



PRESIDENT TRUMP’S GENDER-AFFIRMING CARE EXECUTIVE ORDER: ANALYSIS

January 31, 2025

Sec. 1 | Policy and Purpose

This section sets forth the broad intentions of this order. From the first sentence, inaccurate and sensationalized language is used to describe not only gender-affirming care but also the psychological profile of trans adolescents. The following arguments are made against the provision of trans-affirming care to trans youth: 1) gender-affirming care is experimental and unpredictable, warranting a restriction of this care to “protect” children and 2) trans adolescents do not have the capacity or their understanding of their gender identity necessary to consent to this care. These two arguments both revolve around the narrative that to “protect children,” we must restrict their rights. But we know that trans youth know best what they need to thrive.

Sec. 2 | Definitions

Subsection (a) creates a definition with a high potential to enact further harm on transgender adults. The definition of child/children/childhood that is established here is any person under the age of 19. This EO impacts people up to age 18. It is alarming that this EO establishes childhood as continuing into the 18th year, as this is the age of adulthood for the majority of the U.S. There are some contexts, such

as Medicaid benefits, where a child is defined as a person under the age of 19. This definition potentially invites a gradual process of making determinations of which age during adulthood one may appreciate certain rights to bodily autonomy.

Subsection (c)'s definitions are broad. They include all forms of puberty-pausing medications. Gender-affirming hormone therapy is also included, including hormones like estrogen, progesterone, and testosterone. Surgical procedures are not listed in explicit reference to procedures.

While this section does not include specific carve-out language for procedures on intersex children (unlike state laws banning gender-affirming care, which do contain “intersex exceptions” that will allow non-consensual procedures), we should not interpret that omission as a sign of any positive intentions towards the bodily autonomy of intersex people.

Sec. 3 | “Ending Reliance on Junk Science”

This section directs agencies to abandon principles of scientific rigor and equity and to replace them with fringe theories that lack the support of nearly every reputable group of medical professionals. Beyond simply seeking to

undo policies based on rigorous evidence and expert consensus, this suggestion lays the groundwork for predictable but alarming plans to create “evidence” that would harm trans and intersex people of all ages.

Subsection (a) undermines the legitimacy and professional expertise of the World Professional Association for Transgender Health (WPATH), claiming that it “lacks scientific integrity”. Even though WPATH published information on the process and methodology behind their exhaustive standards of care (SoC), the order asserts that this group lacks scientific integrity. This EO also ignores the broad expert consensus from reputable medical and behavioral health associations that affirms adolescents’ need to be able to access this care and opposes restrictions on that access.

This rejection of WPATH’s SOC 8 is also a rejection of the association’s recommendation to stop the practice of childhood intersex surgeries performed before an individual can participate fully in decision-making and provide informed consent.

Subsection (a)(i) directs agencies to rescind or revise “all” policies that depend on WPATH guidance, standards, or recommendations. The executive order does not limit the scope of this section to policies about providing gender-affirming care to “children” as defined within this order. Therefore, the use of “all” could easily be interpreted as meaning any policy that references WPATH guidance, regardless of the age of the people impacted. This lack of clarity is intentional and is again part of a broader strategy to create as many openings as possible to create/revise policies that reach beyond the already dangerous scope of this order.

Subsection (a)(ii) directs the director of HHS at this time, to publish a review of existing literature on “best practices for promoting the health of children who assert gender dysphoria, rapid-onset gender dysphoria, or other identity-based confusion”. This report will likely rely on junk science to perpetuate myths and disinformation about gender-affirming care and transgender and nonbinary people.

This section pushes the narrative that trans people, particularly trans youth, are “impressionable” or “confused”. That gender-dysphoria (an actual diagnostic framework) is mentioned in the same sentence and with the same gravity as “rapid-onset gender dysphoria” (ROGD) (a pseudoscientific theory) suggests that this administration

wants to establish ROGD as the new dominant diagnostic framework. ROGD is not an actual diagnostic category, and no reputable body of medical or behavioral health experts recognizes this as an actual condition. The theory has been soundly rejected by the medical establishment, and in fact, the author had to retract part of the study due to flaws in its design and recruitment. The fact that these models of “identity confusion” are listed in the order suggests that we should be prepared for this administration to adopt conversion therapy practices.

