *FTC v. Ken Roberts Co.*, 276 F.3d 583, 587 (D.C. Cir. 2001). In this case, there is a "patent lack of jurisdiction." The Commission's authority to issue a CID is limited to instances where it has "reason to believe" that a "natural person" or "legal entity" is "in possession, custody, or control of any documentary material . . . relevant to unfair or deceptive acts or practices in or affecting commerce." 15 U.S.C. § 57b-1(a)(6), (c)(1). As explained below, the CID plainly exceeds the Commission's authority.

A. The Commission lacks enforcement jurisdiction over the Endocrine Society.

First, no statement by the Endocrine Society could render it liable under the FTC Act. Under § 5 of the FTC Act, the Commission's enforcement authority extends only to "person[s], partnership[s], or corporation[s]." 15 U.S.C. § 45(m)(1)(A). Section 4 defines a "corporation" to include "any company . . . which is organized to carry on business for its own profit or that of its members." 15 U.S.C. § 44. The Commission has never disputed that it lacks the authority to sue true charitable nonprofit corporations under those provisions. *See, e.g.*, Non-Compete Clause Rule, 89 Fed. Reg. 38342, 38357 (May 7, 2024); *see also FTC v. Grand Canyon Educ., Inc.*, 745 F. Supp. 3d 803, 825-26 (D. Ariz. 2024) (dismissing the Commission's claims against nonprofit corporation).

"The Commission applies a two-part test to determine whether a corporation is organized for profit and thus within the Commission's jurisdiction." 89 Fed. Reg. at 38357. Under that test, the Commission considers (1) whether there is "an adequate nexus between an organization's activities and its alleged public purposes," and (2) whether the organization's "net proceeds [are] properly devoted to recognized public, rather than private, interests." *Id.* (quoting *In re Coll. Football Ass'n*, 117 F.T.C. 971, 998 (1994)). The Commission also considers an organization's classification under the tax code and "tax-exempt status" in determining whether the organization falls within its jurisdiction. *Id.* (quoting *In re Am. Med. Ass'n*, 94 F.T.C. 701, 1979 WL 199033, at *221 (Oct. 12, 1979)).

The Endocrine Society meets these criteria. It is organized as a 501(c)(3) nonprofit, and it has had tax-exempt status since it was first incorporated in 1918. *See* Revenue Act of 1913, ch. 16, § II(G)(a), 38 Stat. 114, 172 (1913) (exempting organizations "operated exclusively for religious, charitable, scientific, or educational purposes"); Exhibit 4 (the Endocrine Society's original articles of incorporation describing its purpose as promoting "scientific research," "diffus[ing] information" by "lecture," and publishing on "scientific subjects"). That distinguishes the Endocrine Society from other nonprofit medical organizations over which the Commission has previously exercised jurisdiction. *See, e.g., Am. Med. Ass'n*, 1979 WL 199033, at *221 (stating that the Commission has jurisdiction over the American Medical Association in part because the AMA's "inability to qualify under § 501(c)(3) . . . means that the IRS does not consider [it] to be organized and operated 'exclusively' for charitable goals").

The Endocrine Society also satisfies both prongs of the functional test the Commission applies to determine whether an entity is a true nonprofit: its activities and funding are both properly devoted to its charitable public purposes. Since its founding, the Endocrine Society's

only "object" has been to "broaden knowledge in [the] field" of endocrinology.[3] The Endocrine Society's current articles of incorporation similarly describe it as "organized and operated exclusively for educational and scientific purposes." Exhibit 5. The Endocrine Society's activities—publishing medical journals, guidelines, and statements; hosting forums for the exchange of clinical and scientific knowledge; and generally supporting its members in advancing the field of endocrinology—serve those purposes. Declaration of the Endocrine Society in Support of Petition to Quash the Civil Investigative Demand ("Becker Decl.") ¶ 6. None of the Endocrine Society's activities is directed at generating a profit for itself. Nor does the Endocrine Society assist the profitability of any of its members beyond aiding them in being successful as clinicians, scientists, and researchers for the public good.

Publicly available documents also show that the Endocrine Society's net proceeds are devoted to recognized public interests. As a preliminary matter, a significant portion of the Endocrine Society's income comes from grants and donations, and the majority of the individuals who work with the organization are volunteers, not paid employees. Becker Decl. ¶ 9. The Endocrine Society's revenue comes predominantly from sales of its peer-reviewed journals, membership dues, and attendance fees for its educational programs. *Id.* The Endocrine Society's expenses are also directed towards its advancement of public interests: they are largely devoted to organizing and hosting educational programs and publishing its journals. *Id.* None of those activities diverges from the Endocrine Society's stated purpose: aiding the community of endocrinologists who comprise its membership to accelerate scientific breakthroughs and improve health worldwide. *Id.* ¶ 4. Because the Endocrine Society is a true charitable, nonprofit

[3] *The Association for the Study of Internal Secretions*, 5 Endocrinology 1, at 1 (Jan.–Mar. 1920), https://academic.oup.com/endo/issue-pdf/5/1/11048878 [https://perma.cc/YYR8-6D55].

corporation by every standard the Commission employs to determine its own jurisdiction, the Commission lacks the authority to enforce the FTC Act against the Endocrine Society.

B. The CID is not reasonably relevant to an investigation into any violations of Sections 45 and 52.

The Commission also cannot justify the CID as relevant to any investigation into the Endocrine Society or a third party within the ambit of 15 U.S.C. §§ 45 or 52. CID 1. It is apparent on the face of the CID that it is not reasonably relevant to any legitimate investigation of a violation of those statutes.

A CID is not enforceable if the "subject matter of the investigation" that the CID identifies is not "within the statutory jurisdiction of the [CID]-issuing agency." *Fed. Election Comm'n v. Machinists Non-Partisan Pol. League*, 655 F.2d 380, 386 (D.C. Cir. 1981). Section 45 concerns "[u]nfair methods of competition" and "unfair or deceptive acts or practices in or affecting commerce." 15 U.S.C. § 45(a)(1). And section 52 concerns the "dissemination" of "false advertisement[s]." 15 U.S.C. § 52(a), (b). The authorizing resolutions the Commission is acting under are similarly constrained: they limit the Commission to investigating "acts or practices in or affecting commerce." CID 17-18. Any broader interpretation would result in the resolutions' exceeding both the Commission's statutory and constitutional authority. *See United States v. Philip Morris USA*, 316 F. Supp. 2d 19, 26 (D.D.C. 2004) ("[W]hether an activity falls within Congress' purview is contingent upon whether that activity constitutes "commerce" within the scope of the Commerce Clause.").

In the CID, the Commission asserts that it is investigating "representations" and "practices in connection with the marketing and advertising of Pediatric Gender Dysphoria Treatment." CID 1. But the information and documents sought by the CID are not relevant to any such investigation.

In addition to its being outside the enforcement jurisdiction of the Commission, the Endocrine Society does not "market" or "advertise" any treatments, so there are no statements by the Endocrine Society that could fall within sections 45 or 52's scope. During the January 30, 2026 conference, Commission staff asserted that a statement by a medical organization that a treatment was safe or effective could, if the statement were used by practitioners in suggesting that treatment to patients, potentially create liability for that medical organization under the FTC Act and, at a minimum, would justify a CID like this one, which seeks a staggering array of information that falls squarely within the protection of the First Amendment. That extraordinary assertion has no basis in, and is contrary to, established law.

The Endocrine Society publishes dozens of clinical practice guidelines that it provides free of charge as a public service on its website.[4] Those guidelines contain disclaimers that state that they "should not be considered inclusive of all proper approaches or methods," that they "cannot guarantee any specific outcome" and do not "establish a standard of care," and that they "are not intended to dictate the treatment of a particular patient."[5] Similar guidelines are published by hundreds of other medical organizations around the world, including the American Heart Association,[6] the Infectious Diseases Society of America,[7] and the American Academy of

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[4] *See* Endocrine Society, *Clinical Practice Guidelines*, https://www.endocrine.org/clinical-practice-guidelines [https://perma.cc/PET5-PJCD] (last visited Feb. 9, 2026).

[5] *See* Hembree, *supra* note 1, at 3895.

[6] *See* American Heart Association, *Recent Guidelines & Statements*, https://professional.heart.org/en/guidelines-statements [https://perma.cc/M93B-5CBX] (last visited Feb. 9, 2026).

[7] *See* Infectious Diseases Society of America, *Practice Guidelines*, https://www.idsociety.org/practice-guideline/practice-guidelines/#/+/0/date_na_dt/desc/ [https://perma.cc/F63F-G3FC] (last visited Feb. 9, 2026).

Pediatrics.[8] Clinicians routinely use those guidelines in discussing treatment options with patients. In the Commission's apparent view, however, every medical opinion in any of those guidelines could expose the medical organization itself to liability and bring the organization within the FTC's investigatory ambit. On this view, the Commission could use unfettered investigatory authority to burden and chill the right of nonprofit medical organizations to formulate and express their views; furthermore, it could ultimately seek to enjoin the publication of any medical opinion or recommendation it disagreed with.

But the Commission is not authorized to regulate medical opinion or practice in the United States, through either its enforcement or its investigative power; in fact, "direct control of medical practice in the states is beyond the power of the federal government." *Linder v. United States*, 268 U.S. 5, 18 (1925); *see also Tex. Med. Providers Performing Abortion Servs. v. Lakey*, 667 F.3d 570, 579 (5th Cir. 2012) ("[F]ederal courts are not the repository for regulation of the practice of medicine."). Congress did not grant the Commission the authority to veto medical guidance published by nonprofit medical organizations, as there is nothing in the FTC Act that hints at that power. And federal courts have repeatedly recognized that holding entities liable for scientific or medical opinions published in a non-commercial context would raise significant First Amendment concerns. *See ONY, Inc. v. Cornerstone Therapeutics, Inc.*, 720 F.3d 490, 498 (2d Cir. 2013); *Lavine v. Am. Acad. of Pediatrics Inc.*, 2024 WL 2796575, at *7 (D.N.J. May 31, 2024); *Torrey v. Infectious Diseases Soc'y of Am.*, 86 F.4th 701, 707 (5th Cir. 2023).

Notably, the Commission has not previously asserted—and no court has ever approved—the Commission's expansive and unprecedented new interpretation of the FTC Act. Although the

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[8] *See* American Academy of Pediatrics *Clinical Practice Guidelines*, https://publications.aap.org/collection/523/Clinical-Practice-Guidelines?autologincheck=redirected (last visited Feb. 9, 2026).

Commission has sued medical organizations before, the suits have always concerned commercial activity, like limitations on member advertising and solicitation, *see, e.g.*, *Cal. Dental Ass'n v. FTC*, 526 U.S. 756 (1999); *Am. Med. Ass'n v. FTC*, 638 F.2d 443 (2d Cir. 1980), limitations on submissions to insurance companies, *see, e.g.*, *FTC v. Ind. Fed'n of Dentists*, 476 U.S. 447 (1986), mergers or acquisitions of hospitals or clinical practices, *see, e.g.*, *Saint Alphonsus Med. Ctr.-Nampa Inc. v. St. Luke's Health Sys., Ltd.*, 778 F.3d 775 (9th Cir. 2015), or the advertising of treatments by for-profit entities or professional associations, *see, e.g.*, *FTC v. Peyroux*, 723 F. Supp. 3d 1209 (N.D. Ga. 2024).

Those cases are nothing like this one: the Endocrine Society does not "provid[e] . . . clinics with marketing campaigns" or "magazine ads," or "sample sales agreements." *Id.* at 1245. And the FTC's "authority does not allow [it] to ban [speech] just because someone might use [it] for false advertising."[9] For that reason, the Commission has never before tried to regulate any of the thousands of statements of medical opinion published in clinical guidelines by charitable non-profit organizations, nor could it.

Nor is the requested information relevant to any investigation of whether "any other Person" possibly violated sections 45 or 52. CID 1. The focus of the Commission's investigation is apparent on the CID's face. The CID requests nearly every piece of information imaginable about the Endocrine Society's publication of the Guidelines and the Position Statement and any statements it has ever made about gender affirming care for children. CID 5-7. But nothing about how the Endocrine Society developed or substantiated those publications could transform them

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[9] Andrew N. Ferguson, *Staying in Our Lane: Resisting the Temptation of Using Consumer Protection Law to Solve Other Problems* at 2, Prepared Remarks at the 2024 International Consumer Protection and Enforcement Network (ICPEN) Fall Conference, Washington, D.C. (Sept. 27, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/9.27.2024-Ferguson-ICPEN-Remarks.pdf [https://perma.cc/6TJE-HTWS].

into advertisements by a regulable third party. To the extent that the Commission's goal is to evaluate the Endocrine Society's substantiation itself, that is publicly available through the 200 plus academic citations in the Guidelines and the public-facing GRADE process the Endocrine Society employed to develop them.[10]

Instead, the CID makes clear that the Commission's focus in issuing the CID is determining who helped the Endocrine Society form and publish its noncommercial scientific opinion about the efficacy of gender affirming care for minors and how they did so. But, as explained below, requiring the Endocrine Society to divulge that information—to the extent it is not already public—would burden the Endocrine Society's First and Fourth Amendment rights, not least because it seeks to compel the Society into "disprov[ing]" its own sincerely held, scientifically grounded opinion. CID 7; *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Bos.*, 515 U.S. 557, 573 (1995) (government "may not compel affirmance of a belief with which the speaker disagrees"). Nor is there anything in that information that could plausibly implicate the FTC Act. Because the Commission's putative justification is pretextual, the CID exceeds its authority. *See Ken Roberts*, 276 F.3d at 586.

II. The CID Is Overbroad and Unduly Burdensome

Because the Commission's "[s]ubpoena enforcement power is not limitless," *id.*, a CID must be reasonable in "the nature, purposes and scope of the inquiry," *Okla. Press Publ'g Co. v. Walling*, 327 U.S. 186, 209 (1946). Courts will not enforce a CID where, as here, it "is unduly burdensome or unreasonably broad." *FTC v. Texaco, Inc.*, 555 F.2d 862, 882 (D.C. Cir. 1977).

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[10] *See Endocrine Society Guideline Methodology*, Endocrine Soc'y, https://www.endocrine.org/-/media/endocrine/files/cpg/methodology-page-refresh/endocrine_society_guideline_methodology_links.pdf [https://perma.cc/5M7V-FWVS].

Most of the CID's provisions fail that test. The burdens it imposes therefore provide an independent basis to quash the CID or, at minimum, substantially narrow it. *Id.*

First, the CID's definitions are themselves overly broad. For example:

- A "Communication" is defined to mean "the transmittal of information by any means," without limitation based on medium.

- The "Covered Statement[s]" the CID focuses on include any "representations, whether express or implied" that any "medical intervention[s]" of any type "which . . . purport[] to treat gender dysphoric . . . minors" "are safe," "proven effective," "supported by evidence-based science," "improve mental health," "reduce the incidence of suicide," "are fully or partly reversible," or "have few side effects."

- A "Document" is defined to include any "drafts or prior versions;" "notations on the copy;" "copies of all hyperlinked materials;" all forms of electronic messaging, such as texts or instant messages; and any "information" "on all devices (including employee-owned devices) used for Organization-related activity."

- The terms "Organization," "You," and "Your" are defined to include "other persons working for or on behalf of" an extensive list of entities or individuals with potential ties to the Endocrine Society.

See CID 8. By incorporating those definitions into its requests, the CID makes nearly limitless requests for documents and information, often in ways that directly implicate the Endocrine Society's First Amendment rights. For example:

- Interrogatory 6 would require the Endocrine Society to disclose anyone "to whom . . . [it] disseminated" any "materials concerning" gender affirming care for minors and "for what purpose" those materials "were disseminated."

- Interrogatory 7 would require the Endocrine Society to disclose every instance in which it or any of its "officers, members, [or] employees" made any statement in any medium that "express or implied," "represent[s]" that gender affirming care for minors is safe or effective.

- Interrogatory 8 would require the Endocrine Society to disclose "every individual or entity that participated in development and issuance" of the Guidelines or the Position Statements.

- Interrogatory 12 would require the Endocrine Society to provide "Your views" (whatever that might mean) regarding whether the Covered Statements are "substantiated," and the

reasoning therefore, and defines "Your" to include an expansive group of entities associated with the Endocrine Society.

- Interrogatory 13 would require the Endocrine Society to disclose each "natural person, organization, or other legal entity" that played any role in "developing, reviewing, or evaluating substantiation" for any statement the Endocrine Society or its employees ever made in any medium that represented, "express or implied," that gender affirming care for minors is safe or effective. Among other things, inclusion of a subjective assessment as to when a representation might be implied (an assessment that could require identification and review of documents not easily identifiable through search terms and is highly dependent on context and knowledge) makes the request impossibly vague, ambiguous, and unduly burdensome.

- Document Requests 1-3 would require the Endocrine Society to produce any "Document," which includes "chats, instant messages, text messages, direct messages, information stored on or sent through social media accounts or messaging or other applications" and even any "information on [any] device[] (including employee-owned devices) used for Organization-related activity," if it (1) relates to substantiation for (or, perversely, "disproves") any statements made by the Endocrine Society or any of its employees or members that represents that gender affirming care is safe or effective, (2) relates to any "study" that the Endocrine Society or any of its employees or members ever "sponsored, conducted, or contributed to" that "involved" gender affirming care for minors.

