

No. 23-5110

**IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

PETER POE, et al.,
Plaintiffs-Appellants,

v.

GENTNER DRUMMOND, in his official capacity as
Attorney General of the State of Oklahoma, et al.,
Defendants-Appellees.

On Appeal from the United States District Court for the Northern
District of Oklahoma, No. 4:23-cv-00177-JFH-SH (Heil, J.)

**BRIEF OF *AMICI CURIAE* AMERICAN ACADEMY OF PEDIATRICS
AND ADDITIONAL MEDICAL AND MENTAL HEALTH
ORGANIZATIONS IN SUPPORT OF PLAINTIFFS-APPELLANTS**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Civil Procedure 7.1 and Tenth Circuit Rule 26.1, the undersigned counsel for the American Academy of Pediatrics (“AAP”), the Academic Pediatric Association, the American Academy of Child & Adolescent Psychiatry (“AACAP”), the American Academy of Family Physicians (“AAFP”), the American Academy of Nursing (“AAN”), the American Association of Physicians for Human Rights, Inc. d/b/a GLMA: Health Professionals Advancing LGBTQ+ Equality (“GLMA”), the American College of Obstetricians and Gynecologists (“ACOG”), the American College of Osteopathic Pediatricians (“ACOP”), the American College of Physicians (“ACP”), the American Medical Association (“AMA”), the American Pediatric Society (“APS”), the American Psychiatric Association (“APA”)

SPU, SAHM, SPR, SPN, and WPATH, respectively, have no parent corporation.

2. No corporations hold any stock in AAP, the Academic Pediatric Association, AACAP, AAFP, AAN, GLMA, ACOG, ACOP, ACP, AMA, APS, APA, AMSPDC, ES, NAPNAP, PES, SPU, SAHM, SPR, SPN, and WPATH.

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INTEREST OF AMICI CURIAE

Amici curiae are the American Academy of Pediatrics, the Academic Pediatric Association, the American Academy of Child & Adolescent Psychiatry, the American Academy of Family Physicians, the American Academy of Nursing, the American Association of Physicians for Human Rights, Inc. d/b/a GLMA: Health Professionals Advancing LGBTQ+ Equality, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Pediatricians, the American College of Physicians, the American Medical Association, the American Pediatric Society, the American Psychiatric Association,

thousands of healthcare providers who have specific expertise with the issues raised in this brief. The Court should consider *amici*'s brief because it provides important expertise and addresses misstatements about the treatment of transgender adolescents.

INTRODUCTION AND SUMMARY OF ARGUMENT

On May 1, 2023, the Oklahoma Governor signed S.B. 613 (the “Healthcare Ban”), a law that prohibits healthcare providers from providing patients under 18 with critical, medically necessary, evidence-based treatments for gender dysphoria, and makes the provision of such treatments a felony.² Denying such evidence-based medical care to adolescents who meet the requisite medical criteria puts them at risk of significant harm. Below, *amici* provide the Court with an accurate description of the relevant treatment guidelines and summarize the scientific evidence supporting the medical interventions for adolescents prohibited by the Healthcare Ban.³

Gender dysphoria is a clinical condition that is marked by distress due to an incongruence between the pat

to clinically significant distress and impair functioning in many aspects of the patient's life.⁴ If not treated, or treated improperly, gender dysphoria can result in debilitating anxiety, depression, and self-harm, and is associated with higher rates of suicide. As such, the effective treatment of gender dysphoria saves lives.

The widely accepted recommendation of the medical community, including that of the respected professional organizations participating here as *amici*, is that the standard of care for treating gender dysphoria is "gender-affirming care."⁵ Gender-affirming care is care that supports an adolescent

interventions provided to carefully evaluated patients who meet diagnostic criteria, can alleviate clinically significant distress and lead to significant improvements in the mental health and overall well-being of adolescents with gender dysphoria.⁷

The Healthcare Ban disregards this medical evidence by precluding healthcare providers from providing adolescent patients with treatments for gender dysphoria in accordance with the accepted standard of care. Accordingly, *amici* urge this Court to reverse the district court's denial of Plaintiffs' motion for a preliminary injunction.

