From: Levine, Rachel (HHS/OASH)
Sent: Tue, 14 Mar 2023 16:40:12 +0000
To: Oh, Kathy (OS/OASH); Shanker, Adrian (HHS/OASH); Richmond, Alicia (HHS/OASH)
Cc: Boateng, Sarah (HHS/OASH); Calsyn, Maura (HHS/OASH)
Subject: RE: please practice medicine and report on the HARMS OF GENDER MEDICINE!!!!

Ok, Thanks

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Sent: Tuesday, March 14, 2023 12:38 PM
To: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: RE: please practice medicine and report on the HARMS OF GENDER MEDICINE!!!!

(b)(5) Adding Sarah and Maura just for their situational awareness in case it comes back to us some way later.

From: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>
Sent: Tuesday, March 14, 2023 12:29 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>
Subject: RE: please practice medicine and report on the HARMS OF GENDER MEDICINE!!!!

(b)(5)

From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Tuesday, March 14, 2023 12:21 PM
To: Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>
Cc: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>
Subject: FW: please practice medicine and report on the HARMS OF GENDER MEDICINE!!!!

Thoughts?

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Emily Viola <(b)(6)
Sent: Tuesday, March 14, 2023 12:11 PM
To: Becerra, Xavier (OS/IOS) <Xavier.Becerra@hhs.gov>; Palm, Andrea (OS/IOS) <Andrea.Palm@hhs.gov>; Bagenstos, Samuel (HHS/OGC) <Samuel.Bagenstos@hhs.gov>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: please practice medicine and report on the HARMS OF GENDER MEDICINE!!!!

I'm disgusted by the harms you are causing vulnerable children like mine.

How dare you promote such ignorant, false information. I'm astounded by your ignorance and criminal lack of curiosity on the terrible harms that the left is doing to our children.

Shame on you.

Please do medicine. You are a disgrace to truth. I'm so ashamed of having been a lifelong Democrat.

Here is some help:

https://www.city-journal.org/yes-europe-is-restricting-gender-affirming-care

https://vimeo.com/800032857

https://www.bmj.com/company/newsroom/gender-dysphoria-in-young-people-is-rising-and-so-is-professional-disagreement/

https://twitter.com/segm_ebm/status/1634032333618819073?s=20

https://www.tabletmag.com/sections/science/articles/finland-youth-gender-medicine

https://www.reddit.com/r/detrans/

https://www.detransvoices.org/

https://segm.org/Finland_deviates_from_WPATH_prioritizing_psychotherapy_no_surgery_for_minors

https://www.medscape.co.uk/viewarticle/1000-families-sue-tavistock-gender-service-2022a10021ac

https://genspect.org/detrans-awareness-day-2023/

https://www.city-journal.org/wpath-finally-acknowledges-europes-restrictions-on-gender-affirming-care

https://www.dailymail.co.uk/news/article-11099561/Leaked-internal-files-pediatricians-angry-professional-bodys-transgender-policy.html

https://pitt.substack.com/p/gender-dysphoria-the-science-is-not

https://www.thefp.com/p/top-trans-doctors-blow-the-whistle

https://www.trevoices.org/post/12-leading-complications-medical-transing-kids-usa-estimate-of-money-generated-312-million-a-year

https://www.dailywire.com/news/detransitioners-flood-social-media-with-testimony-photos-the-darkest-time-in-my-life

https://wesleyyang.substack.com/p/a-tale-of-two-states-gender-affirming

https://www.foxnews.com/media/detransitioner-chloe-cole-announces-lawsuit-hospitals-pushing-medical-mutilation

https://www.psychologytoday.com/us/blog/women-who-stray/202111/does-affirmative-treatment-impair-sexual-response-in-trans-youth

https://archive.ph/2022.08.17-231017/https://www.wsj.com/amp/articles/the-american-academy-of-pediatrics-dubious-transgender-science-jack-turban-research-social-contagion-gender-dysphoria-puberty-blockers-uk-11660732791

https://www.bmj.com/content/380/bmj.p382

https://ago.mo.gov/docs/default-source/press-releases/2-07-2023-reed-affidavit---signed.pdf?sfvrsn=6a64d339_2

