

EXECUTIVE ORDER RESTRICTING GENDER-AFFIRMING CARE FOR MINORS: LITIGATION UPDATE AND ANALYSIS

On January 28, 2025, President Trump issued Executive Order 14187 entitled “[Protecting Children from Chemical and Surgical Mutilation](#)” (the “Executive Order”), which sets forth administration policies opposing the provision of gender-affirming care to minors and directs agencies and certain federal health care programs to limit access to such care through measures including halting federal grant funding to medical institutions that provide gender-affirming care to minors.

As described in greater detail below, the Executive Order is being challenged in two separate lawsuits. In both cases, the courts have issued a preliminary injunction, restricting enforcement of the Executive Order. As such, the Executive Order is not currently enforceable as the litigation is ongoing.

THE EXECUTIVE ORDER

The Executive Order sets forth a number of policy directives, including the following:

- The United States Department of Health and Human Services (“HHS”) is directed to rescind or amend all policies that integrate guidance from the World Professional Association for Transgender Health.
- Heads of any executive department or agency that provides research or education grants to medical institutions, including medical schools, are directed to take immediate steps to ensure that institutions receiving such grants cease providing gender-affirming care to minors.[\[1\]](#)
- HHS is further directed to take additional regulatory and sub-regulatory action to restrict gender-affirming care for minors, which may include changes to the Medicare and Medicaid conditions of participation or conditions for coverage, Section 1557 of the Patient Protection and Affordable Care Act and other laws and regulations.
- TRICARE, the Federal Employee Health Benefits program, and the Postal Services Health Benefits program are to specifically exclude coverage of gender-affirming care for minors.[\[2\]](#)

ONGOING LITIGATION AND PRELIMINARY INJUNCTIONS

***PFLAG v. Trump*, No. 1:25-cv-00337 (D. Md.)**

On February 4, 2025, Lambda Legal filed a federal lawsuit on behalf of PFLAG in the U.S. District Court for the District of Maryland. The complaint raises a number of claims, including that the Executive Order usurps the legislative function granted to Congress, violates laws that prohibit discrimination on the basis of sex and disability, violates the Equal Protection and Due Process clauses of the Fifth Amendment and violates the First Amendment freedom of speech protections.

On March 4, 2025, the *PFLAG* court issued a nationwide preliminary injunction effectively extending a temporary restraining order (“TRO”) that was set to expire on March 5. The preliminary injunction bars the federal government from withholding funding on the basis that a hospital or other entity provides gender-affirming care to minors.

***Washington v. Trump*, 2:25-cv-00127 (W.D. Wash.)**

On February 7, 2025, the states of Washington, Minnesota and Oregon brought a claim in the U.S. District Court for the Western District of Washington, making similar allegations to those brought in the *PFLAG* case. The State of Colorado joined as a plaintiff on February 19.

On February 28, the *Washington* court issued a preliminary injunction effectively extending a TRO set to expire the same day. The preliminary injunction bars the federal government from enforcing Section 4 of the Executive Order, which sets forth the funding prohibitions. Unlike that in the *PFLAG* case, this injunction applies only to the plaintiff states.

CURRENT STATUS

As described above, enforcement of the Executive Order is enjoined nationwide during the pendency of litigation in *PFLAG v. Trump* and is enjoined in Washington, Minnesota, Oregon and Colorado until a further decision is made by the court in *Washington v. Trump*.

However, even after these injunctions went into effect, several agencies, including the Center for Medicare and Medicaid Services (“CMS”), the Health Resources and Services Administration (“HRSA”) and the Substance Abuse and Mental Health Services Administration (“SAMHSA”), have issued statements and/or notices reiterating the administration’s policy regarding the provision of gender-affirming care. A [Quality and Safety Special Alert Memo](#) issued by CMS and a [letter](#) issued by HRSA both indicate that the agencies “may begin taking steps in the future” to align agency policy with the administration’s position as set forth in the Executive Order.

In response to the agency notices referenced above, on March 7, 2025, the *PFLAG* plaintiffs filed an emergency motion to enforce the preliminary injunction based on claims that the CMS, HRSA and SAMHSA notices violate the preliminary injunction by renewing threats to withhold funding. The defendant agencies have opposed this motion, and a decision on the motion is currently pending in the District Court for the District of Maryland.

PRACTICAL TAKEAWAYS

- **Stay Informed:** Continue to check Hall Render’s website for updates to litigation and agency action related to the provision of gender-affirming care to minors.
- **Communicate:** Maintain open communication with providers and clinical leadership to ensure all parties are aware of the ongoing legal challenges and how such challenges may impact their practices.
- **Consider State-Specific Laws:** States may have different requirements or policies surrounding gender-affirming care; ensure you are up-to-date on your state’s requirements.
- **Work Closely with Counsel:** Working with legal counsel will help hospital and health care providers to appropriately assess risk associated with provision of care that may fall within the scope of the Executive Order and/or state laws that conflict therewith.

If you have questions regarding the Executive Order, the associated litigation or state law governing the provision of gender-affirming care to minors, please contact:

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[1] The prohibited care includes the use of puberty blockers to delay the onset or progression of normally timed puberty in an individual who does not identify as their sex assigned at birth; the use of sex hormones to align an individual’s physical appearance with an identity that differs from their sex assigned at birth; and surgical procedures that attempt to transform an individual’s physical appearance to align with an identity that differs from their sex assigned at birth or that “attempt to alter or remove an individual’s sexual organs to minimize or destroy their natural biological functions.”

[2] The United States Department of Justice (“DOJ”) is directed to “prioritize enforcement of protections against female genital mutilation,” including those set forth in Section 116 of Title 18, United States Code; develop and promote legislation providing a private right of action for children who have received gender-affirming care and their parents; and prioritize investigations under the Food, Drug, and Cosmetic Act

into entities that “may be misleading the public about long-term side effects” of gender-affirming care.