- Document Requests 4 and 5 would require the Endocrine Society to produce any "Documents"—again including electronic messaging or information on any device used for "Organization-related activity"—related to communications with any "organizations, institutions, or individuals" regarding the Guidelines or Position Statement.

- Document Request 7 would require the Endocrine Society to produce any non-publicly available documents that it, its employees, or its affiliates "provided to any legislature or regulator" that "related to" gender affirming care for minors.

- Document Request 8 would require the Endocrine Society to produce attendance sheets for any "workshop, townhall or other formal or informal session, or conference" "hosted or organized" by the Endocrine Society or any of its employees or members that was "related in any way" to gender affirming care for minors.

- Document Request 9 would require the Endocrine Society to produce any documents that were "disseminated" by the Endocrine Society that "reference[]" any statement that gender affirming care is safe or effective.

See CID 6-7.

Each of these requests would impose significant burdens and substantial costs on the Endocrine Society, which is a nonprofit organization with limited resources and staff. Taken

together, compliance would be crippling and severely disrupt the Endocrine Society's operations. Between a half and a third of the Endocrine Society's employees would have to be diverted from their responsibilities if the Endocrine Society were required to fully respond to the CID's requests; and even then, full compliance would take months or years. In sum, the Endocrine Society can attest that responding to the CID would materially disrupt its operations, require the Endocrine Society to spend hundreds of thousands of dollars and devote hundreds of hours of staff time to the Commission's investigation, and severely chill the Endocrine Society's protected speech. Becker Decl. ¶¶ 13-25. Because "compliance threatens to unduly disrupt or seriously hinder normal operations of" the Endocrine Society, the CID is unduly burdensome and must be quashed. *Texaco*, 555 F.2d at 882.

III. The CID Violates the Endocrine Society's First and Fourth Amendment Rights

Finally, even if the CID were within the Commission's statutory authority and compliance were not unduly burdensome for the Endocrine Society, it would still violate the Endocrine Society's constitutional rights.

First, the CID violates the First Amendment because it retaliates against and chills protected speech.[11] In a strikingly similar case, the D.C. Circuit recently held that a nonprofit had suffered "present, concrete, and objective harms" as a result of "retaliatory government actions" from the Commission that "adversely affected" its ability to engage in its charitable mission.

[11] During the February 5, 2026, conference between the Endocrine Society and the Commission, Commission staff took the surprising view that the Endocrine Society had forfeited any argument based on retaliation under the First Amendment. In a subsequent letter, Commission staff appears to be taking an even more expansive view—that the Endocrine Society had forfeited every objection to the CID. Both positions are baseless. Among other reasons, the Endocrine Society raised its objections "during the meet and confer process," both in correspondence with Commission staff and during the January 30, 2026, and the February 5, 2026, conferences themselves. 16 C.F.R. § 2.7(k).

Media Matters for Am. v. FTC, 2025 WL 2988966, at *3 (D.C. Cir. Oct. 23, 2025); *Media Matters for Am. v. Paxton*, 138 F.4th 563, 579 (D.C. Cir. 2025). The same holds true here.

Under the First Amendment, the government "cannot attempt to coerce private parties in order to punish or suppress views that the government disfavors." *Nat'l Rifle Ass'n of Am. v. Vullo*, 602 U.S. 175, 180 (2024). Establishing the causal link required for a retaliation claim does not require "com[ing] forward with . . . 'the so-called smoking gun.'" *Massey v. Johnson*, 457 F.3d 711, 717 (7th Cir. 2006); *Media Matters*, 2025 WL 2988966, at *8. Both the Commission and the Administration more broadly have stated their intention to retaliate against proponents of gender affirming care.[12] This CID is part of the pattern of retaliation that has followed those statements, as evidenced in the Administration's unprecedented targeting of organizations engaging in speech about gender affirming care, the lack of legitimate basis for the Commission's purported investigation, and the Chairman of the Commission's commitment to investigate organizations that "pushed" a viewpoint that the Administration disagrees with. In addition, the CID has already chilled the Endocrine Society's protected speech. Becker Decl. ¶¶ 18-25.

Second, on top of its retaliatory nature, the CID separately burdens the Endocrine Society's First Amendment and Fourth Amendment rights. The CID implicates the Endocrine Society's rights to speech, association, and petition. *See, e.g.*, CID 7 (requiring the Endocrine Society to "disprove" its own views); *id.* (requiring the Endocrine Society to disclose attendance sheets for any "session[s]" it has "hosted or organized" concerning gender affirming care for minors); *id.*

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[12] *See, e.g.*, Ending Radical Indoctrination in K-12 Schooling, Exec. Order No. 14190 of Jan. 29, 2025, 90 Fed. Reg. 8853 (Feb. 3, 2025); *FTC Commissioner Andrew N. Ferguson for FTC Chairman*, Punchbowl News, https://punchbowl.news/wp-content/uploads/FTC-Commissioner-Andrew-N-Ferguson-Overview.pdf [https://perma.cc/VDZ6-BZQU] (promising to "[f]ight back against the trans agenda" by "[i]nvestigat[ing]" those "who deceptively pushed gender confusion, puberty blockers, hormone replacement, and sex-change surgeries on children and adults").

(requiring the Endocrine Society to disclose any "information provided to any legislature or regulator"); *see also 303 Creative LLC v. Elenis*, 600 U.S. 570, 584 (2023) (right to free speech); *Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 609-10 (2021) (right to free association); *BE & K Constr. Co. v. Nat'l Labor Relations Bd.*, 536 U.S. 516, 525 (2002) (right to petition). It also violates the "qualified privilege against compelled disclosure" that applies to organizations engaged in journalism. *Hutira v. Islamic Republic of Iran*, 211 F. Supp. 2d 115, 118 (D.D.C. 2002). That interest is not "confined" to protecting "newspapers and periodicals;" it "necessarily embraces . . . every sort of publication which affords a vehicle of information and opinion." *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 390 n.6 (2010) (quoting *Lovell v. City of Griffin*, 303 U.S. 444, 452 (1938)). Because those rights are implicated, the CID is enforceable only if the Fourth Amendment's reasonableness requirements are adhered to with "scrupulous exactitude." *Zurcher v. Stanford Daily*, 436 U.S. 547, 564 (1978). The CID falls far short of that exacting standard because, as explained above, it is overbroad, vague and ambiguous in many places, and unduly burdensome. *See supra* Part II.

RESERVATION OF RIGHTS

By submitting this Petition to Quash, the Endocrine Society does not intend to—and does not—waive any rights to make additional arguments against the Commission's investigation of the Endocrine Society, the CID, or both, including under the U.S. Constitution, the FTC Act, or any other statute or rule.

CONCLUSION

For the foregoing reasons, the CID should be quashed in its entirety or, at minimum, substantially narrowed.

Dated: February 10, 2026

COOLEY LLP

By: _____

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Counsel for Petitioner the Endocrine Society

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2026, the foregoing Petition to Quash the Civil Investigative Demand was served by electronic mail to the following:

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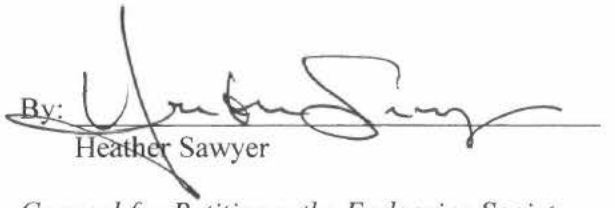
Washington, D.C. 20580
jcohen2@ftc.gov

I further certify that on February 10, 2026, the foregoing Petition to Quash the Civil Investigative Demand was served by hand delivery/courier to the following:

BrightKey Offices
c/o April Tabor, Secretary of the Commission
9050 Junction Dr.
Annapolis Junction, MD 20701

Dated: February 10, 2026

By: 

Heather Sawyer

Counsel for Petitioner the Endocrine Society

EXHIBIT 1

Office of the Secretary

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

January 15, 2026

Via U.S. Mail
The Endocrine Society
c/o CT Corporation System
1015 15th Street NW, Suite 1000
Washington, DC 20005

FTC Matter No. P264800

Dear The Endocrine Society:

The Federal Trade Commission ("FTC") has issued the attached Civil Investigative Demand ("CID") asking for information as part of a non-public investigation. Our purpose is to determine whether the Organization or any other Person, as those terms are defined in the enclosed CID Schedule, have made, or assisted others in making, false or unsubstantiated representations or engaged in unfair practices in connection with the marketing and advertising of Pediatric Gender Dysphoria Treatment (as defined in the enclosed CID Schedule), which, according to the Organization, purports to treat gender dysphoric or gender diverse minors, to consumers in violation of Sections 5 and 12 of the FTC Act, 15 U.S.C. §§ 45, 52, and whether FTC action to obtain monetary relief would be in the public interest. Please read the attached documents carefully. Here are a few important points we would like to highlight:

1. Contact **FTC counsel Gregory Ashe (202-326-3719/gashe@ftc.gov)**, as soon as possible to schedule a telephone call to be held within 14 days. During that telephone call, FTC counsel can address any questions or concerns you have regarding this CID, including whether there are changes to how you comply with the CID that would reduce your cost or burden while still giving the FTC the information it needs. Please read the attached documents for more information about that meeting.

2. **You must preserve, and immediately stop any deletion or destruction of, electronic or paper documents** in your possession, custody, or control that are in any way relevant to this investigation, even if those documents are being retained by

a third party or you believe the documents are protected from discovery by privilege or some other reason. You must also disable auto-delete for, or suspend, restrict, or limit use of, any applications or platforms that automatically delete messages or information that may be relevant to this investigation.

3. **The FTC will use information you provide in response to the CID for the purpose of investigating violations of the laws the FTC enforces.** We will not disclose the information under the Freedom of Information Act, 5 U.S.C. § 552. We may disclose the information in response to a valid request from Congress, or to other civil or criminal law enforcement agencies for their official law enforcement purposes. The FTC or other agencies may use and disclose your response in any civil or criminal proceeding, or if required to do so by law. However, we will not publicly disclose your information without giving you prior notice.

4. **Please read the attached documents closely.** They contain important information about how you should provide your response.

Please contact FTC counsel as soon as possible if you have any questions. We appreciate your cooperation.

Very truly yours,

April J. Tabor
Secretary

PUBLIC

United States of America
Federal Trade Commission

Civil Investigative Demand

1. TO	1a. MATTER NUMBER
The Endocrine Society c/o CT Corporation System 1015 15th Street NW, Suite 1000 Washington, DC 20005	P264800

This demand is issued pursuant to Section 20 of the Federal Trade Commission Act, 15 U.S.C. § 57b-1, in the course of an investigation to determine whether there is, has been, or may be a violation of any laws administered by the Federal Trade Commission by conduct, activities or proposed action as described in Item 3.

2. ACTION REQUIRED

☐ You are required to appear and testify.

LOCATION OF HEARING	YOUR APPEARANCE WILL BE BEFORE
	DATE AND TIME OF HEARING OR DEPOSITION

☒ You are required to produce all documents described in the attached schedule that are in your possession, custody, or control, and to make them available at your address indicated above for inspection and copying or reproduction at the date and time specified below.

☒ You are required to answer the interrogatories or provide the written report described on the attached schedule. Answer each interrogatory or report separately and fully in writing. Submit your answers or report to the Records Custodian named in Item 4 on or before the date specified below.

☐ You are required to produce the tangible things described on the attached schedule. Produce such things to the Records Custodian named in Item 4 on or before the date specified below.

DATE AND TIME THE DOCUMENTS, ANSWERS TO INTERROGATORIES, REPORTS, AND/OR TANGIBLE THINGS MUST BE AVAILABLE

March 16, 2026 by 5:00pm ET

3. SUBJECT OF INVESTIGATION

Whether the Organization or any other Person, as those terms are defined in the enclosed CID Schedule, have made, or assisted others in making, false or unsubstantiated representations or engaged in unfair practices in connection with the marketing and advertising of Pediatric Gender Dysphoria Treatment (as defined in the enclosed CID Schedule) which, according to the Organization, purports to treat gender dysphoric or gender diverse minors, to consumers in violation of Sections 5 and 12 of the FTC Act, 15 U.S.C. §§ 45, 52, and whether FTC action to obtain monetary relief would be in the public interest. See also attached schedule and attached resolutions.

4. RECORDS CUSTODIAN/DEPUTY RECORDS CUSTODIAN	5. COMMISSION COUNSEL
Gregory Ashe Federal Trade Commission 600 Pennsylvania Ave., NW Washington, DC 20580 202-326-3719	Gregory Ashe Federal Trade Commission 600 Pennsylvania Ave., NW Washington, DC 20580 202-326-3719

DATE ISSUED	COMMISSIONER'S SIGNATURE
1/15/26	Ashan N. Fyn

INSTRUCTIONS AND NOTICES

The delivery of this demand to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply. The production of documents or the submission of answers and report in response to this demand must be made under a sworn certificate, in the form printed on the second page of this demand, by the person to whom this demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances of such production or responsible for answering each interrogatory or report question. This demand does not require approval by OMB under the Paperwork Reduction Act of 1980.

PETITION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any petition to limit or quash this demand be filed within 20 days after service, or, if the return date is less than 20 days after service, prior to the return date. The original and twelve copies of the petition must be filed with the Secretary of the Federal Trade Commission, and one copy should be sent to the Commission Counsel named in Item 5.

YOUR RIGHTS TO REGULATORY ENFORCEMENT FAIRNESS

The FTC has a longstanding commitment to a fair regulatory enforcement environment. If you are a small business (under Small Business Administration standards), you have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR (1-888-734-3247) or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.

The FTC strictly forbids retaliatory acts by its employees, and you will not be penalized for expressing a concern about these activities.

TRAVEL EXPENSES

Use the enclosed travel voucher to claim compensation to which you are entitled as a witness for the Commission. The completed travel voucher and this demand should be presented to Commission Counsel for payment. If you are permanently or temporarily living somewhere other than the address on this demand and it would require excessive travel for you to appear, you must get prior approval from Commission Counsel.

A copy of the Commission's Rules of Practice is available online at http://bit.ly/FTCSRulesofPractice. Paper copies are available upon request.

FEDERAL TRADE COMMISSION ("FTC")
CIVIL INVESTIGATIVE DEMAND ("CID") SCHEDULE
FTC File No. P264800

Meet and Confer: You must contact FTC counsel Gregory Ashe (202-326-3719; gashe@ftc.gov), as soon as possible to schedule a telephonic meeting to be held within fourteen (14) days after You receive this CID. At the meeting, You must discuss with FTC counsel any questions You have regarding this CID or any possible CID modifications that could reduce Your cost, burden, or response time yet still provide the FTC with the information it needs to pursue its investigation. The meeting also will address how to assert any claims of protected status (e.g., privilege, work-product, etc.) and the production of electronically stored information. You must make available at the meeting personnel knowledgeable about Your information or records management systems, Your systems for electronically stored information, custodians likely to have information responsive to this CID, and any other issues relevant to compliance with this CID.

Document Retention: You must retain all Documents used in preparing responses to this CID. The FTC may require the submission of additional Documents later during this investigation. **Accordingly, You must preserve, and immediately stop any deletion or destruction of, Documents in Your possession, custody, or control** that are in any way relevant to this investigation, even if those Documents are being retained by a third party or You believe those Documents are protected from discovery. *See* 15 U.S.C. § 50; *see also* 18 U.S.C. §§ 1505, 1519. In addition, You must disable auto-delete for, or suspend, restrict, or limit use of, any messaging applications or Collaborative Work Environments that automatically delete messages or information that may be relevant to this investigation.

Sharing of Information: The FTC will use information You provide in response to the CID for the purpose of investigating violations of the laws the FTC enforces. We will not disclose such information under the Freedom of Information Act, 5 U.S.C. § 552. We also will not disclose such information, except as allowed under the FTC Act (15 U.S.C. § 57b-2), the Commission's Rules of Practice (16 C.F.R. §§ 4.10 & 4.11), or if required by a legal obligation. Under the FTC Act, we may provide Your information in response to a request from Congress or a proper request from another law enforcement agency. However, we will not publicly disclose such information without giving You prior notice.

Manner of Production: Contact **FTC counsel Gregory Ashe (202-326-3719; gashe@ftc.gov)** by email or telephone at least five days before the return date for instructions on how to produce information responsive to this CID.

Certification of Compliance: You or any person with knowledge of the facts and circumstances relating to the responses to this CID must certify that such responses are complete by signing the "Certification of Compliance" attached to this CID.

Certification of Records of Regularly Conducted Activity: Attached is a Certification of Records of Regularly Conducted Activity. Please execute and return this Certification with Your response. Completing this certification may reduce the need to subpoena You to testify at future proceedings to establish the admissibility of Documents produced in response to this CID.

Definitions and Instructions: Please review carefully the Definitions and Instructions that appear after the Specifications and provide important information regarding compliance with this CID.

I. SUBJECT OF INVESTIGATION

Whether the Organization or any other Person, as those terms are defined herein, have made, or assisted others in making, false or unsubstantiated representations or engaged in unfair practices in connection with the marketing and advertising of Pediatric Gender Dysphoria Treatment (as defined herein), which, according to the Organization, purports to treat gender dysphoric or gender diverse minors, to consumers in violation of Sections 5 and 12 of the FTC Act, 15 U.S.C. §§ 45, 52, and whether FTC action to obtain monetary relief would be in the public interest. See also attached resolutions.