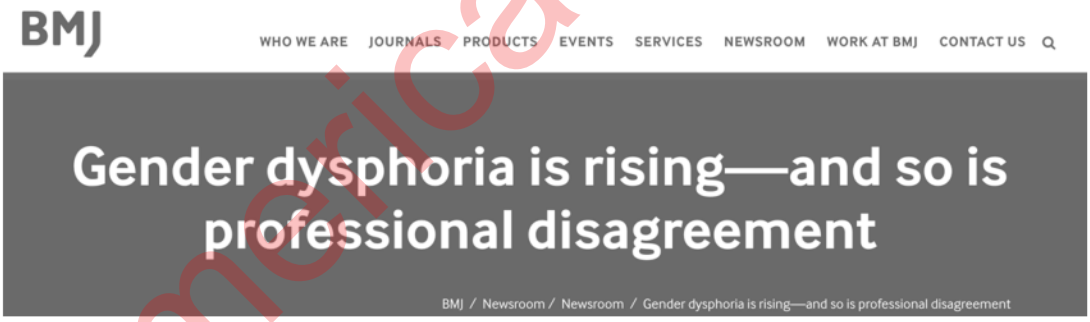
https://lisaselindavis.substack.com/p/on-jamie-reeds-extraordinary-testimony

https://www.youtube.com/watch?v=NW_VlnZ_W7Y

https://funkypsyche.substack.com/

https://pitt.substack.com/

Genspect, The Society for Evidence Based Gender Medicine, Stats for Gender, Parents with Inconvenient Truths about Trans, Detrans Voices, Gender: A Wider Lens Podcast, Deborah Soh _Lisa Littman, Post-Trans Transpsyche TransparencyPod The Detransitioners



The Trevor Project is chock-full of harmful advice for kids as well as disturbing levels of sexual and gender grooming.

From: Levine, Rachel (HHS/OASH)
Sent: Tue, 7 Mar 2023 12:15:50 +0000
To: Seigfreid, Kimberly (HHS/OASH); Brown, Michele (HHS/OASH); Broido, Tara (HHS/OASH); Sarvana, Adam (HHS/OASH)
Subject: FW: Lake Nona Impact Forum - New Moderator for Decarbonizing Healthcare

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Roni Selig <roni@ronmarstudios.com>
Sent: Monday, March 6, 2023 4:29 PM
To: Sandra Peterson <speterson@cdr-inc.com>; Dzau, Victor J. <vdzau@nas.edu>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Perlin, Jonathan <jperlin@jointcommission.org>; george@gsbarrett.com
Cc: Suzanne Hayward <(b)(6)>; Gloria Caulfield <gcaulfield@tavistock.com>; Rachael Cohen <rachael.cohen@tavistock.com>; Marcie Mule <marcie@ronmarstudios.com>
Subject: Lake Nona Impact Forum - New Moderator for Decarbonizing Healthcare

When news happens it often disrupts planned commitments and so, we heard from Juju Chang not too long ago that she needs to anchor Good Morning America on Thursday morning. Literally at the same time as our wonderful session is to take place. Juju will attend the conference but will not make it in time to moderate.

So, we are very, very fortunate that the incomparable and formidable Sandi Peterson, Operating Partner, Clayton, Dubilier & Rice and Member, Board of Directors, Microsoft, has generously agreed to step in as moderator.

Sandi is no stranger to this subject as previously she held the position of Group Worldwide Chairman at Johnson & Johnson and worked tirelessly on sustainability issues around the globe.

The session remains intact and with Sandi at the helm as moderator, it will be flawless. If you all would be so kind to join us in the speaker green room 45 mins in advance of the session instead of 30 minutes ahead of time, that would be great so we will introduce you to Sandi if you have not already made her.

