

ACCESS TO MEDICAL CARE FOR TRANS YOUTH

Toolkit for fighting bills targeting care for trans minors

In 2021, lawmakers escalated attacks on trans youth with ill-conceived and dangerous bills attempting to restrict survival opportunities for young people who are transgender. Though only 1 such bill (Arkansas's) passed in 2021, this year we are expecting a number of bills that seek to ban gender-affirming medical and mental health care for trans minors.

There has been widespread opposition to these bills, including by major medical associations and experts, business groups, advocates for youth, and the United States.

Talking Points

Gender Affirming Care – Generally

- Being transgender is not something that can or should be changed by external forces. The only medically supported intervention for transgender youth [/adults] is to affirm a [young] person's gender identity.
- Medical and mental health treatment for transgender individuals is guided by evidence-based clinical guidelines and based on the individual needs of each patient. Blanket bans on treatment disrupt medically necessary care and result in negative health outcomes including anxiety, depression and suicidality.
- Transgender people who are affirmed in their gender through supportive families and medical providers have health outcomes comparable to their non-transgender peers. By contrast, when denied treatment and affirmation, transgender people experience high rates of suicidality and negative health outcomes.

Opposing Blanket Bans on Care For Minors

- This proposal displays a fundamental ignorance about medical treatment for transgender youth. Current care simply delays puberty to give a young person and the person's family more time to make informed medical decisions about their care. This bill would take away their choices, irreversibly force youth through endogenous puberty and undermine the prevailing recommendations of every major medical association.
- Parents, patients and medical professionals, not politicians, should decide what medical care is in the best interest of any particular young person.
- This bill represents a major intrusion into the medical decision-making of parents and families and is vast government overreach. As Arkansas Governor Hutchinson explained when vetoing a bill like this, these bills create “new standards of legislative interference with physicians and parents” and “puts the state as the definitive oracle of medical care,

overriding parents, patients and healthcare experts,” which “would be—and is—a vast government overreach.” Governor Hutchinson further noted that “denying best practice medical care to transgender youth can lead to significant harm to the young person—from suicidal tendencies and social isolation to increased drug use.”

- Decisions about medical treatment for transgender youth should be made by a medical doctor, in accordance with the current medical best practices.
- Being a kid is hard enough. We don’t need politicians making it even harder for kids who are transgender and singling them out for increased bullying and harassment.
- Denying best practice medical care and support to transgender youth can be life-threatening. It has been shown to contribute to depression, social isolation, self-hatred, risk of self-harm and suicidal behavior, and more.
- Research shows that transgender youth whose families support their gender identity have a 52% decrease in suicidal thoughts, a 48% decrease in suicide attempts, and significant increases in self-esteem and general health. This bill would [criminalize/punish] those supportive families. Parents would have to choose between the possibility of government prosecution and supporting the health and well-being of their transgender child.
- In the one state to pass a bill like this, the law was immediately enjoined in federal court before it could go into effect. In *Brandt v. Rutledge*, the Arkansas district court held that plaintiffs were likely to succeed on their claims that the law violated the Equal Protection Clause, the Due Process Clause and the First Amendment.

Good Legal Decisions:

- Boyden v. Conlin, 341 F. Supp. 3d 979 (W.D. Wis. 2018) (Exclusion of gender transition treatment from insurance coverage for transgender state employees violated Title VII and Affordable Care Act prohibition on sex discrimination).
- Brandt v. Rutledge, No. 4:21CV00450, 2021 WL 3292057 (E.D. Ark. Aug. 2, 2021)(enjoining Arkansas law banning gender-affirming health care for transgender minors finding plaintiffs likely to succeed on claims that law violated equal protection and first amendment rights of all plaintiffs and due process rights of parents of minor children).
- Tovar v. Essentia Health, 42 F. Supp. 3d 947 (D. Minn. 2018) (Plaintiff stated valid claim that exclusion in insurance plan for coverage of gender affirming care violated Section 1557 of the Affordable Care Act).
- Flack v. Wis. Dep't of Health Servs., 328 F. Supp. 3d 931 (W.D. Wis. 2018)(Plaintiffs granted preliminary injunction on claims that exclusion of gender affirming care in

Wisconsin Medicaid statute violated Section 1557 of the Affordable Care Act and the Equal Protection Clause).

- Norsworthy v. Beard, 87 F. Supp. 3d 1104 (N.D. Cal. 2015) (Plaintiff stated valid claim that ban on gender affirming treatment under prison healthcare policy violated Equal Protection Clause).

Position or Policy Statements from Medical Associations

[American Academy of Child & Adolescent Psychiatry](#) (Nov. 2019)

The American Academy of Child and Adolescent Psychiatry (AACAP) supports the use of current evidence-based clinical care with minors. AACAP strongly opposes any efforts – legal, legislative, and otherwise – to block access to these recognized interventions. Blocking access to timely care has been shown to increase youths’ risk for suicidal ideation and other negative mental health outcomes. Consistent with AACAP’s policy against conversion therapy, AACAP recommends that youth and their families formulate an individualized treatment plan with their clinician that addresses the youth’s unique mental health needs under the premise that all gender identities and expressions are not inherently pathological.

[American Academy of Pediatrics](#) (2020)

Opposing bills to criminalize care for transgender minors and reiterating that AAP supported standards of care including puberty blockers and hormone therapy.