ARGUMENT

This brief first provides background on gender identity and gender dysphoria. It then describes the professionally accepted medical guidelines for treating gender dysphoria as they apply to adolescents, the scientifically rigorous process by which these guidelines were developed, and the evidence that supports the effectiveness of this care for adolescents with gender dysphoria. Finally, the brief explains how the Healthcare Ban would irreparably harm adolescents with gender dysphoria by

I. Understanding Gender Identity and Gender Dysphoria.

A person's gender identity is a person's deep internal sense of belonging to a particular gender.⁸ Most people have a gender identity that aligns with their sex assigned at birth.⁹ However, transgender people have a gender identity that does not align with their sex assigned at birth.¹⁰ In the United States, it is estimated that approximately 1.4 million individuals are transgender.¹¹ Of these individuals, approximately 10% are teenagers aged 13 to 17.¹² Individuals often start to understand their gender identity during prepubertal childhood and adolescence.

Today, there is an increasing understanding that being transgender is a normal variation of human identity.¹³ However, many transgender people suffer from

⁸ AAP Policy Statement, *supra* note 4, at 2 tbl.1.

⁹ See Am. Psychological Ass'n, *Guidelines for Psychological Practice with Transgender and Gender Nonconforming People*, 70(9) AMERICAN PSYCHOLOGIST 832, 862 (2015), <https://www.apa.org/practice/guidelines/transgender.pdf>.

¹⁰ See *id.* at 863.

¹¹ See Jody L. Herman et al., *Ages of Individuals Who Identify as Transgender in the United States*, Williams Inst., at 2 (Jan. 2017), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Age-Trans-Individuals-Jan-2017.pdf>.

¹² See *id.* at 3.

¹³ James L. Madara, *AMA to States: Stop Interfering in Healthcare of Transgender Children*, Am. Med. Ass'n (Apr. 26, 2021), <https://www.ama-assn.org/press-center/press-releases/ama-states-stop-interfering-health-care-transgender-children>; see also Am. Psychological Ass'n, *APA Resolution on Gender Identity Change Efforts*, 4 (Feb. 2021), <https://www.apa.org/about/policy/resolution-gender-identity-change-efforts.pdf>.

gender dysphoria, a serious medical condition in which the patient experiences significant distress that can lead to “impairment in peer and/or family relationships, school performance, or other aspects of their life.”¹⁴ Gender dysphoria is a formal diagnosis under the American Psychiatric Association’s Diagnostic and Statistical Manual (DSM-5-TR).¹⁵

Adolescents with gender dysphoria are not expected to identify later as their sex assigned at birth.¹⁶ Instead, “[l]ongitudinal studies have indicated that the emergence or worsening of gender dysphoria with pubertal onset is associated with a very high likelihood of being a transgender adult.”¹⁷

¹⁴ AAP Policy Statement, *supra* note 4, at 3.

¹⁵ See Am. Psychiatric Ass’n, *Diagnostic and Statistical Manual of Mental Disorders: DSM-5-TR*, at 512–13 (2022).

¹⁶ See, e.g., Stewart L. Adelson, *Practice Parameter on Gay, Lesbian, or Bisexual Sexual Orientation, Gender Nonconformity, and Gender Discordance in Children and Adolescents*, 51 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 957, 964 (2020), <https://pubmed.ncbi.nlm.nih.gov/22917211> (“In contrast, when gender variance with the desire to be the other sex is present in adolescence, this desire usually does persist through adulthood”).

¹⁷ Stephen M. Rosenthal, *Challenges in the Care of Transgender and Gender-Diverse Youth: An Endocrinologist’s View*, 17(10) NATURE REV. ENDOCRINOLOGY 581, 585 (Oct. 2021), <https://pubmed.ncbi.nlm.nih.gov/34376826>.

If untreated or inadequately treated, gender dysphoria can cause depression, anxiety, self-harm, and suicidality.¹⁸ Indeed, over 60% of transgender adolescents and young adults reported having engaged in self-harm during the preceding 12 months, and over 75% reported symptoms of generalized anxiety disorder in the

some adolescents, gender-affirming medical interventions are necessary.²² This care greatly reduces the negative physical and mental health consequences that result when gender dysphoria is untreated.²³

A. The Gender Dysphoria Treatment Guidelines Include Thorough Mental Health Assessments and, for Some Adolescents, Medical Interventions.

The treatment protocols for gender dysphoria are laid out in established, evidence-based clinical guidelines: (i) the Endocrine Society Clinical Practice Guideline for EndoT0 0 1 7(3(e)-43(T)3(rta1)-3(m)17(en)-4(t)-3(-)-434(o)fce)8(-)-43G(u)4(en

professional development in areas relevant to gender diverse children, adolescents, and families.²⁵

Prior to developing a treatment plan, the HCP should conduct a “comprehensive biopsychosocial assessment” of the adolescent patient.²⁶ The HCP conducts this assessment to “understand the adolescent’s strengths, vulnerabilities, diagnostic profile, and unique needs,” so that the resulting treatment plan is

3. In Certain Circumstances, the Guidelines Provide for the Use of Medical Interventions to Treat Adolescents With Gender Dysphoria.