II. SPECIFICATIONS

Applicable Time Period: Unless otherwise directed, the applicable time period for the requests set forth below is from January 1, 2021**, until the date of full and complete compliance with this CID.**

A. Interrogatories. Please describe in detail:

1. All requirements for membership in Your Organization.

2. The extent to which your Organization's membership includes members organized for profit, or that provide goods and services for profit.

3. All benefits and services You offer or provide to Your members, including but not limited to any (a) discounts or advantageous access to any products and services, such as insurance or financing, (b) legal advocacy or litigation, (c) lobbying services, (d) marketing or lead generation of any type, (e) public relations, and (f) education and training.

4. Each training or certification program offered by You, including but not limited to: (a) the cost of each training or certification program, (b) the requirements (*e.g.*, membership requirements, course titles, hours, testing) for completing the program, (c) the requirements for maintaining the certification, (d) the number of individuals that hold a current certification, and (e) the number of individuals that have completed the training or certification program.

5. Each workshop, townhall or other formal or informal session, and conference You hosted that relates to PGDT in any way, including but not limited to the cost to attend and education or trainings offered at those workshops, townhalls or other formal or informal sessions, and conferences.

6. Each type of PGDT You advertised, marketed, promoted, addressed, or referred to in any Document You disseminated. Your response should include but not be limited to descriptions of any pamphlets, posters, or other materials concerning PGDT that You disseminated to healthcare professionals, patients, and their families, to whom those materials were disseminated, for what purpose they were disseminated, and the dates when You disseminated the materials.

7. Any Covered Statements You have made, including but not limited to the exact wording, its location and context, the means of communication, and when dissemination occurred.

8. Regardless of time period, the process for developing and issuing the 2017 ES Guidelines and 2020 Position Statement, including but not limited to every individual or entity that participated in development and issuance, and any funding sources.

9. Any payments, grants, consulting or financial relationships, or partnerships relating to PGDT between You and any (a) pharmaceutical company, (b) medical device manufacturer, and/or (c) clinic, hospital system, or individual clinician.

10. All formal or informal complaints, questions, or inquiries You received related to concerns that the Covered Statements lack substantiation or do not adequately disclose risks associated with PGDTs.

11. All investigations and lawsuits involving You and either the Covered Statements or PGDTs, including but not limited to any lawsuit in which You are amicus.

12. Your views regarding whether the Covered Statements are substantiated, and the reasoning therefor.

13. Regardless of time period, identify each Person with responsibility for developing, reviewing, or evaluating substantiation, scientific or otherwise, for each Covered Statement, including the qualifications of each such Person, and describe the functions performed by each.

14. Describe Your record retention policies, including the manner and duration of preservation of email.

15. Identify all persons who participated in preparing responses to this CID.

B. Document Requests:

1. Regardless of time period, and whether or not You believe a Covered Statement was made in Your advertising or other promotional materials, all Documents (including tests, reports, studies, scientific literature, and written opinions) upon which You have relied to substantiate each Covered Statement.

2. Regardless of time period, all Documents relating to substantiation for the Covered Statements, that question or disprove any of the Covered Statements or their substantiation.

3. Regardless of time period, all Documents relating to any study You sponsored, conducted, or contributed to that involved PGDT.

4. Regardless of time period, all Communications with Professional Medical Organizations related to the 2017 ES Guidelines or the 2020 Position Statement.

5. Regardless of time period, all Documents reflecting or constituting Communications with other organizations, institutions, or individuals regarding the development and publication of the 2017 ES Guidelines or the 2020 Position Statement.

6. All materials used in any education, training, or certification program You offer, or used to promote such programs.

7. All testimony, advocacy, or other information provided to any legislature or regulator related to PGDTs.

8. With respect to any workshop, townhall or other formal or informal session, or conference You hosted or organized related in any way to PGDTs: (a) all recordings and transcripts; (b) all Documents distributed to attendees or participants; and (c) Documents required to be signed by any attendee, participant, or speaker.

9. All Documents You disseminated referencing the Covered Statements.

10. All Documents related to payments, grants, consulting or financial relationships, or partnerships between You and any (a) pharmaceutical company, (b) medical device manufacturer, or (c) clinic, hospital system or individual clinician.

11. Your Financial Statements for each year.

12. All Documents referenced in, or relied upon, in answering any Interrogatory.

III. DEFINITIONS

The following definitions apply to this CID:

D-1. "**Collaborative Work Environment**" means any platform, application, product, or system used to communicate, or to create, edit, review, approve, store, organize, share, and access Documents, communications, and information by and among users, including Microsoft SharePoint sites, cloud storage systems (*e.g.*, Google Drive, OneDrive, Dropbox), eRooms, document management systems (*e.g.*, iManage), intranets, chat (*e.g.*, Slack), web content

management systems (*e.g.*, Drupal), wikis (*e.g.*, Confluence), work tracking software (*e.g.*, Jira), version control systems (*e.g.*, Github), and blogs.

D-2. "**Communication**" means the transmittal of information by any means.

D-3. **"Covered Statement"** means any representation, whether express or implied, that:

a. PGDTs are safe, including without limitation the representation that a treatment is safe for muscle, bone, or brain development;
b. PGDTs are proven effective, including without limitation the representation that PGDTs are supported by evidence-based science;
c. PGDTs improve mental health;
d. PGDTs reduce the incidence of suicide, including without limitation the representation that PGDTs are life-saving;
e. PGDTs are fully or partly reversible, including without limitation the representation that a treatment is only a pause or otherwise do not cause permanent physical changes; and
f. PGDTs have few side effects.

D-4. "**Document**" means the complete original, including all attachments and copies of all hyperlinked materials (other than hyperlinks to publicly accessible websites), all drafts or prior versions, and any non-identical copy, whether different from the original because of notations on the copy, different metadata, or otherwise, of any item covered by 15 U.S.C. § 57b-1(a)(5), 16 C.F.R. § 2.7(a)(2), or Federal Rule of Civil Procedure 34(a)(1)(A), including chats, instant messages, text messages, direct messages, information stored on or sent through social media accounts or messaging or other applications (*e.g.*, Microsoft Teams, Slack), information contained in, hyperlinked to, or sent through Collaborative Work Environments, and information on all devices (including employee-owned devices) used for Organization-related activity.

D-5. "**Financial Statements**" means balance sheets, statements of financial position, profit and loss statements, income statements, statements of activities, statement of cash flows, and statements of functional expenses.

D-6. **"Endocrine Society Guidelines" or "2017 ES Guidelines"** means Your 2017 publication entitled "Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline."

D-7. "**Organization**," "**You**," or "**Your**" means or refers to **The Endocrine Society,** its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all directors, officers, members, employees, agents, consultants, and other persons working for or on behalf of the foregoing.

D-8. "**Pediatric Gender Dysphoria Treatment**" or ("**PGDT**") means any medical intervention which, according to the Organization, purports to treat gender dysphoric or gender diverse minors, including but not limited to pubertal suppression, hormone therapy, and surgery (*e.g.*, subcutaneous mastectomy, vaginoplasty, metoidioplasty, and phalloplasty).

D-9. "Person" means any natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity

D-10. "Position Statement on Transgender Health" or "2020 Position Statement" means Your publication entitles "Position Statement on Transgender Health" published in December 2020.

D-11. "Professional Medical Organizations" means, including, but not limited to, the American Academy of Pediatrics, American College of Obstetrics and Gynecology, American Medical Association (AMA), and its Surgical Groups (American Society of Plastic Surgery, American Academy of Cosmetic Surgery, International Society of Aesthetic Plastic Surgery, American Board of Plastic Surgery, American Association of Plastic Surgery, and the American College of Surgeons), World Professional Association for Transgender Health, and United States Professional Association for Transgender Health.

IV. INSTRUCTIONS

I-1. Petitions to Limit or Quash: You must file any petition to limit or quash this CID with the Secretary of the FTC no later than twenty (20) days after service of the CID, or, if the return date is less than twenty (20) days after service, prior to the return date. Such petition must set forth all assertions of protected status or other factual and legal objections to the CID and comply with the requirements set forth in 16 C.F.R. § 2.10(a)(1) – (2). **The FTC will not consider petitions to quash or limit if You have not previously met and conferred with FTC staff and, absent extraordinary circumstances, will consider only issues raised during the meet and confer process.** 16 C.F.R. § 2.7(k); *see also* § 2.11(b). **If You file a petition to limit or quash, You must still timely respond to all requests that You do not seek to modify or set aside in Your petition.** 15 U.S.C. § 57b-1(f); 16 C.F.R. § 2.10(b).

I-2. Withholding Requested Material / Privilege Claims: For specifications requesting production of Documents or answers to written interrogatories, if You withhold from production any material responsive to this CID based on a claim of privilege, work product protection, statutory exemption, or any similar claim, You must assert the claim no later than the return date of this CID, and You must submit a detailed log, in a searchable electronic format, of the items withheld that identifies the basis for withholding the material and meets all the requirements set forth in 16 C.F.R. § 2.11(a) – (c). The information in the log must be of sufficient detail to enable FTC staff to assess the validity of the claim for each Document, including attachments, without disclosing the protected information. If only some portion of any responsive material is privileged, You must submit all non-privileged portions of the material. Otherwise, produce all responsive information and material without redaction. 16 C.F.R. § 2.11(c). The failure to provide information sufficient to support a claim of protected status may result in denial of the claim. 16 C.F.R. § 2.11(a)(1).

I-3. Modification of Specifications: The Bureau Director, a Deputy Bureau Director, Associate Director, Regional Director, or Assistant Regional Director must agree in writing to any modifications of this CID. 16 C.F.R. § 2.7(l).

I-4. Scope of Search: This CID covers Documents and information in Your possession or under Your actual or constructive custody or control, including Documents and information in the possession, custody, or control of Your attorneys, accountants, directors, officers, employees, service providers, and other agents and consultants, whether or not such Documents or information were received from or disseminated to any person or entity.

I-5. Identification of Responsive Documents: For specifications requesting production of Documents, You must identify in writing the Documents that are responsive to the specification. Documents that may be responsive to more than one specification of this CID need not be produced more than once. If any Documents responsive to this CID have been previously supplied to the FTC, You may identify the Documents previously provided and the date of submission.

I-6. Maintain Document Order: For specifications requesting production of Documents, You must produce Documents in the order in which they appear in Your files or as electronically stored. If Documents are removed from their original folders, binders, covers, containers, or electronic source, You must specify the folder, binder, cover, container, or electronic media or file paths from which such Documents came.

I-7. Numbering of Documents: For specifications requesting production of Documents, You must number all Documents in Your submission with a unique identifier such as a Bates number or a Document ID.

I-8. Production of Copies: For specifications requesting production of Documents, unless otherwise stated, You may submit copies in lieu of original Documents if they are true, correct, and complete copies of the originals and You preserve and retain the originals in their same state as of the time You received this CID. Submission of copies constitutes a waiver of any claim as to the authenticity of the copies should the FTC introduce such copies as evidence in any legal proceeding.

I-9. Production in Color: For specifications requesting production of Documents, You must produce copies of advertisements in color, and You must produce copies of other materials in color if necessary to interpret them or render them intelligible.

I-10. Electronically Stored Information: For specifications requesting production of Documents, see the attached FTC Bureau of Consumer Protection Production Requirements ("Production Requirements"), which detail all requirements for the production of electronically stored information to the FTC. You must discuss issues relating to the production of electronically stored information with FTC staff **prior to** production.

I-11. Sensitive Personally Identifiable Information ("Sensitive PII") or Sensitive Health Information ("SHI"): For specifications requesting production of Documents or answers to written interrogatories, if any responsive materials contain Sensitive PII or SHI, please contact FTC counsel before producing those materials to discuss whether there are steps You can take to

minimize the amount of Sensitive PII or SHI You produce, and how to securely transmit such information to the FTC.

Sensitive PII includes an individual's Social Security number; an individual's biometric data; and an individual's name, address, or phone number in combination with one or more of the following: date of birth, driver's license or state identification number (or foreign country equivalent), military identification number, passport number, financial account number, credit card number, or debit card number. Biometric data includes biometric identifiers, such as fingerprints or retina scans, but does not include photographs (with the exception of photographs and corresponding analyses used or maintained in connection with facial recognition software) or voice recordings and signatures (with the exception of those stored in a database and used to verify a person's identity). SHI includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

I-12. Interrogatory Responses: For specifications requesting answers to written interrogatories: (a) answer each interrogatory and each interrogatory subpart separately, fully, and in writing; and (b) verify that Your answers are true and correct by signing Your answers under the following statement: "I verify under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)." The verification must be submitted contemporaneously with Your interrogatory responses.

I-13. Submission of Documents in Lieu of Interrogatory Answers: You may answer any written interrogatory by submitting previously existing Documents that contain the information requested in the interrogatory so long as You clearly indicate in each written interrogatory response which Documents contain the responsive information. For any interrogatory that asks You to identify Documents, You may, at Your option, produce the Documents responsive to the interrogatory so long as You clearly indicate the specific interrogatory to which such Documents are responsive.

CERTIFICATION OF COMPLIANCE
Pursuant to 28 U.S.C. § 1746

I, _____, certify the following with respect to the Federal Trade Commission's ("FTC") Civil Investigative Demand directed to The Endocrine Society (the "Organization") (FTC File No. P264800) (the "CID"):

1. The Organization has identified all documents, information, and/or tangible things ("responsive information") in the Organization's possession, custody, or control responsive to the CID and either:

   (a) provided such responsive information to the FTC; or

   (b) for any responsive information not provided, given the FTC written objections setting forth the basis for withholding the responsive information.

2. I verify that the responses to the CID are complete and true and correct to my knowledge.

I certify under penalty of perjury that the foregoing is true and correct.

Date: _____

_____
Signature

_____
Printed Name

_____
Title

CERTIFICATION OF RECORDS OF REGULARLY CONDUCTED ACTIVITY
Pursuant to 28 U.S.C. § 1746

1. I, _____, have personal knowledge of the facts set forth below and am competent to testify as follows:

2. I have authority to certify the authenticity of the records produced by The Endocrine Society (the "Organization") and attached hereto.

3. The documents produced and attached hereto by the Organization are originals or true copies of records of regularly conducted activity that:

   a) Were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;

   b) Were kept in the course of the regularly conducted activity of the Organization; and

   c) Were made by the regularly conducted activity as a regular practice of the Organization.

I certify under penalty of perjury that the foregoing is true and correct.

Date: _____ _____
Signature

Federal Trade Commission - Bureau of Consumer Protection
Production Requirements
Revised January 2024

In producing information to the FTC, comply with the following requirements, unless the FTC agrees otherwise. If you have questions about these requirements, please contact FTC counsel.

Production Format

1. **General Format**: Provide load-ready electronic productions with:

    a. A delimited data load file (.DAT) containing a line for every document, unique id number for every document (DocID), metadata fields, and native file links where applicable; and

    b. A document level text file, named for the DocID, containing the text of each produced document.

    Do not produce corresponding image renderings (e.g., TIFF or JPEG) for files in native format unless the FTC requests them. If the FTC requests corresponding image renderings, provide an Opticon image load file (.OPT) containing a line for every image file.

2. **Electronically Stored Information (ESI)**: Documents stored in electronic format in the ordinary course of business must be produced in the following format:

    a. For ESI other than the categories below, submit in native format with all metadata and either document level extracted text or Optical Character Recognition (OCR). Do not produce corresponding image renderings (e.g., TIFF or JPEG) for files in native format unless the FTC requests them. If the FTC requests corresponding image renderings, they should be converted to Group IV, 300 DPI, single-page TIFF (or color JPEG images when necessary to interpret the contents or render them intelligible.)

    b. For Microsoft Excel, Access, or PowerPoint files, submit in native format with extracted text and metadata. Data compilations in Excel spreadsheets or delimited text formats must contain all underlying data, formulas, and algorithms without redaction.

    c. For other spreadsheet, database, presentation, or multimedia formats; messaging applications and platforms (e.g., Microsoft Teams, Slack); or proprietary applications, discuss the production format with FTC counsel.

3. **Hard Copy Documents**: Documents stored in hard copy in the ordinary course of business must be scanned and submitted as either one multi-page pdf per document or as 300 DPI single page TIFFs (or color JPEGs when necessary to interpret the contents or render them intelligible), with corresponding document-level OCR text and logical document determination in an accompanying load file.

4. **Document Identification**: Provide a unique DocID for each hard copy or electronic document, consisting of a prefix and a consistent number of numerals using leading zeros. Do not use a space to separate the prefix from numbers.

5. **Attachments**: Preserve the parent/child relationship by producing attachments as separate documents, numbering them consecutively to the parent email, and including a reference to all attachments.

6. **Metadata Production**: For each document submitted electronically, include the standard metadata fields listed below in a standard delimited data load file. The first line of the data load file shall include the field names. Submit date and time data in separate fields. Use these standard Concordance delimiters in delimited data load files:

Description	Symbol	ASCII Character
Field Separator	¶	20
Quote Character	Þ	254
Multi Entry delimiter	®	174
<Return> Value in data	~	126

7. **De-duplication**: Do not use de-duplication or email threading software without FTC approval.

8. **Password-Protected Files**: Remove passwords prior to production. If password removal is not possible, provide the original and production filenames and the passwords, under separate cover.

Producing Data to the FTC

1. Prior to production, scan all data and media for viruses and confirm they are virus-free.

2. For productions smaller than 50 GB, submit data electronically using the FTC's secure file transfer protocol. Contact FTC counsel for instructions. **The FTC cannot accept files via Dropbox, Google Drive, OneDrive, or other third-party file transfer sites**.