Thank you and see you bright and early at 8:00 am, Thursday, March 9th.

Best regards and thank you again to Sandi!

Roni

Roni Selig
Co-President/Executive Producer
(b)(6)
VISIT OUR WEBSITE

RonMar STUDIOS

From: Cure, Kelly (OS/OASH) (CTR)
Sent: Tue, 13 Sep 2022 12:55:19 +0000
To: gcaulfield@tavistock.com
Cc: Oh, Kathy (OS/OASH); Mitra, Jenny (HHS/OASH); Lee, Kinbo (HHS/OASH); Pallack, Cindy (OS/OASH); Cure, Kelly (OS/OASH) (CTR); Gray, Oneika (HHS/OASH)
Subject: RE: Resending: Lake Nona Impact Forum Invitation - March 9, 2023

Dear Ms. Caulfield,

Moving ADM Levine to BCC to save her inbox.

Thank you for the invite for ADM Rachel Levine, Assistant Secretary for Health (ASH) to participate in the Lake Nona Impact Forum. Your request is currently in the review process.

We cannot give you an answer regarding the ASH's involvement at this time, until the event is reviewed by the scheduling committee and Ethics.

We will follow up with you soon on the status, as our office receives a high volume of requests and considers each one individually. We understand this process may create uncertainty in your planning, and we greatly appreciate your patience.

If you have any questions, please reach out directly to the team copied above and we will keep you updated.

Again, thank you for reaching out. We look forward to speaking with you in the near future.

Thank you,
Kelly

Kelly Cure
Executive Assistant to ADM Rachel Levine
Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: kelly.cure@hhs.gov
Office: (202) 690-7694
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Gloria Caulfield <gcaulfield@tavistock.com>
Sent: Monday, September 12, 2022 9:22 PM
To: Tina Larsen <tina@gsbarrett.com>; Perlin, Jonathan <JPerlin@jointcommission.org>; Dzau, Victor J. (b)(6) ; George Barrett <george@gsbarrett.com>
Cc: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Rachael Cohen <rachael.cohen@tavistock.com>
Subject: RE: Resending: Lake Nona Impact Forum Invitation - March 9, 2023

Victor and ADM Levine – will the 9 a.m. March 9 timing also work for the two of you?

From: Tina Larsen <tina@gsbarrett.com>
Sent: Monday, September 12, 2022 2:25 PM
To: Gloria Caulfield <gcaulfield@tavistock.com>; Perlin, Jonathan <JPerlin@jointcommission.org>; Dzau, Victor J. (b)(6) >; George Barrett <george@gsbarrett.com>
Cc: Rachel.Levine@hhs.gov; Rachael Cohen <rachael.cohen@tavistock.com>
Subject: Re: Resending: Lake Nona Impact Forum Invitation - March 9, 2023

EXTERNAL E-MAIL

Good afternoon, Gloria, and thank you for this. I am George's administrator and can confirm the 9am March 9 timing works for him.

Warmly,
Tina

Tina Larsen
614.591.4358 w
(b)(6) m
tina@gsbarrett.com

From: Gloria Caulfield <gcaulfield@tavistock.com>
Date: Monday, September 12, 2022 at 1:37 PM
To: Perlin, Jonathan <JPerlin@jointcommission.org>, George Barrett <george@gsbarrett.com>, Dzau, Victor J. <(b)(6)
Cc: Rachel.Levine@hhs.gov <Rachel.Levine@hhs.gov>, Rachael Cohen <rachael.cohen@tavistock.com>
Subject: Resending: Lake Nona Impact Forum Invitation - March 9, 2023

Good Afternoon and Happy Monday – resending the email below – which addresses all scheduling logistics for each of you. I believe we can lock in March 9th @ 9:00 a.m. which accommodate all concerns.
Please confirm receipt, so we can lock this time slot in.