[World Professional Association of Transgender Health](#) (2012)

Medical affirming care can include treatments that postpone physical changes as well as treatments that lead to changes that would affirm one’s gender identity. Pubertal suppression, commonly known as “puberty blockers,” is used to delay the onset of puberty, and hormone therapy is used to promote gender-affirming physical changes. Pubertal suppression and hormone therapy are two components of patient-centered care for youth that have been supported by empirical evidence.

[World Professional Association for Transgender Health](#) (Statement in Opposition to UK Tavistock Decision, 2020)

Responding to decision from UK high court limiting care for transgender minors – WPATH and all national PATHs oppose decision and explain the importance of care for transgender youth. “WPATH, EPATH, USPATH, AsiaPATH, CPATH, AusPATH, and PATHA recommend that capacity to consent is evaluated on a case-by-case basis by the treating clinician and not by a court of law. We do not agree that transgender healthcare is so different in kind to that provided to cisgender people as to warrant separate legal provision. We consider puberty blocking treatment and treatment with gender affirming hormones as two separate treatment steps each requiring informed consent at the time such treatment is to be started.

We support the provision of healthcare to gender diverse people in a timely manner such that they can live their best lives. We are gravely concerned that the ruling will have a significantly adverse impact upon gender diverse youth and their families by imposing barriers to care that are costly, needlessly intimidating, and inherently discriminatory.”

[Endocrine Society](#) (Clinical Practice Guidelines, 2017)

Recognizes that puberty blockers and gender-affirming hormone treatment are appropriate treatment for some transgender adolescents.

[Endocrine Society](#) (Transgender Health Position Statement 2020)

Key Positions:

- There is a durable biological underpinning to gender identity that should be considered in policy determinations.
- Medical intervention for transgender youth and adults (including puberty suppression, hormone therapy and medically indicated surgery) is effective, relatively safe (when appropriately monitored), and has been established as the standard of care. Federal and private insurers should cover such interventions as prescribed by a physician as well as the appropriate medical screenings that are recommended for all body tissues that a person may have.
- Increased funding for national pediatric and adult transgender health research programs is needed to close the gaps in knowledge regarding transgender medical care and should be made a priority.

[Endocrine Society](#) (Transgender Health: Supporting Gender Diverse Youth to Improve Their Health, Well-Being, and Safety, 2020)

Re-affirms importance of gender-affirming care including puberty blockers and hormone therapy.

Research on Impact of Gender-Affirming Care for Youth¹

Transgender individuals who desired and received pubertal suppression as adolescents have significantly lower lifetime suicidal ideation compared to those who desired but did not receive it. Turban, J.L., King, D., Carswell J.M., & Keuroghlian, A.S. (2020). Pubertal suppression for transgender youth and risk of suicidal ideation. *Pediatrics*, 145(2), e20191725 [[a pdf of this study is available on the LOOP]]

Prior to pubertal suppression, 44% of youth experienced clinically significant behavioral problems; however, after an average of two years of pubertal suppression only 22% experienced them. And 30% experienced clinically significant emotional problems prior to pubertal suppression compared to 11% after two years of care. Pubertal suppression has also been shown to significantly improve overall psychological functioning after only six months of care. Costa R., Dunsford M., Skagerberg E., Holt V., Carmichael P., & Colizzi M. (2015). Psychological support, puberty suppression, and psychosocial functioning in adolescents with gender dysphoria. *Journal of Sexual Medicine*, 12, 2206–2214.

Research on gender-affirming hormone therapy for youth demonstrates positive effects on body image and overall psychological well-being as well as reduced suicidality. Hormone therapy

¹ Adapted from The Trevor Project's *Research Brief on Gender Affirming Care for Youth* (2020).

decreases both emotional and behavioral problems. de Vries A.L., McGuire J.K., Steensma T.D., Wagenaar E.C., Doreleijers T.A., & Cohen-Kettenis P.T. (2014). Young adult psychological outcome after puberty suppression and gender reassignment. *Pediatrics*, 134, 696-704.

Recent research has also shown that gender-affirming hormone therapy decreases suicidality, with one study of transgender youth demonstrating that after approximately 1 year of treatment the average level of suicidality was 1/4th what it was before treatment. Allen, L. R., Watson, L. B., Egan, A. M., & Moser, C. N. (2019). Well-being and suicidality among transgender youth after gender-affirming hormones. *Clinical Practice in Pediatric Psychology*, 7(3), 302–311.

Pubertal suppression is associated with decreased behavioral and emotional problems as well as decreased depressive symptoms. de Vries A.L., Steensma T.D., Doreleijers T.A., and Cohen-Kettenis P.T. (2011). Puberty suppression in adolescents with gender identity disorder: A prospective follow-up study. *Journal of Sexual Medicine*, 8, 2276–2283.

Other Resources:

[The Dangers of Criminalizing Medical Care for Trans Youth](#) (2020)

[Early care leads to better mental health for transgender youths, study finds](#) (2020)

Trevor Project, [Research Brief on Gender-Affirming Care for Youth](#) (2020)

[Texas Strong](#) Documentary

[Duke Opens New Center for Transgender Adolescents](#)

[A Letter to My Son Jacob On His 5th Birthday](#)

[AAP Statement on Support For Transgender And Gender Diverse Youth](#)