3. If you submit data using physical media:

    a. Use only CDs, DVDs, flash drives, or hard drives. Format the media for use with Windows;

    b. Use data encryption to protect any Sensitive Personally Identifiable Information or Sensitive Health Information (as defined in the instructions), and provide passwords in advance of delivery, under separate cover; and

    c. Use a courier service (e.g., Federal Express, UPS) because heightened security measures delay postal delivery.

4. Provide a transmittal letter with each production that includes:

    a. Production volume name (e.g., Volume 1) and date of production;

    b. Numeric DocID range of all documents in the production, and any gaps in the DocID range; and

    c. List of custodians and the DocID range for each custodian.

Standard Metadata Fields

DAT FILE FIELDS	DEFINITIONS	POPULATE FIELD FOR:
DocID	Unique ID number for each document	All Documents
FamilyID	Unique ID for all documents in a family including parent and all child documents	All Documents
ParentID	Document ID of the parent document. This field will only be populated on child items	All Documents
File Path	Path to produced native file	All Documents
TextPath	Path to document level text or OCR file	All Documents
Custodian	Name of the record owner/holder	All Documents
AllCustodians	Names of all custodians that had copy of this record (populate if data was deduplicated or email threading was used)	All Documents
Source	Source of documents: CID, Subpoena, Third Party Data, etc.	All Documents
Filename	Original file name	All Documents
File Size	Size of documents	All Documents
File Extensions	Extension of file type	All Documents
MD5 Hash	Unique identifier for electronic data used in de-duplication	All Documents
PRODUCTION_VOLUME	Production Volume	All Documents
HASREDACTIONS	Redacted document	All Documents
Exception Reason	Reason for exception encountered during processing (e.g., empty file, source file, password-protected file, virus)	All Documents
PRODBEG	Beginning production bates number	Documents with Produced Images
PRODEND	Ending production bates number	Documents with Produced Images
PRODBEG_ATTACH	Beginning production family bates number	Documents with Produced Images
PRODEND_ATTACH	Ending production family bates number	Documents with Produced Images
Page Count	The number of pages the document contains	Documents with Produced Images
From	Names retrieved from the FROM field in a message	Emails
To	Names retrieved from the TO field in a message; the recipient(s)	Emails
CC	Names retrieved from the CC field in a message; the copied recipient(s)	Emails
BCC	Names retrieved from the BCC field in a message; the blind copied recipient(s)	Emails
EmailSubject	Email subject line	Emails
Date Sent	The date an email message was sent	Emails
Time Sent	The time an email message was sent	Emails
Date Received	The date an email message was received	Emails
Time Received	The time an email message was received	Emails
Author	File Author	Loose Native Files and Email Attachments
Title	File Title	Loose Native Files and Email Attachments
Subject	File Subject	Loose Native Files and Email Attachments
Date Created	Date a document was created by the file system	Loose Native Files and Email Attachments
Time Created	Time a document was created by the file system	Loose Native Files and Email Attachments
Date Modified	Last date a document was modified and recorded by the file system	Loose Native Files and Email Attachments
Time Modified	Last time a document was modified and recorded by the file system	Loose Native Files and Email Attachments
Date Printed	Last date a document was printed and recorded by the file system	Loose Native Files and Email Attachments
Time Printed	Last time a document was printed and recorded by the file system	Loose Native Files and Email Attachments

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Joseph J. Simons, Chairman
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

RESOLUTION DIRECTING USE OF COMPULSORY PROCESS IN A NON-PUBLIC INVESTIGATION OF DIETARY SUPPLEMENTS, FOODS, DRUGS, DEVICES, OR ANY OTHER PRODUCT OR SERVICE INTENDED TO PROVIDE A HEALTH BENEFIT OR TO AFFECT THE STRUCTURE OR FUNCTION OF THE BODY

File No. 002 3191

Nature and Scope of Investigation:

To investigate whether unnamed persons, partnerships, or corporations, or others have engaged or are engaging in deceptive or unfair acts or practices in or affecting commerce in the advertising, marketing, or sale of dietary supplements, foods, drugs, devices, or any other product or service intended to provide a health benefit or to affect the structure or function of the body; have misrepresented or are misrepresenting the safety or efficacy of such products or services; or otherwise have engaged or are engaging in unfair or deceptive acts or practices or in the making of false advertisements, in or affecting commerce, in violation of Sections 5 or 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45 and 52, as amended. The investigation is also to determine whether Commission action to obtain monetary relief would be in the public interest.

The Federal Trade Commission hereby resolves and directs that any and all compulsory processes available to it be used in connection with this investigation for a period not to exceed ten (10) years from the date of issuance of this resolution. The expiration of this ten-year period shall not limit or terminate the investigation or the legal effect of any compulsory process issued during the ten-year period. The Federal Trade Commission specifically authorizes the filing or continuation of actions to enforce any such compulsory process after the expiration of the ten-year period.

Authority to Conduct Investigation:

Sections 6, 9, 10, and 20 of the Federal Trade Commission Act, 15 U.S.C. §§ 46, 49, 50, and 57b-1, as amended; and FTC Procedures and Rules of Practice, 16 C.F.R. § 1.1 *et seq.*, and supplements thereto.

By direction of the Commission.

APRIL TABOR
Digitally signed by APRIL TABOR
Date: 2019.08.12 12:09:40 -04'00'

April J. Tabor
Acting Secretary

Issued: August 9, 2019

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Lina M. Khan, Chair**
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

RESOLUTION DIRECTING USE OF COMPULSORY PROCESS REGARDING ACTS OR PRACTICES AFFECTING CHILDREN

File No. 212 3123

Nature and Scope of Investigation:

To investigate whether any persons, partnerships, corporations, or others have engaged or are engaging in unfair, deceptive, anticompetitive, collusive, coercive, predatory, exploitative, or exclusionary acts or practices, in or affecting commerce, related to goods or services marketed, in whole or in part, to children under 18, in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, as amended or any statutes or rules enforced by the Commission; and to determine the appropriate action or remedy, including whether injunctive and monetary relief would be in the public interest.

The Federal Trade Commission hereby resolves and directs that any and all compulsory processes available to it be used in connection with any inquiry within the nature and scope of this resolution for a period not to exceed ten years. The expiration of this ten-year period shall not limit or terminate the investigation or the legal effect of any compulsory process issued during the ten-year period. The Federal Trade Commission specifically authorizes the filing or continuation of actions to enforce any such compulsory process after the expiration of the ten-year period.

Authority to Conduct Investigation:

Sections 6, 9, 10, and 20 of the Federal Trade Commission Act, 15 U.S.C. §§ 46, 49, 50,and 57b-1, as amended; and FTC Procedures and Rules of Practice, 16 C.F.R. § 1.1 *et seq.*, and supplements thereto.

By direction of the Commission.

April J. Tabor
Secretary

Issued: September 2, 2021
Expires: September 2, 2031

EXHIBIT 2

BEFORE THE UNITED STATES
FEDERAL TRADE COMMISSION

In the Matter of The Civil Investigative Demand dated January 15, 2026, to The Endocrine Society	FTC Matter No.: P264800

DECLARATION OF THE ENDOCRINE SOCIETY IN SUPPORT OF PETITION TO QUASH THE CIVIL INVESTIGATIVE DEMAND

I, Mila N. Becker, hereby declare as follows:

1. I am over the age of eighteen and fully competent to make this declaration. I am the Chief Policy Officer ("CPO") at the Endocrine Society. If called upon to testify as to the facts set forth herein, I could and would testify competently thereto.

2. I joined the Endocrine Society in June 2013 as the Senior Director of Advocacy & Policy and became the organization's CPO in 2015. In my role, I oversee the Endocrine Society's Government and Public Affairs Department, which manages the Society's public policy agenda and advocacy efforts. I develop strategies to create and improve policies that affect access to and quality of care, and I engage in advocacy related to diabetes, obesity, funding for medical research, and endocrine-disrupting chemicals. I also serve as liaison to the Endocrine Society's Clinical Affairs, Research Affairs, and Advocacy & Public Outreach Core Committees. These committees play an integral role in implementing the Society's mission, sharing the latest clinical and research information, and making policy recommendations. Over the past twelve years, I have had the opportunity to work closely with our staff, our members, our partner organizations, government officials, and others in the medical society, scientific organization, and policy communities. As a

result, I have developed a broad and deep knowledge of the Endocrine Society's operations and of the clinicians, scientists, and groups with which we collaborate.

3. I have reviewed the publicly available versions of the Endocrine Society's Form 990 for fiscal years 2020 – 2023 submitted to the IRS and available on its public website and, in consultation with our Finance Department, I am generally familiar with the organization's financial operations and tax compliance status.

Background

4. Founded in 1916, the Endocrine Society is a 501(c)(3) charitable, non-profit organization dedicated to accelerating scientific breakthroughs and improving patient health and wellbeing. The organization qualifies as a publicly supported organization and is recognized by the Internal Revenue Service as tax-exempt under § 501(c)(3).

5. The Endocrine Society has more than 18,000 members including scientists, physicians, educators, and nurses in 122 countries. It is the largest and most active organization devoted to the study of hormones and clinical practice in endocrinology and proudly counts ten of the world's most distinguished scientists who have received the honor of the Nobel Prize in Physiology or Medicine or Chemistry among its members, including four of its past presidents.

Charitable Purpose

6. The Endocrine Society's mission is to advance excellence in endocrinology and promote endocrinology's role in scientific discovery, medical practice, and human health. To accomplish this, the Endocrine Society publishes multiple peer-reviewed journals and publications, hosts forums for the exchange of clinical and scientific knowledge in the field, and supports its over 18,000 members through every stage of their careers.

7. The Endocrine Society has a top-ranked peer-reviewed journal publishing program that addresses dozens of endocrine issues. The Endocrine Society also publishes policy statements,

scientific statements, and clinical practice guidelines. In addition, the Endocrine Society hosts meetings and conferences to provide opportunities to share the latest information and updates in endocrinology and to facilitate professional development and networking for members and all professionals involved in the specialized field of hormone research and clinical endocrinology.

8. The Endocrine Society also offers educational and training opportunities that cover all areas of endocrinology, diabetes, and metabolism. The Endocrine Society's Center for Learning provides a wealth of activities that afford our members opportunities to pursue and maintain specialty certifications with regulatory or certifying bodies. The Endocrine Society's Special Interest Groups and online platforms allow our members to share information with their peers, learn best practices, and find research collaborations. The Endocrine Society also works with its members to develop policy positions and educate policy makers about them.

9. The Endocrine Society's revenue comes predominantly from program service activities directly related to its exempt educational and scientific purposes. These include journal sales, educational meeting and registration fees, membership dues, author publication charges, and other related services. In 2024, these activities generated approximately 86% of total revenue. Donations and private grants also make up a portion of the Endocrine Society's income. In summary, funding from member services and educational programs together with broad-based contributions constitute most of the Endocrine Society's funding. This information is available from public-facing IRS Form 990s, which also reflect that the Endocrine Society devotes the bulk of its expenses to program services that directly advance its exempt educational and scientific purposes, like organizing and hosting educational programs and publishing journals. The Endocrine Society's latest Form 990 reflecting information from 2024, which has been submitted but not yet posted publicly by the IRS, continues to reflect our charitable purpose. The majority of

the individuals who work with the Endocrine Society are volunteers, not paid employees. In fact, the organization relies on more than 2,700 volunteers compared to approximately 80 employees, demonstrating its community-driven charitable operations.

10. The organization's financial statements are audited by an independent accountant, and executive compensation is determined through an independent process involving review and approval by independent persons and use of comparability data. These controls ensure funds are devoted to charitable purposes and protected from misuse.

Guideline Development

11. While the Endocrine Society directs its members to potential endocrine-related research opportunities, the Endocrine Society does not itself conduct clinical research. In other words, the Endocrine Society's work related to clinical practice guidelines involves working with our members who are experts in the field to analyze the publicly available evidence. The Endocrine Society determines the topics for guidelines, selects an expert writing committee, and provides the infrastructure for the development and publication by using a robust and rigorous process that adheres to the highest standards of trustworthiness and transparency as defined by the Institute of Medicine. The Endocrine Society also follows the Grading of Recommendations, Assessment, Development and Evaluation (GRADE) methodology to develop its recommendations. GRADE is a transparent framework for summarizing evidence and provides a systematic approach for making clinical practice recommendations. Additionally, Endocrine Society guidelines are not developed in a vacuum. Guidelines take an average of 2-3 years to develop through a multi-step drafting, comment, review, and approval process. There is ample opportunity for feedback and debate through this years-long development process. Consequently,

the Endocrine Society's guidelines represent a high-quality resource to be used for patient care based on medical evidence, author expertise, rigorous scientific review, and a transparent process.

12. While designed to be used as a resource, the guidelines are not intended to dictate the treatment of a particular patient, which is made clear in the guidelines themselves. For example, and as set forth in its 2017 publication entitled *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline,* which is available to the public free of charge on the Endocrine Society's website :

> The guidelines should not be considered inclusive of all proper approaches or methods, or exclusive of others. The guidelines cannot guarantee any specific outcome, nor do they establish a standard of care. The guidelines are not intended to dictate the treatment of a particular patient. Treatment decisions must be made based on the independent judgement of healthcare providers and each patient's individual circumstances.

Burden of the Civil Investigative Demand

13. I have reviewed the Civil Investigative Demand (CID) issued to Endocrine Society by the United States Federal Trade Commission. There are multiple requests that implicate many different elements of the Endocrine Society's work.

14. Based on my experience, responding to the requests as drafted would require us to undertake a substantial and burdensome process of identifying and speaking with a number of individuals across our organization who may have been involved with our work in these areas, including at least the Clinical Practice Guideline team, the Publications Department, the Communications and Media Relations teams, the Executive Office, the Membership Department, and the IT team as well as the Government & Public Affairs team. Likely, compliance would require diverting significant time from at least 30—in other words, between one third and one half—of the organization's approximately 80 employees. In addition to Endocrine Society staff,

responding to the requests as drafted could also require us to interrupt the work of several Endocrine Society members, including the expert writing panel of the guidelines, the authors of our position statement and policy documents, the Board of Directors, and other member experts in transgender medicine who have participated in the Endocrine Society's work. Then, we might need to seek potentially responsive documents from those individuals. As a nonprofit, the Endocrine Society's technology infrastructure is not designed to optimize compliance with complex, litigation-driven processes such as the CID. The Endocrine Society uses a Microsoft 365-based office system that makes it time-consuming to search for or easily sort documents. The process is especially burdensome when large quantities of documents are required to be filtered based on complex criteria.

15. Given the breadth of the requests, Endocrine Society would need to collect Electronically Stored Information ("ESI") from some or all of the individuals who would need to be involved in any response to the CID, and we would likely need to retain a third-party vendor to collect and process those documents. Any collected documents would also need to be reviewed by attorneys for responsiveness and privilege. Moreover, my team would need to closely review the responsiveness and privilege determinations, because many of our documents may be highly technical (including use of acronyms and medical information) or require familiarity or expertise to properly categorize. Further, many of our documents may involve third parties with their own privacy interests, or sensitive patient or health data. Screening for this information would require a substantial commitment of time and resources from Endocrine Society.

16. I understand that discovery costs of this type can often run into at least the hundreds of thousands of dollars, which has significant budget implications for a 501(c)(3) organization like our medical society. Approximately ten years ago, the Endocrine Society was involved in

discovery related to a different matter. Even as a non-party to the suit, at that time, our costs were close to $100,000 plus significant staff time. Consequently, based on the breadth of the CID in this case, we estimate that our costs could be well over $500,000 plus weeks of IT and other relevant staff time. For a nonprofit medical society like ours, this cost and staff burden is not easily absorbed and would have significant effect on our budget. Our Finance Department is already considering the budget impact of compliance with the CID and identifying what programs, products, and services will be affected, moved, delayed, or stopped. Our IT Department also must consider what the budgetary impact of compliance will be on technology infrastructure plans as well as its staff capacity and what additional help would be needed.

17. The work I have described that would be required to respond to the CID as drafted would divert our staff from the vital, urgent work Endocrine Society does to advance endocrine practice for patients and endocrine research. It would compromise our ability to deliver on other critical programs and services of the Society—including the preparation for our annual meeting and development of educational products and programs such as other guidelines—and hinder our ability to execute core functions of the Society. In addition, the CID requests would create new burdens on not only Society member leaders but could also impact rank-and-file members who volunteered to lend their expertise. Our members, like other physicians and researchers across the country, are busy with patient and administrative activities. Assisting us in responding to these broad requests would reduce their time for caring for patients and for research.

Chilling Effect

18. The CID, as well as other retaliatory actions against the Endocrine Society based on its views regarding the treatment of gender dysphoria, have also created an environment that obstructs the organization's ability to freely communicate, to associate with others, and to educate and advocate with the government. In addition to being one element in that larger pattern of

retaliatory action, I believe the CID—which expressly focuses on the Endocrine Society's protected expression concerning a hotly debated topic—would be independently sufficient to cause the chilling effect that the Endocrine Society currently suffers under.

19. As drafted, the CID requests production of internal communications with our members and partners, internal chats, notes, drafts, social media posts, and private emails. Our staff and members use these tools to communicate with each other and engage in robust, frank, and healthy discussion of the Society's work product.