Dear George, Victor, and ADM Levine,

Jon – thank you for your gracious introduction. We are very excited about sharing this esteemed groups leadership of the *Action Collaborative on Decarbonizing the U.S. Health Sector* at the 2023 Lake Nona Impact Forum.

Reading through the schedules below – I believe we have identified a perfect solution. **I would like to propose 9:00 a.m. on March 9th for this session. This would accommodate George's late arrival on March 8th and would also accommodate Victor's request for an early session on March 9th.**

If this suits everyone, we will lock this in and plan on this timing.

Thanks in advance for what promises to be an important and enlightening session. Please let me know if there are any questions at all.

Warm Regards,

Gloria Caulfield

From: Perlin, Jonathan <JPerlin@jointcommission.org>
Sent: Wednesday, September 7, 2022 9:03 AM
To: George Barrett <george@gsbarrett.com>; Dzau, Victor J. <(b)(6)>; Gloria Caulfield <gcaulfield@tavistock.com>
Cc: Rachel.Levine@hhs.gov
Subject: Re: Lake Nona Impact Forum Invitation - March 9, 2023

EXTERNAL E-MAIL

Dear George, Victor, and ADM Levine,

I am adding the wonderful Gloria Caulfield, Executive Director of the Lake Nona Impact Forum, to the email. She can identify the flexibilities in the schedule directly, and if it doesn't work for all to be on stage simultaneously, then perhaps we can find a way for some complementary conversations/presentations throughout the course of the Forum's agenda.

That said, my gratitude to each of you, not only for your willingness to speak on this important topic to an audience of influential business and academic leaders and social influencers, but for championing decarbonization and health equity so directly,

(By way of update, our Joint Commission Equity Standards go into full effect on January 1, and we are convening a workgroup and Technical Advisory Panel on Decarbonizing Healthcare. We're fortunate to not only have resources from the NAM Action Collaborative, but also from the Office of Climate Change and Health Equity aligned to help us.)

Warmest regards to all,

Jon

From: George Barrett <george@gsbarrett.com>
Date: Tuesday, September 6, 2022 at 9:06 PM
To: "Dzau, Victor J." <(b)(6)>, "Perlin, Jonathan" <JPerlin@jointcommission.org>
Cc: "Rachel.Levine@hhs.gov" <Rachel.Levine@hhs.gov>
Subject: Re: Lake Nona Impact Forum Invitation - March 9, 2023

This is the first time you received an e-mail from george@gsbarrett.com. Treat unsolicited e-mails from new senders with suspicion!

Jon,

Just to follow up on Victor's note, I looked at the Target board meeting schedule tonight, and realistically, I wouldn't get into Florida until 6 or 7pm at the earliest on the eighth. But as Victor noted, I can make the ninth work. Of course, I'll completely understand if the eighth turns out to be the best date for this panel.

Warmest regards,
George

From: Dzau, Victor J. (b)(6)
Date: Tuesday, September 6, 2022 at 6:08 PM
To: Perlin, Jonathan <jperlin@jointcommission.org>
Cc: Rachel.Levine@hhs.gov <Rachel.Levine@hhs.gov>, George Barrett <george@gsbarrett.com>
Subject: Re: Lake Nona Impact Forum Invitation - March 9, 2023

Dear Jon,
Thank you for the invitation. I just spoke to George Barrett and we are both interested in attending. The challenge is timing. George can do March 9. He is at the Target board meeting on March 8 and may be able to attend late afternoon depending on transportation. On the other hand, I can do March 8 but may have difficulty for March 9. If we do it on March 9, It must be an early morning session.
Best,
Victor

On Aug 23, 2022, at 2:00 PM, Perlin, Jonathan <jperlin@jointcommission.org> wrote:

Hello, ADM Levine, Dr. Dzau, and Mr. Barrett,

I hope that you are each doing well and having a pleasant Summer. Hard to believe, however, that it's almost Labor Day!

