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LEGAL ADVISORY

To: Massachusetts Healthcare Facilities and Providers
Re: State of the Law Concerning the Provision of Transgender Healthcare for Youth

Note: The information in this advisory is for informational purposes only and is not legal advice.

TRANSGENDER HEALTHCARE REMAINS LEGAL AND PROTECTED IN MASSACHUSETTS

Since the Trump Administration took office in January 2025, the federal government has been trying to end gender-affirming care for anyone under the age of 19 by intimidating providers and attempting to create the impression that such care is illegal or contrary to the standard of care. The fact remains that **federal law does not prohibit medical professionals from providing transgender healthcare, including hormones and puberty blockers, to patients under the age of 19**. A recent federal court decision struck down the Trump Administration's latest attempt to end this form of healthcare, and no other federal action imposes any legal requirement to stop or halt care for individuals under 19. The Massachusetts Attorney General's Office will continue to support patients, families, and providers to fight back against the federal attacks in court. Massachusetts law continues to protect access to transgender healthcare in the Commonwealth.

A Federal Court Recently Ruled HHS Secretary Lacks Authority to Exclude Providers from Medicaid and Medicare Because They Provide Transgender Healthcare to Minors

On December 18, 2025, U.S. Department of Health and Human Services (HHS) Secretary Robert F. Kennedy, Jr. issued a declaration (the Kennedy Declaration) claiming that transgender healthcare fails to meet professionally recognized standards of care and therefore that HHS may disqualify any doctors or hospitals that provide such care from federal healthcare programs, including Medicare and Medicaid. The Massachusetts AGO and a coalition of 22 states acted immediately to challenge the Kennedy Declaration, filing a lawsuit in the U.S. District Court for the District of Oregon on December 23, 2025.

On April 18, 2026, the coalition states prevailed, securing a decision from the district court holding that the Kennedy Declaration is unlawful and lacks any current legal effect; that HHS lacks the authority to unilaterally establish standards of care that supersede professionally recognized standards for providing transgender healthcare; and that HHS is enjoined from relying on the Kennedy Declaration or any materially similar policy to initiate enforcement actions against any provider in Massachusetts and the other Plaintiff States.

What the Legal Decision About the Kennedy Declaration Means for Massachusetts Providers

- The court's judgment vacated the Kennedy Declaration, which means that it has **no legal authority**.

- HHS may not disqualify or exclude any doctors or hospitals from any federal healthcare program, including Medicare or Medicaid, for providing transgender healthcare in a manner and quality consistent with the professionally recognized standards of care in the doctor's or hospital's state.

- If the Plaintiff States believe there has been a violation of the Court's order, which would include a referral of a provider for exclusion, the Plaintiff States are prepared to go back to the Court to seek enforcement.

The Trump Administration may appeal the court's decision striking down the Kennedy Declaration. The Massachusetts AGO is committed to protecting transgender healthcare in Massachusetts and will vigorously defend the district court's decision on appeal.

The Proposed Federal Rules Aiming to Restrict Transgender Healthcare Have Not Been Finalized and Are Not Currently in Effect

On December 18, 2025, HHS also published two proposed rules:

- One that would prohibit federal reimbursement for transgender healthcare for minors in Medicaid and the Children's Health Insurance Program (CHIP);

- Another that would prohibit hospitals that provide transgender healthcare to minors from participating in the Medicaid and Medicare programs.

These proposed rules have not been finalized and do not have any legal effect as of the date of publication of this advisory.

Should these rules become final, the Massachusetts AGO is prepared to take legal action to prevent them from going into effect.

Fighting Back Against Threats to Intimidate Individual Providers

The Attorney General's Office will continue to stand with providers against attempts to weaponize the justice system to intimidate them. When the federal government has attempted to use subpoenas to harass and intimidate providers, we have stood with them in court through successful actions to quash those subpoenas to prevent baseless investigations designed to thwart the provision of medically necessary healthcare. And we have filed a proactive lawsuit to prevent unwarranted investigations moving forward, in a case that is pending in the federal district court in Massachusetts.

Ongoing Obligations of Healthcare Providers in Massachusetts

Massachusetts law remains binding on all medical providers in the Commonwealth and the Massachusetts public accommodations statute explicitly prohibits "any distinction, discrimination or restriction on account of ... sex, gender identity…[or] physical or mental disability" in "any place of public accommodation[.]" M.G.L. c. 272 § 98.

Health care institutions should be aware that the decision to stop providing gender-affirming healthcare to transgender minors may amount to discrimination on account of sex, gender identity, or disability under the Massachusetts public accommodations statute. Determinations of liability under the public accommodations statute are fact-intensive and involve an examination of the surrounding circumstances in which a decision is made.

Though nonbinding in Massachusetts, the Colorado Supreme Court recently affirmed a lower court's holding that the decision by Colorado Children's Hospital to suspend the provision of gender-affirming medications to transgender minors, specifically – while continuing to provide the same medications to cisgender minors – was likely to be in violation of that state's public accommodations statute. *Bella Boe et al., v. Colorado Children's Hospital*, 2026 CO 32 (May 18, 2026). The Court further held that Colorado Children's Hospital must reinstate care while the litigation continues, in part because the documented harm suffered by patients who were denied care outweighed the speculative harm to Colorado Children's Hospital that could be caused by the Kennedy Declaration – especially because that Declaration was enjoined by a federal court.

If you or your facility has any questions regarding the Administration's proposed rules, the Kennedy Declaration, or the obligations of medical facilities under Massachusetts law, please contact the Reproductive Justice Unit at reprojustice@mass.gov.