20. From my discussions with Endocrine Society leadership, staff, members, and volunteers, I am aware that our staff and members are communicating less, and less freely, because of the CID. Already, our staff are more cautious about sending written communications. In addition to disrupting communications between staff, the CID has already created an environment in which departments and teams affected are pausing some new activities or reducing current activities out of concern that if required to comply with the CID they will be unable to perform other duties and responsibilities of their jobs.

21. Perhaps most significantly, government threats of investigation and legal actions – as manifest in the CID – are chilling the Endocrine Society's ability to find individuals willing to work on issues related to the endocrine treatment of gender dysphoria, including the Endocrine Society's guidelines for care. Several individuals who previously have worked on this topic have informed the Society that they can no longer do so for several reasons: (1) fear for their personal security and safety in light of increased harassment and threats of violence; (2) the risk and – in some instances – threat of being fired from current jobs or losing future employment opportunities; (3) the risk of being denied future research funding opportunities because of their work on this

issue; and (4) for those who are not U.S. citizens, fear that working on this issue will put their immigration status at risk.

22. In addition, our media relations team is hesitant to respond to reporter inquiries; and the Government and Public Affairs Department has paused certain activities related to work on other issues, such as engagement in coalitions.

23. This chilling effect will only increase if the Endocrine Society is forced to comply with the CID. Based on what has already happened and my experience working at the Society and in this field, I am concerned that our staff and members will avoid communicating with each other to complete work on Endocrine Society projects and programs; that our members increasingly will step back from volunteering to work on future clinical practice guidelines, educational sessions and materials, and participating in Endocrine Society leadership, committees and work groups; and that new members will fear joining. While Endocrine Society members are committed to ensuring access to care for individuals with gender dysphoria, we are hearing that our members do not feel comfortable using our platforms to discuss the issue.

24. The chilling effect has also impacted our members and will continue to do so. Those who treat people with gender dysphoria or who are transgender are working in often hostile environments in which their clinics are subject to threats and in some cases actual violence. Consequently, some members have requested that we remove their contact information from our online directory. While this keeps their name out of public attention, it also has the effect of making it harder for patients to find a physician with this and other endocrine expertise. If these members learn that their communications with their professional society are now subject to government investigation, I am concerned that it will cause some to walk away from the Society just when they need it the most and when their contributions will be helpful to others.

25. This CID has also created a notable strain on our activities to help educate policy makers and the courts about transgender medicine so that they have medical evidence and scientific information to inform their decisions. As a result of this CID, whenever the Endocrine Society prepares to submit a new amicus filing, send a letter to the government, meet with a legislator or government official, or issue a new policy statement, we must consider whether this will result in future adverse attention from the government, including investigations or possible enforcement action. This is truly chilling to the Endocrine Society's ability to participate in the policy, legislative, and regulatory process and share our views as well as clinical and scientific information with policy makers.

I declare under penalty of perjury that the foregoing is true and correct. *See* 28 U.S.C. § 1746.

Executed on this 10 th day of February, 2026, at Washington, D.C.

Mila N. Becker

Mila N. Becker

EXHIBIT 3

BEFORE THE UNITED STATES
FEDERAL TRADE COMMISSION

In the Matter of The Civil Investigative Demand dated January 15, 2026, to The Endocrine Society	FTC Matter No.: P264800

STATEMENT OF COUNSEL PURSUANT TO 16 C.F.R. § 2.10(a)(2)

Counsel for the Endocrine Society, Cooley LLP ("Cooley"), respectfully submits this statement pursuant to 16 C.F.R. § 2.10(a)(2) in support of the Petition to Quash the Civil Investigative Demand filed by the Endocrine Society on February 10, 2026.

The Endocrine Society received the Commission's Civil Investigative Demand on January 20, 2026 (the "CID"). On Tuesday, January 27, 2026, Cooley emailed Commission staff and requested an initial meet and confer that same week or early the next. Commission staff responded the same day, and the first meet and confer was scheduled for Friday, January 30, 2026.

On January 30, Cooley met with Commission staff via videoconference to discuss the CID. Present on the call were Heather Sawyer, Raymond ("Ray") P. Tolentino, and Dev Ranjan from Cooley and Jonathan Cohen, Gregory Ashe, and Hans Clausen from the Commission. Annie Chiang and Jennifer Hitchock were also present but were not visible on the videoconference; Mr. Cohen described them as detailees to the Bureau and in the room with him.

Cooley and Commission staff discussed the CID at a high level. Commission staff asked Cooley to confirm that a litigation hold had been put in place, which Cooley confirmed. Commission staff also asked about the Endocrine Society's production and retention policies, whether AI means would be used for responding to the CID, and for confirmation that Cooley would provide privilege logs contemporaneous with any productions. Cooley responded that it had started discussing these questions with its client, that it did not believe but did not yet know if

AI would be used for document review, and that it would respond to the Commission with additional information as soon as possible. Cooley asked the Commission to explain whether it believed the Endocrine Society was within its jurisdiction and whether the Endocrine Society was itself being investigated. Commission staff declined to answer whether the Endocrine Society was a subject of its investigation and stated that, although Endocrine Society might be the subject of the Commission's investigation, the Commission also issued CIDs to entities it was not investigating. Cooley also asked what underlying conduct relating to marketing or advertising the Commission was investigating and noted the significant legal concerns that would arise if the Commission purported to have the power to hold entities liable for noncommercial statements of scientific or medical opinion. Commission staff responded with a hypothetical in which a nonprofit dental association makes a claim that a treatment is safe or effective. Commission staff stated that, if that claim were disseminated to the association's members, who then conveyed it to consumers, the Commission believed it could regulate the underlying speech by the nonprofit entity. Commission staff took the position that this could fall within the Commission's regulatory authority but declined a request from Cooley to describe their legal theory in greater detail or provide authority supporting their position. Cooley also stated that, on preliminary review of the CID, several provisions seemed overbroad. Cooley identified several requests that were explicitly not time limited as an example. Commission staff stated they would respond after the conference with a proposal to narrow those provisions.

Commission staff proposed a rolling production schedule with the first two priority requests, Document Requests Nos. 9 and 11, due on February 20, 2026, and asked that Cooley waive its right to petition to quash or contest service. Cooley said it would need time to consider the proposal and asked if Commission staff might consider including an extension of the deadline

for a petition to quash as part of its proposal, so as to afford Cooley and its client time to consider the proposal and allow for further discussions with the Commission. Commission staff stated that the deadline could not be extended without Cooley's agreement to begin production on the Commission's terms, including completion of the two priority items by February 20. Cooley noted that this completion date accelerated the return date of March 16 by nearly a month and that an extension of two weeks for the petition to quash (to February 24) would alleviate the pressure of having to decide whether to petition to quash before the parties had sufficient time to try and reach agreement. Cooley also said that, because its proposed petition deadline still would come before the March 16 production deadline in the CID, a grant of the extension on the petition to quash to February 24 would not impact that production deadline or prejudice Commission staff's ability to move the investigation forward on its timeline. Commission staff stated again that the deadline would not be extended without Cooley's agreement to accelerate production.

On Monday, February 2, 2026, Commission staff emailed Cooley their proposal that the parties had discussed during the January 30 conference. That proposal required the Endocrine Society to accept service, relinquish the right to petition to quash, and continue to engage with Commission staff in good faith. Assuming the Endocrine Society accepted these conditions, the proposal offered the following production schedule: the Endocrine Society would respond fully to Document Requests Nos. 9 and 11 by February 20; respond fully to five document requests and five interrogatories of its choosing, by March 20; and respond fully to all remaining requests by April 20. Commission staff said that the deadline for the petition to quash could be extended only if Cooley agreed to respond fully to Document Requests Nos. 9 and 11 by an agreed date.

On Tuesday, February 3, 2026, Cooley responded by email and said that it had made progress on Commission staff's requests and asked for another conference the next day at 4:00

p.m. or for Commission staff to propose additional times later in the week. Cooley also said that it continued to have serious concerns about the Commission's jurisdiction to investigate the Endocrine Society or to request the materials or answers in the CID. Cooley stated its view that the CID also violates the First and Fourth Amendments and its corresponding concern about the broad scope of the Commission's requests. Cooley acknowledged the Commission's willingness to revise some of the requests that sought information "regardless of time period" but stated its concern that the revised time frame (January 1, 2014, to the present) still requested twelve years of documents and remained overbroad and unduly burdensome. Cooley stated its view that, while some of these concerns would justify the Endocrine Society's refusal to comply with the CID *in toto*, it was prepared to move forward in good faith to discuss how the CID could be substantially narrowed, and that it was prepared to discuss a timeline for producing on Commission staff's two priority requests (Document Requests Nos. 9 and 11) and to discuss what specific documents were being requested to ensure a meeting of the minds on those requests. To facilitate that compromise and allow for discussions, Cooley requested a one-week extension of the deadline for a petition to quash.

Commission staff responded on February 4, that they were not able to meet at 4:00 p.m. that day but could meet on February 5, at 5:00 p.m. or on Friday, February 6, at 2:00 or at 4:00 p.m. Commission staff also asked that Cooley explain what the Fourth Amendment issue was. Cooley responded, accepting the meeting for Thursday, February 5, and saying that it would be happy to talk through its Fourth Amendment concerns during that next meeting. Exhibit 6 at 2.

On February 5, Cooley met with Commission staff via teleconference. Present at the meeting were Heather Sawyer, Ray Tolentino, and Dev Ranjan; Jonathan Cohen and Hans Clausen from the Commission were present on video and Mr. Cohen represented that Annie Chiang was

with him in the room. Cooley started the meeting by stating that, given the deadline on the petition to quash, it wanted to review its concerns regarding the Commission's legal authority and the First and Fourth Amendments. Cooley also asked Commission staff to confirm that, absent any extension, the current deadline for Cooley's petition to limit or quash the CID was February 10. Cooley then reiterated its concerns about the Commission's jurisdiction. Cooley explained that publicly available documents confirmed that the Endocrine Society is a true charitable nonprofit and therefore outside the Commission's enforcement jurisdiction. Cooley further conveyed its understanding that the Commission's investigatory jurisdiction was not limitless, especially when the CID it had issued was sweeping and burdensome and raised constitutional concerns. Cooley detailed its constitutional concerns as based on the First Amendment rights to speech, assembly, petition, and association. It explained its Fourth Amendment concern as tied to the First Amendment burdens imposed by the CID and the unreasonableness of the Commission's requests. Cooley also said that, despite these concerns, the Endocrine Society remained willing to discuss whether there was information it could provide but that compliance would require a narrowing of the requests.

Commission staff asked that Cooley explain its argument concerning the First Amendment right to petition, and Cooley did so—pointing out, as an example, that Document Request No. 7 in the CID would require it to produce documents based only on the Endocrine Society's communications with legislatures and regulators. Commission staff offered to limit Document Request No. 7 to publicly available information. Commission staff further said that, although the CID requested all drafts and prior versions of any documents produced, it was willing to defer decision on whether the Commission would require compliance with that aspect of the CID until a later time. Cooley explained that even those limitations would not fully allay First Amendment

concerns, but that it would discuss this with its client and that the Endocrine Society might be willing to voluntarily comply with the production request if some agreement could be reached on what would be produced that would reduce the burden of identifying, collecting, reviewing, and producing it.

Cooley stated that, as a gesture of good faith, it would be willing to comply fully with one of Commission staff's priority requests (Document Request No. 11) by providing Financial Statements by February 20, as Commission staff had proposed.

Cooley also stated that it might be possible to reach a compromise on Commission staff's other priority request, Document Request No. 9. Cooley said that because of the CID's definitions, many of the terms in the request were overbroad and impossible to comply with. Cooley asked if Commission staff would be willing to narrow the request to official statements by the Endocrine Society disseminated to the public that contained substantive discussion of treatment for gender dysphoria. Commission staff rejected Cooley's narrowing proposal. Instead, Commission staff requested that Cooley propose search terms, a timeframe for a search, and a timeline for production by Saturday. Commission staff stated that this approach was necessary to show Cooley's good faith in the negotiation process.

Cooley pointed out that it had already agreed to comply fully with Document Request No. 11 by the proposed deadline, and that this showed its good faith. Cooley said that it was unlikely it would have sufficient time to discuss and define search terms with its client by Saturday. Cooley asked that it be given until early the following week to provide proposed search terms and for an extension of time on the petition to quash to make this possible. Cooley pointed out that, without an extension, Cooley would be required to both draft a petition to quash the CID and simultaneously develop and obtain the Endocrine Society's approval for binding search terms, all

in two business days. Cooley stated that accomplishing both tasks on that timeline was likely not possible. Commission staff rejected that proposal and stated again that they would not agree to grant any extension on the deadline for the petition to quash until Cooley had proposed and the Commission had reviewed and approved search terms and custodians.

Cooley stated that, given the impending deadline on the petition to quash, it would reiterate the bases for its objections to the CID to ensure it was complying with statutory requirements and asked Commission staff to confirm their understanding that Cooley had sufficiently raised objections to the CID. Commission staff stated that they would not confirm that understanding and asked why Cooley had not attempted to speak with them earlier regarding its objections.

Cooley stated that, after the first meet and confer, it had taken a few days for Commission staff to provide a proposal, to which Cooley responded the next day and asked to meet with Commission staff the day after that. Cooley said that if Commission staff were open to adjusting the CID in light of Cooley's arguments, a short extension on the petition to quash would give additional time for discussion and the possibility that the parties might reach an agreement.

Cooley reiterated that it had raised First Amendment concerns with the CID, including viewpoint discrimination and retaliation. Cooley explained that the Administration had taken the position that there are only two sexes (male and female), that sex assigned at birth is controlling, and that those who expressed contrary views should be subject to investigation and potential legal action. Cooley stated its belief that the CID was part of this retaliation against viewpoints that the Administration disagrees with.

Commission staff stated that they considered Cooley's First Amendment retaliation argument to be waived. Cooley disagreed that the argument was waived because it was being raised at the conference and had been raised previously during the meet and confer process.

Commission staff asked Cooley to explain the basis for its retaliation argument and Cooley noted that several actions and statements by the Administration appeared to target proponents of gender affirming care. When Commission staff asked for specific evidence of FTC statements or actions demonstrating retaliation, Cooley further noted that the CID appeared to prejudge the Endocrine Society's statements on gender affirming care. Commission staff rejected that view and asked for further evidence of FTC statements or actions. Cooley referenced a memo of now-FTC Chair Ferguson that had been both publicly reported and relied on as evidence of retaliation in the *Media Matters* case. Cooley further stated that it believed that many of the principles from that case are applicable here. Commission staff disagreed and restated that the Endocrine Society had forfeited its right to raise this argument.

Cooley asked on what basis Commission staff would claim the argument was waived given that it was being raised during the meet and confer process and prior to the deadline for the petition to quash. Commission staff stated that the CID requires all objections to the CID to be raised within 14 days of receipt. Cooley responded that it had done so and that, if Commission staff were open to discussing these points and wanted to consider them further, the Commission could extend the deadline for the petition to quash for a few days to allow for that discussion. Commission staff reiterated their belief that the argument was waived, stated they would send a follow-up written communication, and ended the conference.

Commission staff confirmed by email that evening that they agreed that Cooley's deadline for its petition to quash for February 10.

On February 6, Cooley emailed Commission staff to memorialize the conversation at the previous day's conference. Exhibit 6 at 7-9. Cooley also reiterated its belief that the Endocrine Society's First Amendment retaliation claim was not forfeited. Cooley asked that Commission

staff alert it by noon whether they would agree to grant an extension of the deadline for the petition to quash.

On the evening of the same day, Cooley received a letter from Commission staff. Exhibit 6 at 12-16. The letter said that Cooley had not raised its First Amendment retaliation claim early enough and, as a result, that it had waived all objections to the CID because it had not complied with 16 C.F.R. § 2.7(k). *Id.* The letter also said that, during the meeting the day before, Cooley had "yell[ed]" and made "thinly-veiled, offensive (and false) accusation[s] against FTC attorneys." The letter also modified the CID to accommodate two of Cooley's objections. First, it modified references to "Organization," "You," and "Your" by construing "members" within the definition of those terms to only apply to "LLC members" and not members of the Endocrine Society. Second, the letter stated that Document Request No. 7 would be satisfied if Cooley (1) provided Commission staff with a list of publicly available material that the Endocrine Society had provided to legislatures or regulators that was sufficient to enable Commission staff to retrieve the material themselves, and (2) additionally produced all non-publicly available materials provided to legislatures or regulators to Commission staff.

Cooley responded by letter on Monday, February 9. Exhibit 6 at 17-18. Cooley stated its disagreement with Commission staff's positions and reiterated that, despite Cooley's position that the FTC was not entitled to compel production of the information requested in the CID, it remained willing to engage in further discussions with Commission staff in an attempt to reach some agreements on voluntary production.

Dated: February 10, 2026

By:

Heather Sawyer
hsawyer@cooley.com

1299 Pennsylvania Avenue NW
Suite 700
Washington, DC 20004-2400
Telephone: +1 202 842 7800
Facsimile: +1 202 842 7899

Counsel for Petitioner the Endocrine Society

EXHIBIT 4

State of Delaware

Office of Secretary of State

I, John N. McDowell, Secretary of State of the State of Delaware, do hereby certify that the above and foregoing is a true and correct copy of Certificate of Incorporation of "THE ASSOCIATION FOR THE STUDY OF INTERNAL SECRETIONS", as received and filed in this office the thirty-first day of January, A.D. 1918, at 1 o'clock P.M.