On behalf of the Lake Nona Impact Forum Advisory Board, I wanted to invite you to speak the 2023 Conference. It will be held March 8 -10, 2023 in Lake Nona, a suburb of Orlando, near the campus of the University of Central Florida. This year's program is entitled, "Health Innovation in the New Reality: Uncommon Conversations in Extraordinary Times."

This is not just “an academic conference.” Quite pragmatically, it is meant to provide exposure for thought leaders from a range of health-related disciplines to a curated group of influential, C-suite leaders, who are positionally empowered to incorporate new ideas into important agendas for changes.

In 2020, the Lake Nona Impact Forum was the last major health innovation event held before COVID-19. Those who attended experienced breaking news and a live briefing from Adm. Brett Giroir the very day that the White House held its first press conference for the pandemic. ADM Giroir was also part of an important conversation with Dr. Dzau on the opioid crisis in the United States and the work of HHS and the National Academy on combatting that crisis. I had the privilege of moderating that conversation.

As the three of you are leading the *Action Collaborative on Decarbonizing the U.S. Health Sector*, and HHS has just stood up the Office of Climate Change and Health Equity, our Advisory Board Chair, Dr. Michelle Williams, Dean of the Chan School of Public Health at Harvard and other members asked me to invite you to speak on your work related to climate change and health.

We envision the format to be a moderated conversation. That should reduce the effort needed to prepare, as you have been working so closely to this important issue. I will take the prerogative of offering March 9 as the specific date for the session, though you are welcome to participate throughout the conference, if schedule allows. I would be happy to address any questions you may have or put you in touch with the Lake Nona team.

Thanks so much for your consideration.

Warmest regards,

Jon

Jonathan B. Perlin, MD, PhD, MSHA, MACP, FACMI
President and Chief Executive Officer
The Joint Commission
One Renaissance Boulevard
Oakbrook Terrace, IL 60181

&

Clinical Professor of Health Policy and Medicine, Vanderbilt University
Adjunct Professor of Health Administration, Virginia Commonwealth University

email: JPerlin@JointCommission.org
office: 630.792.5650. Cell: (b)(6)

Executive Assistant:
Ms. Jean Gagliardo

Email: JGagliardo@JointCommission.org

From: Levine, Rachel (HHS/OASH)
Sent: Thu, 8 Sep 2022 11:39:26 +0000
To: 'Sarah Boateng'; Broido, Tara (HHS/OASH); Sarvana, Adam (HHS/OASH); Oh, Kathy (OS/OASH); Mitra, Jenny (HHS/OASH); Cure, Kelly (OS/OASH) (CTR)
Subject: FW: Lake Nona Impact Forum Invitation - March 9, 2023

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Gloria Caulfield <gcaulfield@tavistock.com>
Sent: Wednesday, September 7, 2022 5:26 PM
To: Perlin, Jonathan <JPerlin@jointcommission.org>; George Barrett <george@gsbarrett.com>; Dzau, Victor J. (b)(6)
Cc: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Rachael Cohen <rachael.cohen@tavistock.com>
Subject: RE: Lake Nona Impact Forum Invitation - March 9, 2023

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Cc: Rachel.Levine@hhs.gov
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Date: Tuesday, September 6, 2022 at 6:08 PM
To: Perlin, Jonathan <jperlin@jointcommission.org>
Cc: Rachel.Levine@hhs.gov <Rachel.Levine@hhs.gov>, George Barrett <george@gsbarrett.com>
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Jon

Jonathan B. Perlin, MD, PhD, MSHA, MACP, FACMI
President and Chief Executive Officer
The Joint Commission
One Renaissance Boulevard
Oakbrook Terrace, IL 60181

&

Clinical Professor of Health Policy and Medicine, Vanderbilt University
Adjunct Professor of Health Administration, Virginia Commonwealth University

email: JPerlin@JointCommission.org
office: 630.792.5650. Cell: (b)(6)

