Policy Matters Ohio

PUBLIC COMMENT

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Public comment to the Ohio Department of Mental Health and Addiction Services

The proposed rules (5122-26-19)[1] by the Ohio Department of Mental Health and Addiction Services will place harmful, unnecessary and unethical regulations and restrictions on adult care for transgender and non-binary adults in Ohio. These rules may place substantial legal liability on small clinics and providers that will limit or remove their ability to provide health care services.

First, the definitions in the proposed rule could substantially impact how the ODMHAS tracks population data and the implementation of mental health interventions, such as suicide prevention measures, by erasing transgender and non-binary people. The definitions provided, defining sex and someone's assigned sex at birth, set a dangerous precedent for an organization concerned with the mental health of Ohioans, especially given the elevated risk for transgender Ohioans.

Despite persistent myths surrounding suicide, research consistently indicates that transgender people are at a heightened risk of suicide. According to the Ohio Health Policy Institute, LGBTQ+ youth in Ohio are five times more likely to consider suicide and four times more likely to attempt suicide than heterosexual youth.[2] Research has shown that suicidality risk is often influenced by factors.[3] Social acceptance, having affirming family members, and access to gender affirming care providers significantly impacts LGBTQ health[4] and suicide prevention efforts.[5]

Second, the proposed rule improperly identifies gender affirming care for transgender adults as an ethically complex area by requiring a bioethicist to be involved in approving a patient's treatment plan. While there are ethical considerations concerned with gender affirming care,[6] it is broadly accepted by every major medical association as lifesaving,[7] fact-based[8] medical intervention. Bioethicists are typically brought on to facilitate, not decide, complex moral decisions in health care. In all cases, there is a significant moral question of concern or dispute, but in this situation there's not an ethical disagreement or substantial moral concern within medicine. Requiring an ethicist wrongly implies that there is an ethical debate about these care practices within the medical community. The evidence and medical standards

[1] Ohio Department of Mental Health Services Proposed Rule (5122-26-19).
[2] The Ohio Health Policy Institute (2023). Ohio Health Value Dashboard.
[3] Austin, A., Craig, S. L., D'Souza, S., & McInroy, L. B. (2022). Suicidality among transgender youth: Elucidating the role of interpersonal risk factors. Journal of interpersonal violence, 37(5-6), NP2696-NP2718.
[4] Williams Institute (2015). Suicide Thoughts and Attempts Among Transgender Adults.
[5] Williams Institute (2021). Suicide Risk and Prevention for Transgender People: Summary of Research Findings.
[6] Wolfe, I (2022). Bioethics and Gender Affirming Care. University of Minnesota.
[7] Matouk and Wald (2022). Gender-affirming Care Saves Lives. Columbus University.
[8] Doyle, D. M., Lewis, T. O., & Barreto, M. (2023). A systematic review of psychosocial functioning changes after gender-affirming hormone therapy among transgender people. Nature Human Behaviour, 1-12.

confirm that there is no such debate. Functionally, this rule will prevent adults from getting medically appropriate care.

Third, gender affirming care is best managed by a person's primary care physician and does not typically require the oversight of a specialist such as an endocrinologist or a psychiatrist. Transgender adults rarely require the oversight of an endocrinologist because a typical care regimen only requires a minimal blood test for monitoring and dosage. Being transgender is not a psychological disorder or a mental health issue and should not require a mental health evaluation. The requirement of a psychiatrist is not only unnecessary but will add substantial time and money to a person's access to care.

Instead of providing improved outcomes for transgender people, the additional requirements will make access to care more difficult for people without insurance, people in rural areas, and low-income Ohioans. They will create worse health outcomes. The current model of informed consent is effective and standard practice. Informed consent already requires a provider to tell patients what a reasonable person would want to know to make an informed decision about a medical treatment,[9] including benefits and risks.[10] These proposed rules create a different standard of informed consent for adults aged 18-21 for arbitrary reasons that are not required in any other situation. Requiring everyone in that age range, regardless of situation or need, to wait six months to receive medical treatment and meet with a mental health professional will add unneeded time to the treatment plans. We allow young people in this age group to make other key decisions about their lives, such as military service, building a credit score, taking on college debt, and all other permeant or life-altering medical decisions. There is no evidence that people in this age group are unable to make these kinds of medical decisions compared to older adults.

Lastly, the proposed rule does not provide an adequate grandfather clause for transgender adults, youth and children already receiving this kind of care without issue. Despite some protection for youth under 21 already receiving care, adults who have been receiving this care for decades would be required to adjust their entire care plan, risk experiencing a lapse in care, or be forced to change providers. Adults, including those in the 18-21 age group, should not be required to change an already successful treatment plan in order to ensure consistency of care.

Transgender people should have the health care that they need to thrive. There is no medical purpose or evidence to support these additional restrictions.[11] Instead, they will create anti-LGBTQ fear and moral panic rather than positive health outcomes for Ohioans. These rules turn a medical treatment plan between a doctor and patient into a mandatory maze of ethicists and specialists, overriding both the patient's wishes and doctor's expertise. These restrictions will harm the ability of providers to give best-practice medical care, require transgender adults to jump through unnecessary hoops, and further stigmatize safe and effective care.

[9] Canterbury v Spence, 464 F2d 772 (DC Cir 1972).
[10] Murray, B. (2012). Informed consent: what must a physician disclose to a patient? AMA Journal of Ethics, 14(7), 563-566.
[11] Sanchez, K. (2021). The bad science behind trans healthcare bans.