In Testimony Whereof, I have hereunto set my hand and official seal at Dover this seventh day of October in the year of our Lord one thousand nine hundred and fifty-seven.

John N. McDowell
Secretary of State

M. D. Tomlinson
Asst. Secretary of State

CERTIFICATE OF INCORPORATION

OF

THE ASSOCIATION FOR THE STUDY
OF INTERNAL SECRETIONS

FIRST. The name of this corporation is "THE ASSOCIATION FOR THE STUDY OF INTERNAL SECRETIONS."

SECOND. Its principal office in the State of Delaware is to be located at 901 Market Street, in the city of Wilmington, County of New Castle, and the name and address of its resident agent is CORPORATION COMPANY OF DELAWARE, 901 Market Street, Wilmington, Delaware.

THIRD. The nature of the business and the objects and purposes proposed to be transacted, promoted and carried on, are to do any or all of the things herein mentioned, as fully and to the same extent as natural persons might or could do, viz:

The promotion of scientific research and study, the diffusion of information therefrom obtained by lecture, publication or otherwise; the printing, publishing and distribution of books, periodicals, or similar articles on scientific subjects, with power to sell or to donate such publications; to own, buy and sell scientific apparatus and equipment, to own and maintain laboratories and libraries.

To purchase, take, own, hold, deal in, mortgage or otherwise lien and to lease, sell, exchange, transfer or in any manner whatever dispose of real property, wherever situated.

To manufacture, purchase or otherwise acquire and to hold, own, mortgage, pledge, sell, transfer or in any manner dispose of, and to deal and trade in goods, wares, merchandise and personal property of any and every class and description and wherever situated.

To purchase or otherwise acquire, hold, use, sell or in any manner dispose of and to grant licenses or other rights therein and in any manner deal with inventions, improvements, processes, trade-marks, rights, and licenses secured under letters patent, copyrights or otherwise.

To enter into, make and perform contracts of every kind for any lawful purpose, without limit as to amount, with any person, firm, association or corporation, town, city, county, state, territory or government.

To draw, make, accept, endorse, discount, execute and issue promissory notes, drafts, bills of exchange, warrants, debentures and other negotiable or transferable instruments.

To issue bonds, debentures or obligations and to secure the same by mortgage, pledge, deed of trust or otherwise.

To have one or more offices out of the State of Delaware and to carry on business and to promote its objects without restrictions as to place or amount.

To do any or all of the things herein set forth to the same extent as natural persons might or could do and in any part of the world, as principals, agents, contractors, trustees or otherwise, alone or in company with others.

FOURTH. The corporation shall have no capital stock and the conditions of membership shall be as follows:-

Graduates in medicine whose training and interests make them able to promote the knowledge of internal secretions, and laboratory workers, whose qualifications have been approved by the council of the association, shall be eligible to membership and may become members by being elected by the council.

FIFTH. The name and place of residence of each of the incorporators is as follows:-

NAME	RESIDENCE
C. E. deM. Sajous	Philadelphia, Penna.
L. F. Barker	Baltimore, Md.
Emil Goetsch	Baltimore, Md.

SIXTH. This corporation is to have perpetual existence.

SEVENTH. The private property of the members shall not be subject to the payment of corporate debts to any extent whatever.

EIGHTH. In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the board of directors, which shall be otherwise known as the council, is expressly authorized:-

To make and alter the by-laws;

To fix the amount to be reserved as working capital and to authorize and cause to be executed mortgages and liens upon the property and franchises of this corporation;

From time to time to determine whether and to what extent and at what times and places and under what conditions and regulations the books and accounts of this corporation, or any of them shall be open to the inspection of the members; and no member shall have any right to inspect any account or book or document of the corporation, except as conferred by law or authorized by resolution of the council or of the members.

If the by-laws so provide, the members and the council shall have power to hold their meetings and to keep the books of this corporation (subject to the provisions of the statute) outside of the State of Delaware at such places as may from time to time be designated by them.

This corporation may in its by-laws confer powers additional to the foregoing upon the council, in addition to the powers and authorities expressly conferred upon them by law.

The directors or members of the council and all elected or appointed officers or officials, shall be subject to recall or displacement from office at any time, by a majority vote of the members of the association, which right of recall shall be exercised only at a special recall meeting, called by the president or secretary at the place of the last annual meeting, upon written request signed by twenty per cent. of the membership, fixing the time for such meeting, provided that two weeks' notice of such meeting shall have been given to each member of the association in the manner prescribed by the by-laws of the association for calling of special meetings. In case of vacancy in any office through the exercise of the recall of such meeting, a majority vote of such meeting shall fill such vacancy.

The objects specified herein shall, except where otherwise expressed, be in no way limited nor restricted by reference to or inference from the terms of any other clause or paragraph of this certificate of incorporation. The objects, purposes and powers specified in each of the clauses or paragraphs in this certificate of incorporation shall be regarded as independent objects, purposes and powers.

The foregoing shall be construed both as objects and powers and the enumeration thereof shall not be held to limit or restrict in any manner the general powers conferred on this corporation by the laws of the State of Delaware.

This corporation reserves the right to amend, alter, change or repeal any provision contained in this certificate of incorporation, in the manner now or hereafter prescribed by law, and all rights conferred on officers, council and members herein are granted subject to this reservation.

WE, THE UNDERSIGNED, being all of the incorporators, for the purpose of forming a corporation, in pursuance of an Act of the Legislature of the State of Delaware, entitled "AN ACT PROVIDING A GENERAL CORPORATION LAW," (approved March 10, 1899) and the acts amendatory thereof and supplemental thereto, do make and file this certificate of incorporation and do certify that the facts herein stated are true and accordingly hereunto have set our respective hands and seals this 30th day of January, A.D. 1918.

In the presence of
D. W. Coster, Jr.
R. G. Ehrman

C. E. deM. Sajous (SEAL)
Lewelly F. Barker (SEAL)
Emil Goetsch (SEAL)

STATE OF PENNSYLVANIA)
:SS.
COUNTY OF PHILADELPHIA)

BE IT REMEMBERED that on this thirtieth day of January, A.D. 1918, personally appeared before me, the subscriber, a Notary Public for the State of Pennsylvania, C. E. deM. Sajous, a party to the foregoing certificate of incorporation, known to me personally to be such and I having first made known to him the contents of said certificate, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed and the facts therein stated were truly set forth.

GIVEN under my hand and seal of office the day and year aforesaid.

Caroline F. Simon

NOTARY PUBLIC
Commission Expires Feb. 21, 1919

CAROLINE F. SIMON
NOTARY PUBLIC
PHILADELPHIA, PA.

STATE OF MARYLAND)
: SS.
COUNTY OF BALTIMORE)

BE IT REMEMBERED that on this 24th day of January, A.D. 1918, personally appeared before me, the subscriber, a Notary Public for the State of Maryland, Emil Goetsch, a party to the foregoing certificate of incorporation, known to me personally to be such, and I having first made known to him the contents of said certificate, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed and that the facts therein stated were truly set forth.

GIVEN under my hand and seal of office the day and year aforesaid.

Raymond G. Ehrman
Notary Public

RAYMOND G. EHRMAN
NOTARY PUBLIC
BALTIMORE CO. MD.

STATE OF MARYLAND)
: SS.
COUNTY OF BALTIMORE)

BE IT REMEMBERED that on this 25th day of January, A.D. 1918, personally appeared before me, the subscriber, a Notary Public for the State of Maryland, L. F. Barker, a party to the foregoing certificate of incorporation, known to me personally to be such, and I having first made known to him the contents of said certificate, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed and that the facts therein stated were truly set forth.

GIVEN under my hand and seal office the day and year aforesaid.

Raymond G. Ehrman
Notary Public

RAYMOND G. EHRMAN
NOTARY PUBLIC
BALTIMORE CO. MD.

EXHIBIT 5

CERTIFICATE OF INCORPORATION OF THE ENDOCRINE SOCIETY

FIRST: The name of this corporation is THE ENDOCRINE SOCIETY.

SECOND: The principal office of the corporation and its place of business in the State of Delaware shall be 4305 Lancaster Pike, County of New Castle, Wilmington, Delaware.

THIRD: The corporation shall be organized and operated exclusively for educational and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954, as amended. Solely in furtherance thereof, it shall promote research and study in the science of endocrinology, the diffusion of information therefrom obtained by lecture, publication or otherwise; and it shall print, publish or distribute books, periodicals or similar articles on scientific subjects relating to endocrinology. It shall be authorized to own, buy and sell scientific apparatus and equipment and own and maintain laboratories and libraries in furtherance of the educational and scientific purposes stated in this Article THIRD. The corporation shall not exercise any powers or conduct any activities which are not permissible under the laws of the State of Delaware or allowed an educational or scientific organization described in Section 501(c)(3) of the Internal Revenue Code.

FOURTH: The corporation shall have no capital stock. It shall be a membership corporation, the conditions of which shall be stated in the bylaws or shall be as otherwise determined by the Council.

FIFTH: The name and place of residence of each of the incorporators is as follows:

NAME	RESIDENCE
C.E. deM. Sajous	Philadelphia, Penna.
L.F. Barker	Baltimore, Md.
Emil Goetsch	Baltimore, Md.

SIXTH: The corporation shall have perpetual existence. In the event of the termination of the corporation, all assets remaining after payment of, or provision of, its debts shall be distributed for exclusively educational and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

SEVENTH: The personal assets and the private property of the officers, employees, Council and members shall not be subject to the payment of any corporate debts or liabilities, to any extent whatsoever; nor shall any officer, employee or member of the Council or the corporation be personally liable for any act or failure to act taken in the name of, or on behalf of, the corporation, except for willful neglect or gross negligence.

EIGHTH: (a) In furtherance and not in limitation of the powers conferred by the State of Delaware, the Council, which is the governing body of the corporation for purposes of all such references contained in the Delaware General Corporation Law, is expressly authorized: to make, repeal, alter or amend the bylaws; to fix the amount of funds, or assets, to be reserved as working capital of the corporation and authorize and cause to be executed mortgages, liens and other lines of credit upon the property or property rights of the corporation; from time to time, to determine whether and to what extent, and at what times and places, and under what conditions and regulations, the books, records and accounts of the corporation, or any of them shall be open to the inspection of the membership; and no member shall have any right to inspect any account or book or document of the corporation, except as conferred by the laws of the State of Delaware, or as authorized by resolution of the Council, or as authorized by resolution of the members. Members and Council shall have the power to hold their meetings, and keep their books, to the extent provided by law, outside the State of Delaware, at such places as may from time to time be determined by the Council. The bylaws are authorized to confer additional powers on the Council beyond those expressed herein including powers which set forth the time, place, procedure and appeal rights for the removal of any individuals from membership, or from any corporate office or committee, or from membership on the Council, provided, however, that the vote for removal may not be less than the vote of the members required to elect the individual to the position or status jeopardized including membership, corporate office, Council or committee as context requires. If a procedure is established for such removal, the bylaws shall provide the means to fill such vacancy caused by such removal.

(b) The Council reserves the right to amend, alter, change or repeal any provision contained herein or in the Certificate of Incorporation, as amended, or in any amendments thereto, in the manner now or hereafter prescribed by the laws of the State of Delaware and all rights conferred upon officers, Council and members by the bylaws shall be exercised in recognition of this reservation.

State of Delaware

Office of Secretary of State

I, MICHAEL HARKINS, SECRETARY OF STATE OF THE STATE OF DELAWARE DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF THE ENDOCRINE SOCIETY FILED IN THIS OFFICE ON THE THIRTEENTH DAY OF JULY, A.D. 1987, AT 9 O'CLOCK A.M.

Michael Harkins, Secretary of State

AUTHENTICATION: 11369794

DATE: 08/20/1987

871940027

FILED

JUL 13 1987

CERTIFICATE OF AMENDMENT

OF

THE ENDOCRINE SOCIETY

The Endocrine Society, a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

(1) That the members of the governing body of said corporation, at a meeting duly convened and held on the Ninth day of January, 1987, at 8:30 o'clock A.M., duly proposed amendments to its Certificate of Incorporation and at said meeting duly passed a resolution setting forth the amendments proposed, declaring their advisability and calling a meeting of the governing body of said corporation for the consideration thereof, said meeting being called on a date not earlier than fifteen days and not later than sixty days from the meeting at which the aforementioned resolution had been passed.

(2) That thereafter on the Seventh day of March, 1987, at 8:30 o'clock A.M., pursuant to such call and to due and written notice thereof given to each of the members of the governing body more than 56 days prior to such date, all as required by the bylaws of the corporation, a special meeting of the members of the governing body was held and there were present at such meeting at least a majority of the members of the whole number of said governing body of the corporation, to wit: 7 out of 13.

(3) That at said special meeting a vote of the members of the governing body was taken for and against the amendment to the Certificate of Incorporation, said Amendment being as follows: See attached Amendment.

(4) That at said special meeting of the members of the governing body 13 out of the 13 members thereof voted in favor of said amendment.

IN WITNESS WHEREOF, the said The Endocrine Society has made, under its corporate seal and the hand of Roger Guillemin, M.D., Ph.D., its President and Attested by its Secretary, the foregoing certificate, and the said President and Secretary have hereunto severally set their hands and cause the corporate seal of the corporation to be hereunto affixed and memorialized on this Seventh day of March, A.D. 1987.

By _____
Roger Guillemin, M.D., Ph.D.
President

[Corporate Seal]

ATTEST:

_____
Nicholas P. Christy, M.D.
Secretary

ATTACHMENT

CERTIFICATE OF AMENDMENT TO THE CERTIFICATE OF INCORPORATION OF THE ENDOCRINE SOCIETY

The Endocrine Society, for the purpose of amending its Certificate of Incorporation in accordance with Section 242(b)(3), of the Delaware General Corporation Law, as amended, and in accordance with such other statutes and rules as may be provided, does hereby certify:

FIRST: The Endocrine Society is a corporation created and existing under the laws of the State of Delaware.

SECOND: The principal office and place of business of said corporation in the State of Delaware is 4305 Lancaster Pike, County of New Castle, Wilmington, Delaware 19805 and the name of the agent in charge thereof is the Corporation Company of Delaware.

THIRD: The governing body of the corporation, known as the Council, at a meeting duly called and held on the Ninth day of January, 1987, did finally resolve and declare:

(a) That within paragraph EIGHTH(a), the following words are stricken in their entirety;

"to make, repeal, alter or amend the bylaws;"

(b) That within paragraph EIGHTH(a), the following words are inserted between the words "* * * expressly authorized:" and "to fix the amount * * *":

> "to make, repeal, alter or amend the bylaws pursuant to and in accordance with provisions of the bylaws for such Council amendments;"

FOURTH: The Council of the Endocrine Society met on the Seventh day of March, 1987 and adopted a resolution by a greater than majority vote, setting forth the amendment contained herein, and said resolution declared the advisability of their adoption. Said resolution directed the President and Secretary-Treasurer of the corporation to execute, acknowledge, file and record said amendments in accordance with the laws of Delaware.

SIXTH: Pursuant to Section 242(b)(3) of the Delaware Corporation Law, this amendment is adopted without the approval of the members of the corporation pursuant to the authority contained in the Certificate of Incorporation, as amended, and the amendments contained herein shall become effective on the date approved by the State of Delaware, in accordance with Section 103 of the Delaware Corporation Law.

State of DELAWARE

Office of SECRETARY OF STATE

I, Michael Harkins, Secretary of State of the State of Delaware, do hereby certify that the attached is a true and correct copy of

Certificate of Amendment

filed in this office on Augusr 15, 1986

DEPARTMENT OF STATE
OFFICE OF THE SECRETARY OF STATE
1897 1793 1920
DELAWARE

Michael Harkins
Michael Harkins, Secretary of State

BY: M. L. Felix

DATE: October 31, 1988

Form 130

3602270119

NON-STOCK

CERTIFICATE OF AMENDMENT

OF

FILED

AUG 15 1986

(A Corporation Without Capital Stock)

The Underthe Society, a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

(1) That the members of the governing body of said corporation, at a meeting duly convened and held on the 23 day of June, 1986, at 8:30 o'clock A .M., duly proposed amendments to its Certificate of Incorporation and at said meeting duly passed a resolution setting forth the amendments proposed, declaring their advisability and calling a meeting of the governing body of said corporation for the consideration thereof, said meeting being called on a date not earlier than fifteen days and not later than sixty days from the meeting at which the aforementioned resolution had been passed.

(2) That thereafter on the 19th day of July, 1986, at 8:30 o'clock A.M., pursuant to such call and to due and written notice thereof given to each of the members of the governing body more than 48 days prior to such date, all as required by the by-laws of the corporation, a special meeting of the members of the governing body was held and there were present at such meeting at least a majority of the members of the whole number of said governing body of the corporation, to wit: 7 out of 13.

(3) That at said meeting a vote of the members of the governing body was taken for and against the amendment to the Certificate of Incorporation, said Amendment being as follows: See Attached Amendment

(4) That at said meeting of the members of the governing body 7 out of the 13 members of the corporation voted in favor of said amendment.

IN WITNESS WHEREOF, the said The Endocrine Society has made, under its corporate seal and the hand of Roger Guillemin, its President and Attested by its Secretary, the foregoing certificate, and the said President and Secretary have hereunto severally set their hands and cause the corporate seal of the corporation to be hereunto affixed this 29th day of July, A.D. 19 86.