Executive Assistant:
Ms. Jean Gagliardo
Email: JGagliardo@JointCommission.org

From: Levine, Rachel (HHS/OASH)
Sent: Tue, 9 Aug 2022 17:07:15 +0000
To: 'Sarah Boateng'; Iademarco, Michael (HHS/OASH); Mitra, Jenny (HHS/OASH); Oh, Kathy (OS/OASH)
Subject: FW: KidneyX: Thank you for the discussion
Attachments: 09Aug2022 OASH Briefing Thank You.pdf

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Mark D. Lim <mlim@asn-online.org>
Sent: Tuesday, August 9, 2022 12:35 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Eloff, Benjamin (HHS/OASH) <Benjamin.Eloff@hhs.gov>; sedorj@ccf.org; keisha_gibson@med.unc.edu; Tod Ibrahim <tibrahim@asn-online.org>; Zachary Kribs <zkribs@asn-online.org>; Lynee Galley <lgalley@asn-online.org>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Handley, Elisabeth (OS/OASH) <Elisabeth.Handley@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Iademarco, Michael (HHS/OASH) <Michael.Iademarco@hhs.gov>; Honey, Kristen (OS/OCTO) <Kristen.Honey@hhs.gov>; States, Leith (HHS/OASH) <Leith.States@hhs.gov>; Jennifer Kang <jkang@asn-online.org>; Araia, Ghelatia (HHS/OASH) <Ghelatia.Araia@hhs.gov>
Cc: Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>; Fisher, Megan (HHS/OASH) <Megan.Fisher@hhs.gov>; Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Gray, Oneika (HHS/OASH) <Oneika.Gray@hhs.gov>; Stevenson, Monica L (HHS/OASH) <Monica.Stevenson@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Claxton, Karyn (HHS/OASH) (CTR) <Karyn.Claxton@hhs.gov>
Subject: KidneyX: Thank you for the discussion

Sent on behalf of Dr. John Sedor, MD FASN (Chair, KidneyX Steering Committee) and Dr. Keisha L. Gibson, MD, MPH, FASN (ASN Treasurer)

Also attached as "09Aug2022 OASH Briefing Thank You.pdf"

Dear ADM Levine:

On behalf of the 37 million Americans living with kidney diseases and the 21,000 nephrologists, scientists, and other kidney health professionals who are members of the American Society of Nephrology (ASN), thank you for your leadership at the US Department of Health and Human Services (HHS) and with the Kidney Innovation Accelerator (KidneyX). We appreciated the opportunity to share the progress and discuss the future of KidneyX during our videoconference on Thursday, August 4, 2022.

We are excited to launch the next phase of the Artificial Kidney Prize this week. This competition aims to direct innovators from the regenerative medicine communities into the kidney community.

Also, we look forward to discussions to identify a permanent home for KidneyX within HHS. When the concept of KidneyX was first developed during the Obama Administration, our HHS colleagues identified the HHS Chief Technology Office as the ASN partner. KidneyX was transitioned to your office during the latter part of the Trump Administration. While we have truly appreciated the continued support of you and your predecessor, we do welcome a discussion with your team about a permanent solution.

As we discussed last week, we also look forward to a discussion about a potential KidneyX competition that pursues health care justice for the millions of Americans with kidney diseases. ASN supports a myriad of efforts to promote diversity, equity, and inclusion as well as health care justice. These efforts have included implementing a new loan mitigation program for nephrology fellows who identify as underrepresented in medicine, and developing with the National Kidney Foundation, a new race-free algorithm to diagnose kidney diseases, which has been adopted by laboratories across the country. The ASN members, leadership (particularly the members of the ASN Health Care Justice Committee), staff, and I look forward to working with your team on the next steps to shape a KidneyX competition in this arena.