For youths with gender dysphoria that continues into adolescence—after the onset of puberty—the Guidelines provide that, in addition to mental health care, medical interventions may be indicated. Before an adolescent may receive any medical interventions for gender dysphoria, the Guidelines provide, collectively, that a qualified HCP must determine that: (1) the adolescent meets the diagnostic criteria of gender incongruence according to the World Health Organization’s International Classification of Diseases or other taxonomy;

treatment of precocious puberty.³⁹ The risks of any serious adverse effects from these treatments are exceedingly rare when provided under clinical supervision.⁴⁰

Later in adolescence—and if the criteria below are met—hormone therapy may be used to initiate puberty consistent with the patient’s gender identity.⁴¹ Hormone therapy involves using gender-affirming hormones to allow adolescents to develop secondary sex characteristics consistent with their gender identity.⁴² Hormone therapy is only prescribed when a qualified mental health professional has confirmed the persistence of the patient’s gender dysphoria, the patient’s mental capacity to consent to the treatment, and that any coexisting problems have been addressed.⁴³ A pediatric endocrinologist or other clinician experienced in pubertal induction must also agree with the indication, and the patient and their parents or

³⁹ See F. Comite et al., *Short-Term Treatment of Idiopathic Precocious Puberty with a Long-Acting Analogue of Luteinizing Hormone-Releasing Hormone — A Preliminary Report*, 305 NEW ENG. J. MED. 1546 (1981).

⁴⁰ See, e.g., Annemieke S. Staphorsius et al., *Puberty Suppression and Executive Functioning: An Fmri-Study in Adolescents with Gender Dysphoria*, 6 PSCYHONEUROENDOCRINOLOGY 190 (2015), <https://pubmed.ncbi.nlm.nih.gov/25837854> (no adverse impact on executive functioning); Ken C. Pang et al., *Long-term Puberty Suppression for a Nonbinary Teenager*, 145(2) PEDIATRICS e20191606 (2019), <https://pubmed.ncbi.nlm.nih.gov/31974217/> (exceedingly low risk of delayed bone mineralization from hormone treatment).

⁴¹ Martin, *supra* note 7 at 2.

⁴² See AAP Policy Statement, *supra* note 4, at 6.

⁴³ Endocrine Soc’y Guidelines, *supra* note 24, at 3878 tbl.5.

guardians must be informed of the potential effects and side effects and give their informed consent.⁴⁴ Although some of the changes caused by hormone therapy become irreversible after those secondary sex characteristics are fully developed, others are partially reversible if the patient discontinues use of the hormones.⁴⁵

The Guidelines contemplate that the prescription of puberty blockers and/or hormone therapy be coupled with education on the safe use of su(s)4(ar)19(s)17(ed)-4()i3(ca)8(t)

First published in 1979, the WPATH Standards of Care are currently in their 8th Edition. The current Standards of Care are the result of a robust drafting, comment, and review process that collectively took five years.⁵² The draft guidelines went through rigorous review and were publicly available for discussion and debate, receiving a total of 2,688 comments.⁵³ 119 authors were ultimately involved in the final draft, including feedback from experts in the field as well as from transgender individuals and their families.⁵⁴

C. Scientific Evidence Indicates the Effectiveness of Treating Gender Dysphoria According to the Guidelines.

Multiple studies indicate that adolescents with gender dysphoria who receive gender-affirming care experience improvements in their overall well-being.⁵⁵ Nine studies have been published that investigated the use of puberty blockers on adolescents with gender dysphoria,⁵⁶ and nine studies have been published that

⁵² See WPATH Guidelines, *supra* note 24, at S247–51.

⁵³ See *id.*

⁵⁴ See *id.*

⁵⁵ See Martin, *supra* note 7, at 2.