By Roger Guillemin
President (Roger Guillemin)

(Corporate Seal)

ATTEST:

(Nicholas P. Christy)

Attachment

CERTIFICATE OF AMENDMENT
TO THE
CERTIFICATE OF INCORPORATION
OF
THE ENDOCRINE SOCIETY

The Endocrine Society, for the purpose of amending its Certificate of Incorporation in accordance with Section 242(b)(1), of the Delaware General Corporation Law, as amended, and in accordance with such other statutes and rules as may be provided, does hereby certify:

FIRST: The Endocrine Society is a corporation created and existing under the laws of the State of Delaware.

SECOND. The principal office and place of business of said corporation in the State of Delaware is 1305 Lancaster Pike, County of New Castle, Wilmington, Delaware 19805 and the name of the agent in charge thereof is the Corporation Company of Delaware.

THIRD: The governing body of the corporation, known as the Council, at a meeting duly called and held on the Second day of June, 1986, did finally resolve and declare:

(a) That paragraphs SECOND, THIRD, FOURTH, SIXTH, SEVENTH and EIGHTH are stricken in their entirety;

(b) That the following paragraphs are inserted in full and complete substitution therefor:

(cont'd)

SECOND. The principal office of the corporation and its place of business in the State of Delaware shall be 4305 Lancaster Pike, County of New Castle, Wilmington, Delaware 19805. The name and address of its registered agent is Corporation Company of Delaware and the registered office therein shall be at 4305 Lancaster Pike, Wilmington, Delaware 19805.

THIRD. The corporation shall be organized and operated exclusively for educational and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954, as amended. Solely in furtherance thereof, it shall promote research and study in the science of endocrinology, the diffusion of information therefrom obtained by lecture, publication or otherwise; and it shall print, publish or distribute books, periodicals or similar articles on scientific subjects relating to endocrinology. It shall be authorized to own, buy and sell scientific apparatus and equipment and own and maintain laboratories and libraries in furtherance of the educational and scientific purposes stated in this Article THIRD. The corporation shall not exercise any powers or conduct any activities which are not permissible under the laws of the State of Delaware or allowed an educational and scientific organization described in Section 501(c)(3) of the Internal Revenue Code.

[illegible]5

FOURTH: The corporation shall have no capital stock. It shall be a membership corporation, the conditions of which shall be stated in the bylaws or shall be as otherwise determined by the Council.

SIXTH: The corporation shall have perpetual existence. In the event of the termination of the corporation, all assets remaining after the payment of, or provision for, its debts shall be distributed for exclusively educational and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

SEVENTH: The personal assets and private property of the officers, employees, Council and members shall not be subject to the payment of any corporate debts or liabilities, to any extent whatsoever; nor shall any officer, employee or member of the Council or of the corporation be personally liable for any act or failure to act taken in the name of, or on behalf of, the corporation, except for willful neglect or gross negligence.

EIGHTH: (a) In furtherance and not in limitation of the powers conferred by the State of Delaware, the Council, which is the governing body of the corporation for purposes of all such references contained in the Delaware General Corporation Law, is expressly authorized: to make, repeal, alter or

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amend the bylaws; to fix the amount of funds, or assets, to be reserved as working capital of the corporation and authorize and cause to be executed mortgages, liens and other lines of credit upon the property or property rights of the corporation; from time to time, to determine whether and to what extent, and at what times and places, and under what conditions and regulations, the books, records and accounts of the corporation, or any of them, shall be open to the inspection of the membership; and no member shall have any right to inspect any account or book or document of the corporation, except as conferred by the laws of the State of Delaware, or as authorized by resolution of the Council, or as authorized by resolution of the members. Members and Council shall have the power to hold their meetings, and keep their books, to the extent provided by law, outside the State of Delaware, at such places as may from time to time be determined by the Council. The bylaws are authorized to confer additional powers on the Council, beyond those expressed herein, including powers which set forth the time, place, procedure and appeal rights for the removal of any individual from membership, or from any corporate office or committee, or from membership on the Council, provided, however, that the vote for removal may not be less than the

vote of the members required to elect the individual to position or status jeopardized including membership, corporate office, Council or committee, as context requires. If a procedure is established for such removal, the bylaws shall provide the means to fill such vacancy caused by such removal.

(b) The Council reserves the right to amend, alter, change or repeal any provision contained herein, or in the Certificate of Incorporation, as amended, or in any amendments thereto, in the manner now or hereafter prescribed by the laws of the State of Delaware, and all rights conferred upon officers, Council and members by the bylaws shall be exercised in recognition of this reservation.

FOURTH: The Council of the Endocrine Society met on the Nineteenth day of July, 1986 and adopted a resolution by a greater than majority vote, setting forth all amendments contained herein, and said resolution declared the advisability of their adoption. Said resolution directed the President and Secretary-Treasurer of the corporation to execute, acknowledge, file and record said amendments in accordance with the laws of Delaware.

SIXTH: Pursuant to Section 242(b)(3) of the Delaware Corporation Law, this amendment is adopted without the approval

of the members of the corporation pursuant to the authority contained in the Certificate of Incorporation, as amended, and the amendments contained herein shall become effective on the date approved by the State of Delaware, in accordance with Section 103 of the Delaware Corporation Law.

EXHIBIT 6

From: Sawyer, Heather Chase
Sent: Wednesday, February 4, 2026 2:15 PM
To: Cohen, Jonathan
Cc: Chiang, Annie; Clausen, Hans; Tolentino, Ray; Ranjan, Dev
Subject: RE: CID to Endocrine Society - Friday's Meet & Confer

Dear Jonathan –

Tomorrow at 5:00 pm ET works for us, and happy to talk through our Fourth Amendment concerns further during our call.

We'll keep an eye out for the invite.

Best,
Heather

From: Cohen, Jonathan <jcohen2@ftc.gov>
Sent: Wednesday, February 4, 2026 1:31 PM
To: Sawyer, Heather Chase <hsawyer@cooley.com>
Cc: Chiang, Annie <achiang@ftc.gov>; Clausen, Hans <hclausen@ftc.gov>; Tolentino, Ray <rtolentino@cooley.com>; Ranjan, Dev <dranjan@cooley.com>
Subject: RE: CID to Endocrine Society - Friday's Meet & Confer

CAUTION: This Message Is From an External Sender
This message came from outside your organization.

We obviously disagree with much of this, but look forward to talking further. We're not available this afternoon, but could talk tomorrow at 5:00, or Friday at 2:00 or 4:00.

One quick thing: what's the Fourth Amendment issue?

Thanks,

Jonathan Cohen
Chief Litigation Counsel
Bureau of Consumer Protection | Federal Trade Commission
600 Pennsylvania Avenue, N.W., HQ-462 Washington, D.C. 20580
(202) 326-2551 | jcohen2@ftc.gov

From: Sawyer, Heather Chase <hsawyer@cooley.com>
Sent: Tuesday, February 3, 2026 7:55 PM
To: Cohen, Jonathan <jcohen2@ftc.gov>
Cc: Chiang, Annie <achiang@ftc.gov>; Clausen, Hans <hclausen@ftc.gov>; Tolentino, Ray <rtolentino@cooley.com>; Ranjan, Dev <dranjan@cooley.com>
Subject: RE: CID to Endocrine Society - Friday's Meet & Confer

Dear Jonathan,

Thank you for the follow-up on our initial discussion and for sending the proposed schedule. We'd like to schedule another discussion and would propose doing that tomorrow, February 4, at 4:00 pm ET.

As we noted during our initial call, we are in the process of assessing the requests and discussing them with our client. As we also mentioned, the Endocrine Society is a 501(c)(3) nonprofit organization. It does not have extensive experience responding to formal legal demands, and its operations and recordkeeping are structured to support its charitable mission rather than commercial or litigation-driven processes. We have nonetheless made progress in assessing your requests, including the questions on retention and production outlined in your email.

Regarding the scope of the CID, we continue to have serious concerns about the Commission's jurisdiction to investigate our client or to request the materials or answers specified in the CID. In fact, further research indicates that the CID is *ultra vires*. We do not understand the Commission to be taking the position that legitimate, charitable nonprofits are within its enforcement jurisdiction, and we believe that limitation unambiguously places our client outside the FTC's ambit. We understand that the Commission's position is that it can issue compulsory process to entities outside its enforcement jurisdiction. However, we additionally believe that the materials requested in the CID are not reasonably relevant to any plausible violation of 15 U.S.C. §§ 45 or 52. In particular, we disagree that the hypothetical situation that you raised during our initial meet and confer – involving a nonprofit dental association's statement of medical opinion that a treatment is safe and effective – could fall within the ambit of those statutes.

We also believe the CID violates the First and Fourth Amendments – an inquiry that also bears on any assessment as to the reasonableness of the requests. As just one example, which we provided during our initial call, several of the requests sought "all Documents" (defined sweepingly in the CID) "regardless of time period." We appreciate your willingness to revise some of these requests (by limiting some to January 1, 2014 to the present) but remain concerned that requiring production of twelve years of documents does not pass constitutional muster.

As we also noted during our first call, we anticipated that we would have additional concerns about the broad scope of many of your requests but that a further explanation from you as to the connection to commercial activities, including "marketing" or "advertising" as noted in the CID, would assist us in determining the reasonableness of your requests. We still seek that information and hope that you might be able to provide that as our conversations continue.

Although our position is that some of the above concerns would justify our client's declining to comply with the CID *in toto*, we are prepared to move forward in good faith and are prepared to have additional discussions with you about the specific ways in which the CID is overly broad and burdensome as well as how it could be, at minimum, substantially narrowed. We are also prepared to discuss a timeline for producing on your priority topics (document requests 9 and 11), which would also necessitate more discussion on the specific documents being requested to ensure a meeting of the minds on those requests that would allow us to respond fully. However, to do that, we would need an extension of time on the petition to quash and request that you grant a one-week extension, until February 17, 2026, which we are also happy to discuss during our next call.

Please let us know if you are available to talk tomorrow (Wednesday, February 4) at 4:00 pm. If that time is not convenient, please let us know some available times on Thursday.

Best,
Heather

From: Cohen, Jonathan <jcohen2@ftc.gov>
Sent: Monday, February 2, 2026 5:48 PM
To: Sawyer, Heather Chase <hsawyer@cooley.com>; Tolentino, Ray <rtolentino@cooley.com>
Cc: Chiang, Annie <achiang@ftc.gov>; Clausen, Hans <hclausen@ftc.gov>
Subject: CID to Endocrine Society - Friday's Meet & Confer

Counsel,

Thank you for taking the time to meet with us last Friday afternoon (January 30) regarding the Commission's Civil Investigative Demand ("CID") to the Endocrine Society ("ES"). During that meet-and-confer, we raised several matters and offered you a proposed production schedule. Those issues are outlined in more detail below. We also offer a concession concerning the issue you raised regarding the scope of certain requests and interrogatories.

I. Document Retention and Production

First, you confirmed that ES has imposed a litigation hold, but you were not yet prepared to discuss: (i) how documents responsive to the requests in the Commission's CID are stored or maintained at your organization or other records management systems in place; (ii) the custodians that would have relevant documents responsive to the CID in their possession; (iii) your process for reviewing those documents to determine responsiveness as well as your privilege review and how or when you would assert protected status claims, or (iv) whether you plan to use certain tools, like AI or Technology Assisted Review ("TAR"), to review and identify

responsive documents. We explained that if you plan to use any AI-assisted program or tool in connection with your response, then you must disclose this to us. You may not use TAR or AI without our consent, although we would work with you in good faith to attempt to reach an agreement should you propose to use TAR or AI.

Second, with respect to privilege logs, we explained that ES must comply with Commission rules, and it must produce logs contemporaneously with the associated production. You asked to discuss the process for privilege review at a later time, and we are always willing to discuss this, or anything else, with you.

II. Scope of the CID

You noted that several requests lack any specified time limitation. Specifically, document requests ("Requests") nos. 1-5 and Interrogatory Nos. 8 and 13 request relevant information "[r]egardless of time period[.]" Importantly, Section 5 of the FTC Act does not include a statute of limitations, and accordingly, these Requests are appropriate as written. However, in the interest of compromise, we will narrow the timeframe for Request Nos. 1-3 and Interrogatories 8 and 13. Specifically, for these requests, we will limit the period from **January 1, 2014, to the present**. This precedes the 2017 Endocrine Society Guidelines—central to the CID—by approximately three years.

Notably, Request Nos. 4-5, which seek Communications with Professional Medical Organizations and other organizations, are inherently time limited because they seek documents "related to the 2017 ES Guidelines or the 2020 Position Statement." Accordingly, we cannot agree to further limit these requests.

We also asked whether you wanted to discuss other issues concerning the CID. You expressed potential reservations regarding the Commission's authority to issue the CID—a potential position with which we strongly disagree—but did not raise other issues.

III. Production Schedule

At the close of our meeting, we offered you a production schedule, which is reflected below. Assuming ES agrees to accept service, forgo any petition to quash, and continue engaging with us in good faith (all standard requirements), we will extend the CID's return date as follows:

- By February 20, you will respond fully to Document Request Nos. 9 and 11;
- By March 20, you will respond fully to five Document Requests of your choosing and five Interrogatories of your choosing (except that you may not select Interrogatory 15 or Request 12 (those logically come last)).

- By April 20, you will respond fully to all remaining Document Requests and Interrogatories.

Relatedly, you asked to extend the petition to quash deadline by two weeks. However, we cannot agree to extend that deadline – an enormous concession on our part -- without a reciprocal commitment from ES to respond fully to Document Request Nos. 9 and 11 by an agreed date. Our proposed production schedule affords you ninety days to complete your response, which is eminently reasonable. Moreover, it provides ES extensive discretion over the order in which it produces material—another concession.

As a formal matter, and in conformance with the applicable rules, we note that Deputy Director Kate White has endorsed the CID modifications this correspondence contains. We look forward to hearing from you.

Jonathan Cohen
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From: Sawyer, Heather Chase
Sent: Friday, February 6, 2026 9:09 AM
To: Cohen, Jonathan
Cc: Chiang, Annie; Clausen, Hans; White, Katherine; Tolentino, Ray; Ranjan, Dev
Subject: RE: PTQ Deadline

Dear Jonathan –

Thank you for the discussion and for confirming the deadline for our Petition to Quash. To recap our call from yesterday, we again raised our concerns regarding jurisdiction; the First and Fourth Amendments; and ambiguity, vagueness, overbreadth, and burden—with some specific examples of the difficulties that we had identified and hoped to discuss.

To capture where we think we've made some progress, particularly regarding the two priority requests that you'd identified in our first meeting:

- For Document Request No. 11, we conveyed that our client would be willing to provide Financial Statements from January 1, 2021, through December 2024 on your requested timeline of February 20. We explained that statements are not yet available for 2025.

- For Document Request No. 9, we explained our concerns about the breadth, as well as vague and ambiguous terms (including the broad definition of "You" and "Documents," which includes drafts and notated copies, and the overbreadth, vagueness and ambiguity in "Covered Statements," which require determination of whether and when something could be an "express *or implied*" representation). We noted that our client uses a Microsoft 365-based office system and explained the burden and difficulty of searching, collecting, and reviewing potentially responsive documents. We also asked for an explanation of what the term "disseminated" meant, which you clarified as meaning statements distributed to the public by the Endocrine Society.
    - Given that, we proposed limiting the request to statements that the Endocrine Society approved and disseminated to the public that included substantive discussion of the treatment of gender dysphoria or gender incongruence.
    - You objected on the grounds that this would grant our client too much discretion and asked if we would be willing to propose search terms and discuss appropriate custodians as a potential path forward.
    - We said we would be willing to talk to our client and see what we might be able to work out and asked about the timeline given the looming deadline on the motion to quash (of early next week).

- You asked us to provide a proposal on search terms and custodians by Saturday and that no extension of the deadline would be possible before the Commission had reviewed and approved our proposal.
- We proposed, instead, that we be given until early next week to provide you with a proposal and that the deadline on the petition be extended for a week from the current deadline (i.e., to February 17), which would then give us time to discuss and negotiate a possible agreement regarding terms and custodians.
- You reiterated that there could be no extension on the PTQ before Commission review and approval of the proposal on how to proceed on Request No. 9 because there would need to be a showing of "good faith." (In response, we pointed out that our client's willingness to respond to your other priority request on your requested timeline demonstrates good faith. As we've previously noted, your requested timeline for complying on your priority items is February 20, which is nearly a month earlier than the March 16 production date in the CID.)
- In light of your confirmation that our deadline on the motion to quash is Tuesday, February 10, we remain willing to speak with our client and provide a proposal for proceeding on Document Request No. 9 but can only do so only if the petition to quash is extended to February 17 (as we had proposed) so that we have adequate time to engage in meaningful discussions. As we are sure you understand, without that brief extension, we do not have a choice given the uncertainty as to whether we will reach agreement on how to proceed before our deadline on the PTQ.

That concern is particularly acute given the position you have taken in response to our good-faith efforts to ensure that you understood fully our First Amendment position.

We have been clear from the outset that we believe the CID violates the First Amendment. We flagged it in our initial meeting and in our request for a second meet and confer – where we reiterated that "we believe the CID violates the First and Fourth Amendments." In your response, you asked "what's the Fourth Amendment issue?" – leading me to respond that I would be "happy to talk through our Fourth Amendment concerns further during our call." We did that. And even though you did not ask for further details about our First Amendment concerns, we also explained our view as to why the CID is problematic (because it violates the Endocrine Society's rights of free speech, assembly, and petition; and related and well-recognized associational rights and that the CID constitutes retaliatory viewpoint discrimination).