Again, thank you for your ongoing commitment to catalyze innovations for people with kidney diseases through the KidneyX partnership, as a member of the

KidneyX Steering Committee, and through our ongoing dialogue. To discuss this email, KidneyX, or ASN, please contact ASN Executive Vice President Tod Ibrahim at tibrahim@asn-online.org or (b)(6)

Sincerely,

John R. Sedor, MD, FASN
Chair
KidneyX Steering Committee

Keisha L. Gibson, MD, MPH, FASN
Treasurer

-----Original Appointment-----
From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Friday, June 10, 2022 10:26 AM
To: benjamin.eloff@hhs.gov; Mark D. Lim; sedorj@ccf.org; (b)(6) Tod Ibrahim; Zachary Kribs; Lynee Galley; Boateng, Sarah (HHS/OASH); Handley, Elisabeth (OS/OASH); Calsyn, Maura (HHS/OASH); Iademarco, Michael (HHS/OASH); Honey, Kristen (OS/OCTO); States, Leith (HHS/OASH); Jennifer Kang; Araia, Ghelatia (HHS/OASH)
Cc: Cure, Kelly (OS/OASH) (CTR); Fisher, Megan (HHS/OASH); Lee, Kinbo (HHS/OASH); Gray, Oneika (HHS/OASH); Stevenson, Monica L (HHS/OASH); Oh, Kathy (OS/OASH); Claxton, Karyn (HHS/OASH) (CTR)
Subject: KidneyX Update
When: Thursday, August 4, 2022 10:30 AM-11:15 AM (UTC-05:00) Eastern Time (US & Canada).
Where: (b)(6)

**Rescheduled to August 4th at 10:30am. Thank you for being flexible!*

Join ZoomGov Meeting
(b)(6)

Meeting ID: (b)(6)
Passcode (b)(6)
One tap mobile
(b)(6) US (San Jose)
US (New York)

Dial by your location
(b)(6) US (San Jose)
US (New York)
US (San Jose)
US

Meeting ID: (b)(6)
Find your local number: (b)(6)

Join by SIP
(b)(6)

Join by (b)(6)
(b)(6) (US West)
(US East)
Meeting ID: (b)(6)
Passcode: (b)(6)

1. **Requestor/POC (name, company, title, cell and email):**

Mark David Lim, PhD
American Society of Nephrology
Vice President, Research Discovery Innovation (KidneyX Secretariat)
(b)(6) mlim@asn-online.org

2. **Has this request been approved by IO staff? If yes, by whom?**

No

3. **Topic:**

KidneyX: Update and discussion of future efforts to include health equity and justice

4. **Desired outcome of the meeting:**

a. Provide an update on prize winners who have successfully advanced innovations to improve kidney health
b. Discuss timelines for the KidneyX Artificial Kidney Prize Phase Two and future prize competitions as well as initiatives to further kidney innovations
c. Explore further partnership opportunities between OASH and ASN to:

a. Advance innovation in kidney health through KidneyX
b. Achieve health equity and justice, including supporting kidney community efforts to improve the diagnosis of kidney diseases by establishing a USPSTF screening recommendation for kidney diseases

5. **ADM Levine's role:**

KidneyX is a partnership between the American Society of Nephrology (ASN) and the HHS Office of the Assistant Secretary of Health (OASH), and ADM Levine is an ex-officio member of the KidneyX Steering Committee.

ASN requests that ADM Levine continue to learn about recent winners of KidneyX, current ASN efforts to increase support for KidneyX and accelerating innovation in kidney health, and ASN

efforts to achieve equity and justice in the diagnosis of kidney diseases. ASN welcomes ADM Levine's questions and hope to engage her in strategy to support KidneyX as well as to achieve health equity and justice.

6. **Proposed dates and timing (30 mins/45 mins):**

45 minutes

7. **External attendees (names, emails, bios and pictures):**

John R. Sedor, MD (sedorj@ccf.org), Chair of KidneyX Steering Committee
Dr. Sedor is the Endowed Chair in Kidney Research at the Glickman Urology & Kidney Institute at Cleveland Clinic, a Professor of Molecular Medicine at Lerner College of Medicine, and a member of the Kidney Disease Research Center and the Departments of Medicine and Physiology and Biophysics at Case Western Reserve University. Dr. Sedor is a graduate of the University of Virginia and the University of Virginia School of Medicine and completed his residency training and nephrology fellowship at Case Western Reserve University and University Hospitals of Cleveland. Dr. Sedor is board certified in internal medicine.