⁵⁶ See, e.g., Christal Achille et al., *Longitudinal Impact of Gender-Affirming Endocrine Intervention on The Mental Health and Wellbeing of Transgender Youths: Preliminary Results*, 8 INT’L J PEDIATRIC ENDOCRINOLOGY 1–5 (2020), <https://pubmed.ncbi.nlm.nih.gov/32368216>; Polly Carmichael et al., *Short-Term Outcomes of Pubertal Suppression in a Selected Cohort of 12 to 15 Year Old Young People With Persistent Gender Dysphoria in the UK*, 16(2) PLOS ONE e0243894 (2021), <https://pubmed.ncbi.nlm.nih.gov/33529227>; Rosalia Costa et al., *Psychological Support, Puberty Suppression, and Psychosocial Functioning in*

investigated the use of hormone therapy to treat adolescents with gender dysphoria.⁵⁷

These studies find positive mental health outcomes for those adolescents who

Adolescents with Gender Dysphoria, 12(11) J. SEXUAL MED. 2206–2214 (2015), <https://pubmed.ncbi.nlm.nih.gov/26556015>; Annelou L.C. de Vries et al., *Puberty Suppression in Adolescents with Gender Identity Disorder: A Prospective Follow-up Study*, 8(8) J. SEXUAL MED. 2276–83 (2011), <https://pubmed.ncbi.nlm.nih.gov/20646177>; Annelou L.C. de Vries et al., *Young Adult Psychological Outcome After Puberty Suppression And Gender Reassignment*, 134(4) PEDIATRICS 696–704 (2014), <https://pubmed.ncbi.nlm.nih.gov/25201798>; Laura E. Kuper, et al., *Body Dissatisfaction and Mental Health Outcomes of Youth on Gender-Affirming Hormone Therapy*, 145(4) PEDIATRICS e20193006 (2020), <https://pubmed.ncbi.nlm.nih.gov/32220906>; Jack L. Turban et al., *Pubertal Suppression For Transgender Youth And Risk of Suicidal Ideation*, 145(2) PEDIATRICS e20191725 (2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7073269>; Anna I.R. van der Miesen, *Psychological Functioning in Transgender Adolescents Before and After Gender-Affirmative Care Compared With Cisgender General Population Peers*,

received puberty blockers or hormone therapy, including statistically significant reductions in anxiety, depression, and suicidal ideation.⁵⁸

For example, a 2020 study analyzed survey data from 89 transgender adults who had access to puberty blockers while adolescents and from more than 3,400 transgender adults who did not.⁵⁹ The study found that those who received puberty blocking treatment had lower odds of lifetime suicidal ideation than those who wanted puberty blocking treatment but did not receive it, even after adjusting for demographic variables and level of family support.⁶⁰ Approximately *nine in ten* transgender adults who wanted puberty blocking treatment but did not receive it reported lifetime suicidal ideation.⁶¹ Additionally, a longitudinal study of nearly 50 transgender adolescents found that suicidality was decreased by a statistically-

139X(21)00568-1/fulltext; Jack L. Turban et al., *Access to Gender-Affirming Hormones During Adolescence and Mental Health Outcomes Among Transgender Adults*, J. PLOS ONE (2022), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0261039>.

⁵⁸ The data likewise indicates that adults who receive gender-affirming care experience positive mental health outcomes. See, e.g., Zoe Aldridge et al., *Long Term Effect of Gender Affirming Hormone Treatment on Depression and Anxiety Symptoms in Transgender People: A Prospective Cohort Study*, 9 ANDROLOGY 1808–16 (2021).

⁵⁹ See Turban, *Pubertal Suppression For Transgender Youth And Risk of Suicidal Ideation*, *supra* note 56.

⁶⁰ See *id.*

⁶¹ See *id.*

significant degree after receiving gender-affirming hormone treatment.⁶² A study published in January 2023, following 315 participants age 12 to 20 who received gender-affirming hormone treatment, found that the treatment was associated with decreased symptoms of depression and anxiety.⁶³

As another example, a prospective two-year follow-up study of adolescents with gender dysphoria published in 2011 found that treatment with puberty blockers was associated with decreased depression and improved overall functioning.⁶⁴ A six-year follow-up study of 55 individuals from the 2011 study found that subsequent treatment with hormone therapy followed by surgery in adulthood was associated with a statistically significant decrease in depression and anxiety.⁶⁵ “Remarkably, this study demonstrated that these transgender adolescents and young adults had a sense of well-being that was equivalent or superior to that seen in age-matched controls from the general population.”⁶⁶

CONCLUSION

For the foregoing reasons, this Court should reverse the district court's denial of Plaintiffs' motion for a preliminary injunction.

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CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitations of Fed. R. App. P. 29(a)(5) because this brief contains 4,360 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word using 14-point Times New Roman font.

3. In accordance

CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2023, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Tenth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Cortlin H. Lannin