

February 5, 2024

Ohio Department of Health
30 E Broad St
Columbus, OH 43215
E-mail: ODHrules@odh.ohio.gov

SUBMITTED VIA ELECTRONIC SUBMISSION

RE: Ohio Administrative Codes 5122-26-19: *Policies and Procedures for the Operation of Mental Health Services Agencies*; 3701-3-17: *Reporting Gender-Related Condition Diagnoses and Gender Transition Care*; 3701-59-07: *Quality Standards for Gender Transition Treatment at Hospitals*; & 3701-83-61: *Quality Standards for Gender Transition Treatment at Health Care Facilities*

Dear Members of the Department of Health:

Physicians for Reproductive Health (PRH) urges you to reconsider the proposed rules 5122-26-19, 3701-3-17, 3701-59-07 & 3701-83-61 regarding reporting gender-related condition diagnoses and gender transition care. PRH is a physician-led, national organization working to improve access to comprehensive reproductive health care, including gender-affirming care. Our network includes physicians of all specialties from across the country, including physicians in Ohio, committed to meeting the health care needs of the patients they care for. The proposed rules to restrict and ban access to gender-affirming care would deny gender-diverse people access to essential health care that is safe and supported by the medical community.

The proposed rule ignores current standards of care and best medical practice in favor of implementing politically driven, arbitrary rules that will force health care providers to deprive patients of access to essential medical care.

The proposed rules include arbitrary and stringent criteria for providers and places unnecessary hurdles in front of patients. Requiring special care teams consisting of staff or contracted psychiatrists and endocrinologists who have experience with a specific age group is logistically impractical as there are simply not enough endocrinologists in Ohio who specialize in providing this care. Moreover, while many endocrinologists may specialize in general hormonal care, most are not competent or experienced in providing gender-affirming care. In addition, requiring written, care plans listing the specific services to be provided and signed by all members of a care team, as well as reviewed by a bioethicist or medical ethicist is also not medically necessary or supported by research and science. Finally, bioethicists are not required for any other type of care in Ohio code. This requirement singles out gender affirming care for over regulation and does not improve medical outcomes for patients in need.

In addition to restricting care for young people, these proposed rules also limit access to care for adults using an age restriction of twenty-one which is arbitrary and capricious. Gender-affirming care is safe, essential, life-saving health care that allows for transgender, gender diverse, and non-binary people to be able to live their full and authentic lives. Leading medical organizations including the [American Academy for Pediatrics](#), [American Medical Association](#), [American College of Obstetricians and Gynecologists](#), [Endocrine Society](#), [Pediatric Endocrine Society](#) and [World Professional Association for Transgender Youth](#) support gender-affirming care for transgender and gender-diverse people. Barriers to this essential

health care makes patients and our communities less healthy and denies people access to the full range of the quality, compassionate, health care they deserve.

While it is important patients have all the information necessary to make informed decisions about their health care, requiring patients seeking gender-affirming care to receive information about and include a plan for “detransitioning” as part of informed consent is harmful, medically unnecessary, and undermines patients’ decision-making. Multiple studies have found that regret is extremely low, [around less than 1%](#), when it comes to transition-related medical care. By comparison, the regret rate for knee replacement surgeries which are a very common procedure with generally good results, have a regret rate as high as [30%](#). Despite this, there are no similar policy mandates applied.

The proposed restrictions contradict existing and established medical guidelines and limit the ability of transgender and non-binary people to access necessary and affirming health care. Banning access to gender affirming care is clear government intrusion on personal decision making. The government should have no role in private health care decisions – that should remain between the provider, patient, and those they trust. Gender-affirming care centers the interests and autonomy of the person receiving care. Requiring health care providers to adhere to politically driven rules forces clinicians to deprive patients of the decision to access essential medical care.

Implementing barriers to care will have negative mental health impacts for all people seeking gender-affirming care.

The requirement for a comprehensive mental health evaluation and counseling over a minimum of six-months before discussing any care for patients under twenty-one is an unnecessary barrier to care that may in fact contribute to delayed treatment and increase the mental health risks for young people. As physicians, we know that access to supportive, gender-affirming care is vital for transgender and non-binary people, especially young people. Transgender and nonbinary youth have an increased risk of depression and suicidal ideation compared to other young people, with recent studies finding that between two-thirds to 72% of transgender youth are depressed and half considered suicide. However, research consistently proves that when transgender and nonbinary youth are affirmed by people around them and have access to gender-affirming care, rates of depression and suicide drop significantly. A [recent study](#) found that transgender youth who receive gender-affirming care are 60% less likely to be depressed and 73% less likely to have thoughts of suicide or self-harm compared to those who do not receive care. Sadly, this same study revealed that youth who are not able to access care experience a two- to threefold increase in depression and suicidal thoughts – indicating that delaying hormones and puberty blockers may in fact worsen mental health symptoms. It cannot be overstated that gender-affirming care is safe, essential, necessary health care that promotes adolescents’ health and well-being. Transgender and nonbinary youth should not be subjected to a forced, unwanted form of puberty, particularly when it comes at the expense of their dignity and health.

The targeted regulation of gender-affirming care discriminates against transgender and gender-diverse people.

Discriminating against people based on their sexual orientation or gender identity is a violation of the non-discrimination provisions in the Affordable Care Act. The proposal to outright ban “genital surgeries” specifically for transgender people unfairly targets and discriminates against this community. No person deserves to be targeted by politicians for who they are. Instead of adopting a harmful rule to restrict and ban gender-affirming care for young people and adults, the Department should listen to transgender

people and the medical professionals who work directly with them, who understand the life-changing, positive impact of ensuring that they can access the gender-affirming care they need.

Reporting requirements undermine patient-provider trust and may place patients' privacy at risk.

The overly burdensome reporting requirements, including the inappropriate sharing of personal medical data with the Ohio General Assembly, places patients' privacy at risk, increases the risks of criminalization for obtaining essential care, and undermines the trust required in a patient-provider relationship. It is unclear from the proposed rule what purpose the Department of Health has for requiring health care providers to report a patients age, sex, and "specific information about the nature of any diagnosis or the type of treatment being provided" or what steps, if any, the Department would be required to take to protect patient privacy and ensure the reported data is not re-identifiable. This risk of having personal information shared may cause patients to distrust their health care provider. This distrust could lead patients to not be honest with their health care provider or even avoid seeking medical care all together, even if they are experiencing a health care crisis.

The proposed rules are dangerous, and I implore you to exercise your professional judgement to reconsider these rules and instead promote policies that are inclusive, respectful, and affirming of diverse identities. Transgender and nonbinary young people are depending on you to protect access to lifesaving, safe, essential, gender-affirming health care. Everyone should be able to access the care they need. If you have any questions or would like additional information please reach out to Adrienne Ramcharan, Assistant Director of State Policy (aramcharan@prh.org).

Respectfully,

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President & CEO
Physicians for Reproductive Health