You then took the position that we had somehow "waived" our right to raise our retaliation argument because we had not explained it early enough to give the Commission time to consider it before the deadline for a petition to quash. We asked you to explain how we could have waived an issue that we had expressly flagged multiple times during our meetings—namely, that the CID has significant First Amendment concerns—before including it in any petition to quash, as is

required by Commission rules. We also noted that, to the extent that your argument was based on a timing technicality—the CID's request that a telephonic meeting be held within 14 days of receipt—we had an initial call within that timeframe where we flagged First Amendment concerns. We also noted it in our follow-up email, which we sent the day after you emailed your proposal for your priority requests, and we offered to meet the next day. (You were not available and we then took the first available time you offered.) Lastly, we pointed out that, to the extent the Commission was open to considering our view, our proposed modest extension of the deadline to file the petition to quash would afford an opportunity for further discussion.

In response, you reiterated your surprising view that the argument had been waived and raised concern that we were "sandbagging" you by not raising it earlier, despite the fact that (1) we flagged First Amendment concerns from the outset, (2) you had never asked about them, (3) we had just provided examples of why we believed our position is supported, (4) we had explained throughout that our research remains ongoing, and (5) that taking the substance of your objection at face value, it would have required us to explain this argument more fully to you—at most—two days earlier.

As we made clear during the call, if there is room for meaningful discussion and the possibility that the Commission might be open to our arguments, we remain willing to discuss them, and an extension of time on the petition to quash would allow for that.

Given the looming deadline on the petition, and the need for us to discuss any proposals with our client, we respectfully request that you let us know by noon today whether the Commission will grant the requested extension of time and whether you are interested in further discussion regarding your priority Request No. 9.

Best,
Heather

From: Cohen, Jonathan <jcohen2@ftc.gov>
Sent: Thursday, February 5, 2026 7:33 PM
To: Sawyer, Heather Chase <hsawyer@cooley.com>
Cc: Chiang, Annie <achiang@ftc.gov>; Clausen, Hans <hclausen@ftc.gov>; White, Katherine <kwhite@ftc.gov>; Tolentino, Ray <rtolentino@cooley.com>; Ranjan, Dev <dranjan@cooley.com>
Subject: PTQ Deadline

Heather,

Thank you for speaking with us earlier this evening. Among other things, we discussed the return date for your potential Petition To Quash ("PTQ"). As a courtesy and to avoid any doubt, we agree with you that your PTQ is due February 10.

As a formal matter, to the extent this constitutes a modification of the CID, Deputy Director Kate White has endorsed it.

Best,

Jonathan Cohen
Chief Litigation Counsel
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From: Sawyer, Heather Chase
Sent: Monday, February 9, 2026 4:57 PM
To: Cohen, Jonathan
Cc: Chiang, Annie; Clausen, Hans; White, Katherine; Geho, Douglas; Hitchcock, Jennie; Tolentino, Ray; Ranjan, Dev
Subject: RE: CID to Endocrine Society
Attachments: Cooley Response to FTC Feb. 6 Letter.pdf

Dear Jonathan,

Please see attached response to your letter from Friday.

Best,
Heather

From: Cohen, Jonathan <jcohen2@ftc.gov>
Sent: Friday, February 6, 2026 9:53 PM
To: Sawyer, Heather Chase <hsawyer@cooley.com>; Tolentino, Ray <rtolentino@cooley.com>; Ranjan, Dev <dranjan@cooley.com>
Cc: Chiang, Annie <achiang@ftc.gov>; Clausen, Hans <hclausen@ftc.gov>; White, Katherine <kwhite@ftc.gov>; Geho, Douglas <dgeho@ftc.gov>; Hitchcock, Jennie <jhitchcock@ftc.gov>
Subject: CID to Endocrine Society

Please see the attached correspondence.

Jonathan Cohen
Chief Litigation Counsel
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Chief Litigation Counsel

Jonathan Cohen
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February 6, 2026

VIA EMAIL

Heather Chase Sawyer, Esq. (hsawyer@cooley.com)
Ray Tolentino, Esq. (rtolentino@cooley.com)
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Cooley LLP
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Re: Civil Investigative Demand to Endocrine Society

Counsel,

We met again yesterday (February 5) regarding the Commission's Civil Investigative Demand ("CID") to your client, the Endocrine Society ("ES"). At this point, we have grave reservations about the manner in which ES has conducted the meet-and-confer process, which you do not appear to have approached in good faith. Specifically, after an earlier hourlong meet-and-confer pursuant to 16 C.F.R. § 2.7(k), and also after written correspondence, and in the final moments of yesterday's early-evening second meet-and-confer, you twice asked us to confirm that we felt you had raised, in essence, all issues there were to raise. We declined to provide that impossible assurance because we could not know what issues you might perceive. Only then did you raise—for the first time—alleged "retaliation" and "viewpoint discrimination." Quite correctly, and as further explained below, we informed you that ES had waived those issues.[1] *See* 16 C.F.R. § 2.7(k).[2]

[1] Indeed, ES's flagrant noncompliance with 16 C.F.R. § 2.7(k) is so egregious that ES has almost certainly waived every objection, not merely the late-disclosed ones. You were unprepared to discuss *any* of the mandatory subjects that our initial meet-and-confer must cover pursuant to Section 2.7(k), and ES still has not addressed most of our questions with respect to those issues.

[2] The CID's first sentence reiterates this rule.

At that point, counsel started yelling. Counsel made a thinly-veiled, offensive (and false) accusation against FTC attorneys, and also grossly mischaracterized the CID itself.[3]

Before the dialogue unraveled, we discussed several other matters, some of which we outline below. Notwithstanding the situation, to the extent we can accommodate substantive requests for modifications, we will do so through this correspondence.

I. Pre-Petition Meet-and Confer Process and Endocrine Society's Waiver

As an initial matter, you received the Commission's CID on or before January 20, 2026. Its first line reads: "You must contact FTC counsel . . . as soon as possible to schedule a telephonic meeting to be held within fourteen (14) days after You receive this CID." Furthermore, the CID's introductory language tracks the operative regulation, which requires that, as part of the "[m]andatory pre-petition meet and confer process," you "address and attempt to resolve all issues" at that meet-and-confer.[4] 16 C.F.R. § 2.7(k) (emphasis added). "Absent extraordinary circumstances," the Commission's regulations preclude it from considering issues you failed to raise. *See id.* The Commission will also not consider a Petition To Quash ("PTQ") without a statement confirming that counsel has made an "effort in good faith to resolve the issues raised by the petition." *Id.* § 2.10(a)(2).

ES contacted us, for the first time, a full week after receiving the CID (on January 27, and at the close of business). The parties mutually agreed to a meet-and-confer on January 30, within the fourteen-day regulatory pre-petition deadline. We subsequently summarized that meeting, and most pertinent here, you never mentioned the words "First Amendment" during the hourlong call, let alone raised any issue related to supposed retaliation or viewpoint discrimination.

Your first reference to the First Amendment came through correspondence on February 3, after business hours. Specifically, you wrote: "We also believe the CID violates the First and Fourth Amendments – an inquiry that also bears on any assessment as to the reasonableness of the requests." You did not explain the argument further. Nor did you suggest having raised either First or Fourth Amendment issues during the prior meeting—and you could not have done so honestly. You concluded your email by proposing "to talk tomorrow (Wednesday, February 4) at 4:00 pm." (Parenthesis in original.) Because you offered no alternative times on Wednesday, and we were not available at the single option you provided, the parties instead agreed to speak for another hour at 5:00 PM on February 5—this is the unfortunate conversation described above.

During that call, and as discussed further below, you did—for the first time—raise concerns that particular specifications might chill protected speech and associational rights, or the right to petition, and you further contended that the Fourth Amendment requires additional scrutiny that the CID purportedly cannot withstand. (We disagree with these positions.) At the call's apparent conclusion, you asked, twice, whether we felt comfortable that we had discussed everything necessary. We told you, in essence, "we don't know what we don't know," and therefore, we could not provide

[3] Specifically, you mischaracterized the CID as referencing administration policy that there are two sexes, male and female. The CID contains no such reference.

[4] Among other things, Section 2.7(k) requires that, at the pre-petition meet-and-confer within the first fourteen days, you "make available personnel with the knowledge necessary for resolution of the issues relevant to compliance with compulsory process," which you did not do. Nor were you prepared to discuss your client's record management systems, potential custodians, ESI issues and "methods of retrieval." 16 C.F.R. § 2.7(k). Nor were you prepared confer regarding "issues relating to protected status and the form and manner in which claims of protected status will be asserted." *Id.* In short, ES came nowhere close to satisfying the prerequisites to filing a petition to quash.

you that assurance. At 5:55 PM, immediately after it became clear that we would not provide you some sort of catch-all waiver exemption, you raised "viewpoint discrimination" and "retaliation" for the first time. We immediately stated that ES had waived these two belatedly raised issues, at which point the conversation devolved as we recount above.

Nevertheless, we endeavored to learn more about your untimely viewpoint discrimination and retaliation claims. It appeared that, from your perspective, these distinct issues are actually the same thing, and that, because—in your view, not ours—the President and/or other executive agencies harbor animus toward the transgender community, the CID is necessarily discriminatory or retaliatory. We pressed for specific examples concerning the FTC, and you initially pointed us to entirely unrelated litigation involving our Bureau of Competition's investigation concerning collusion between advertisers. It would be hard to imagine anything more unrelated to your CID, so we pressed further, and you eventually directed us to a single example: a "memorandum by the current Chairman directing the FTC to retaliate against" transgendered persons. We assure you, no such memorandum exists.

II. Other Substantive Issues and Modifications

Earlier in the February 5 call, you asked us to clarify or explain certain issues, or agree to various modifications. First, you raised questions concerning the definition of ES that includes standard language encompassing "subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all directors, officers, members, employees, agents, consultants, and other persons working for or on behalf of the foregoing." In this context, "members" refers to LLC members; please do not overread the word to support an objection where none exists. To the extent any modification is necessary, you should construe "members" in the definition to include only "LLC members," to the extent any exist. This CID does not seek a response on behalf of thousands of individual ES members, nor is that our intent.

Second, we disagree that any element of the CID restricts ES's right to petition the government, but we nevertheless discussed that issue in the context of Document Request No. 7. That request seeks "testimony, advocacy, or other information provided to any legislature or regulator related to PGDTs." Essentially, the CID asks for information (likely publicly-available) because ES is in the best position to gather it. However, we agreed to accept a list of publicly-available material, sufficient to enable us to retrieve it ourselves.[5]

With the exception of issues associated with your request for an extension, addressed further below, we did not discuss any other substantive issues in detail not yet mentioned herein.[6]

III. Extension Request

We discussed several other substantive issues within the broader context of your request that we extend the PTQ deadline. As you know, we offered to extend the PTQ deadline if ES fully

[5] Although Document Request No. 7 does not request drafts (unless, for some reason, ES provided a legislator or regulator with a draft), we do not modify or limit any other request that would apply to draft documents or other materials that you subsequently provided to legislators or regulators. And Request No. 7 still encompasses material that, for whatever reason, is not publicly-available. If any such material exists, you must produce it.

[6] Earlier today, you sent correspondence purporting to summarize aspects of yesterday's call. We do not agree with every assertion therein, and it also omits critical information. You should not construe the fact that we have not responded point-by-point to everything you wrote this morning, or earlier, as agreement.

responded to two Requests we prioritized: No. 9 ("All Documents You disseminated referencing the Covered Statements," and No. 11 ("Your Financial Statements for Each Year."). Below, we divide our discussion between the portion that occurred before 5:55 PM and what transpired afterward.

A. Before 5:55 PM

With respect to Request No. 11 (Financial Statements), You proposed to produce responsive information through 2024, but our discussion primarily concerned the more important Request No. 9 (Covered Statements). You contended that essentially everything about Request No. 9 is vague or problematic for various reasons, including specifically:

- You alleged that the specification is overbroad because our definition of "Document" is allegedly overbroad. As you know, however, the definition of "Document" comports with that commonly used in CIDs and, more generally, in federal litigation. There is nothing unique about a request that seeks drafts, for instance, or communications made through various media. And you did not quantify the alleged burden in any way and, indeed, you have refused to provide us with basic information about how ES stores information or what responsive documents of different types might exist. *See supra* at 2 n.4.

- "Dissemination" is a commonplace term in consumer protection investigations with a plain meaning, and the Commission need not define every word in the CID. To the extent helpful, we specify for you that "dissemination" means Documents ES sent outside its organization either to multiple recipients, or to a single recipient with the intent that they reach multiple recipients.

- You also objected to the definition of Covered Statements because it includes "implied" claims, another very common concept in consumer protection. Indeed, it would be extraordinarily unusual for the Commission to seek only express claims in a consumer protection investigation focused on representations ultimately made to consumers. Although you must apply judgment to determine what Documents are responsive, that is always the case. And we may ultimately disagree regarding whether a Document contains an implied claim. But none of these ordinary issues is a valid objection.

In light of our discussion concerning these issues, and in the interest of compromise, we proposed that you provide us with search terms to address Request No. 9. As you know, this is a common approach to addressing document requests generally, including ones such as No. 9. In particular, we requested a search term proposal (and other elements, such as a potential time limitation and proposed custodians) by Saturday, February 7. We further committed to review your proposal immediately over the weekend, and if the proposal appeared in good faith, to extend the PTQ deadline briefly to allow further negotiations. Suffice it to say, we no longer believe that ES has acted, or will act, in good faith.

B. After 5:55 PM

At this point, you blamed us for your waiver and demanded a PTQ extension accordingly. To the extent this is confusing, it made no sense to us either. What you appeared to argue is this: (1) ES is willing to discuss retaliation and viewpoint discrimination more thoroughly over the coming week; (2) we have declined to extend the PTQ deadline to enable discussions during that time; so therefore

(3) ES' waiver is our fault, and will remain our fault unless we grant the extension to enable ES to undo the waiver.

To the extent we can unpack this tangled reasoning at all, it is wrong for two reasons. First, and most important, whatever happened yesterday—or might happen next week—makes no difference because none of it is within the first fourteen days, when the regulation required you to raise "all issues." 16 C.F.R. § 2.7(k). Second, even assuming we had the authority to overrule a federal regulation—which we plainly do not—doing so would reward parties for sandbagging: waiting until the last minute, then demanding an extension because they chose to wait until the last minute. The regulation intends to prevent exactly this behavior—your behavior during this process.

As a formal matter, and in conformance with the applicable rules, we note that Deputy Director Doug Geho has endorsed the CID modifications this correspondence contains.
.

Very truly yours,

Jonathan Cohen

Chief Litigation Counsel
Bureau of Consumer Protection

CC: Via Email

Kate White, Deputy Director
Doug Geho, Deputy Director
Annie Chiang
Jennie Hitchcock
Hans Clausen
Bureau of Consumer Protection
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February 9, 2026

Jonathan Cohen
Chief Litigation Counsel
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580

Re: Civil Investigative Demand to the Endocrine Society

Dear Jonathan:

We write in response to your letter of February 6. While we will not undertake a point-by-point rebuttal to your characterization of the meet-and-confer process, we disagree with many of its assertions. In particular, given that we have engaged in substantive discussions with you about our jurisdictional, constitutional, and related overbreadth and undue burden objections to the CID throughout the process, we find your position that we have forfeited every objection to the CID confounding.

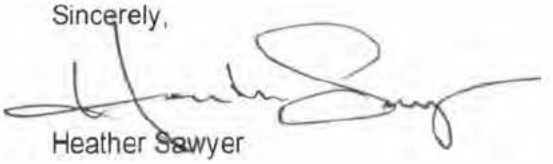
We are similarly surprised by your accusation of bad faith. As we have repeatedly made clear, we believe our concerns about the legality of the CID would justify a decision by the Endocrine Society to refuse to produce the requested materials altogether. Despite that, we have remained willing to work with you toward voluntary compliance. Your "grave reservations" about our good faith are impossible to reconcile with our offer to comply with your two priority requests on the timeline you requested—a date nearly a month before the return date set forth in the CID itself. In return for our offered compromises, you have so far maintained the unusual position that we should waive our right to challenge any aspect of the CID—the same waiver you now assert we have surrendered to you inadvertently—as part of an initial agreement before full negotiations regarding compliance are possible.

Finally, we disagree with your characterization that anyone was "yelling" during our February 5, 2026, conference, as well as your assertion that there was any "accusation against FTC attorneys." The rhetoric of your letter is certainly unnecessary for any substantive arguments you have made. It is consistent, however, with the strikingly aggressive posture the Commission has taken in every aspect of this investigation into "false advertising" by a more than 100-year-old charitable medical organization.

Cooley

For that reason, if anything, your letter bolsters our concern that this is not an ordinary or routine investigation. It also confirms our growing concern that our client will not be treated fairly or reasonably in this forum.

Sincerely,



Heather Sawyer

CC: Via Email

Kate White, Deputy Director
Doug Geho, Deputy Director
Annie Chiang
Jennie Hitchcock
Hans Clausen
Bureau of Consumer Protection
Federal Trade Commission

Ray Tolentino, Cooley LLP
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