Sec. 4 | Impacts on Federal Funding

This section of the order directs agencies that provide research and education grants, in coordination with the Office of Management and Budget, to ensure that these institutions are not providing gender-affirming care to adolescents. In other words, the order makes it a condition of receiving federal research or education grants (and possibly other forms of funding) for medical schools and hospitals, along with other potentially impacted institutions, that this care cannot be provided by these institutions.

This could also impact the provision of Medicare Funding for Graduate Medical Education (HRSA, CMS, VA administer) as well as community health centers and Federally Qualified Health Centers (FQHC) and FQHC look-alikes (FQHC-LA), forcing healthcare institutions that rely on federal funding such as grants to either forgo a crucial source of income, risking their ability to stay open or provide a wide range of services to the public, or provide/study this medically necessary care. While the withdrawal of these funds may not immediately result in the closure of certain facilities, it likely will have a chilling effect on many, encourage over-compliance, strain the budgeting and fundraising efforts of these facilities, and may significantly impact the budgeting of certain healthcare facilities.

Sec. 5 | Additional Directives to the Secretary of HHS

This section directs HHS to develop a number of policies and regulations intended to monitor, police, and restrict the provision of gender-affirming care.

Subsection (a) (i) directs HHS to take action or create internal policies to regulate the conditions of Medicaid providers. We expect that HHS will say that to participate in Medicaid/Medicare programs, doctors,

nurses, and even hospitals would not be able to provide gender-affirming care to persons ages 18 and under, otherwise, they will be ineligible to participate even if they provide this care to patients with private insurance. This makes it very difficult for the vast majority of providers or facilities to provide this care.

Subsection (vii) invokes the 11th version of the International Classification of Diseases (ICD-11) and the Fifth Edition of the Diagnostic and Statistical Manual, Text Revision (DSM 5-TR), which are researched, published, and maintained by the World Health Association (WHO) and American Psychiatric Association (APA) respectively. These two organizations are responsible for the administration of the two important documents that guide the provision of gender-affirming care to people of all ages.

Sec. 6 | TRICARE

TRICARE is the primary form of insurance provided to active-duty military servicemembers and staff and their families. This provision calls on the Department of Defense to adopt a regulation excluding coverage of gender-affirming care for dependents under the age of 19. If this happens, this directive will have long-term consequences.

Sec. 7 | Requirements for Insurance Carriers

This section of the order attempts to block people under 19 who are on federal employee health insurance from receiving health insurance coverage for gender-affirming care. It directs the Office of Personnel Management to tell insurers not to cover these benefits for people under 19 on federal employee health insurance plans. This reverses OPM's previous policy, which directed Federal Employee Health Benefits (FEHB) insurance carriers to remove exclusions of gender-affirming care.

Sec. 8 | Directives to the Department of Justice

This section instructs the Department of Justice (DOJ) to work with state governments and Congress to find ways to use law enforcement to discourage providing gender-affirming care, potentially including by targeting affirming parents of trans adolescents who receive gender-affirming

Trans migrants, particularly trans migrants without papers, trans migrants with disabilities, and Black trans

care. The order does not contain specific instructions for how this would be implemented, nor does it create new criminal laws.

One framework applied under this section is that of female genital mutilation (FGM), which bans certain genital procedures when they are not medically necessary. The administration believes that gender-affirming care is not medically necessary and therefore gender-affirming surgical interventions would be subject to FGM laws. Even if this framework does not apply to all genital surgeries that a person may receive, it is intended first and foremost to instill fear and confusion, disrupting surgical and training programs. It also may lay the groundwork for future expansion of the FGM criminal framework to improperly extend to gender-affirming care.

Subsection (c) calls on DOJ to end “deception” and “fraud” by entities that “may be misleading the public about long-term side effects” of gender-affirming care. While it is not clear how DOJ will interpret this provision, it may lead to investigations of providers. It may also lead to investigations into professional associations like WPATH and the American Academy of Pediatrics, similar to what we have seen both in Congress as well as investigations into the AAP originating in Idaho, which attempt to use a framework of medical consumer fraud protections to target organizations who support providing gender-affirming care and make public claims about its benefit.

It is also conceivable that this consumer fraud framework will require providers and associations to spread misinformation or disinformation about gender-affirming care in order to remain compliant with regulations that result from this section of the order.

Sec. 10 & 11 Severability & General Provisions

Sections 10 and 11 maintain that this order does not require or encourage any action or series of actions that conflict with existing law. In practice, the implementation of this order is likely to result in the violation of existing law and could be legally challenged.