Keisha L. Gibson, MD, MPH (b)(6), ASN Councilor
Dr. Gibson is Clinical Associate Professor of Medicine and Pediatrics and Chief of Pediatric Nephrology in the Division of Nephrology and Hypertension at the University of North Carolina at Chapel Hill. She is also the Vice Chair of Diversity and Inclusion for the Department of

Medicine. Dr. Gibson received her medical degree and Masters of Public Health degree in epidemiology from UNC Chapel Hill. She completed a residency in general pediatrics at MUSC in Charleston and fellowship in pediatric nephrology from UNC Chapel Hill. She is board certified in pediatrics and pediatric nephrology.

Tod Ibrahim (tibrahim@asn-online.org), ASN Executive Vice President
Mr. Ibrahim is Executive Vice President of the American Society of Nephrology (ASN), which represents more than 21,000 kidney care professionals in 131 countries. Prior to this position, he was founding Executive Vice President of the Alliance for Academic Internal Medicine, Director of Public Policy for the Association of Professors of Medicine, Director of Communications for Robert Betz Associates, and Staff Assistant for US Representative Thomas C. Sawyer (D-OH). Tod has a master's degree in liberal arts from Johns Hopkins University and a bachelor's degree in English from the University of Maryland at College Park. Currently, Tod is Past President of the Council of Medical Specialty Societies, a coalition of 45 societies representing more than 800,000 US physician members.

Mark D. Lim, PhD (mlim@asn-online.org) ASN Vice President Research Discovery Innovation
Dr. Lim is Vice President of Research, Discovery, and Innovation at the American Society of Nephrology (ASN), leading a department focused on sustaining the growth of innovations for people with kidney diseases. Mark also serves on the Scientific Advisory Board of the Quebec Consortium of Drug Discovery, a multi-pharmaceutical and government effort to support the development of drug development technologies. Prior to ASN, Mark supported the Bill and Melinda Gates Foundation, Department of Defense, US National Cancer Institute, and the Milken Institute's FasterCures. Mark received his PhD in Inorganic Chemistry from UC Santa Barbara with postdoctoral training in Pharmaceutical Chemistry at UC San Francisco.

Zachary Kribs (zkribs@asn-online.org), ASN Senior Government Specialist
Mr. Kribs is the Senior Government Affairs Specialist at the American Society of Nephrology (ASN) where he leads Congressional affairs and advocacy activities on behalf of 21,000 health professionals, including managing the society's relationships with Congress and advancing federal policy to build a world without kidney diseases. Zach has worked on initiatives ranging from launching KidneyX, the kidney health innovation accelerator, to improving the US transplantation infrastructure and removing barriers that stand in the way of health equity. Mr. Kribs received his B.A. magna cum laude from Albion College, MI.

Lynée Galley (lgalley@asn-online.org), ASN Director of Research, Discovery, and Innovation
Ms. Galley is Director of Research, Discovery, and Innovation at the American Society of Nephrology (ASN). Prior to ASN, Lynée supported global health system strengthening and infectious diseases initiatives as Assistant Director for the American Society for Microbiology Global Public Health Programs in Washington, DC. She also conducted vaccine clinical trials for the US Military HIV Research Program and earned her Bachelor of Science degree in Microbiology and Immunology from the University of Rochester.

8. **Will there be read aheads/materials discussed at the meeting:**

- **If yes, who will provide to Kelly Cure and Oneika Gray for ADM Levine's review?**

Yes, Mark Lim will provide read-ahead materials, to include:

- Congressional letters of support for a FY23 $25 million appropriation for KidneyX
- Summaries of KidneyX prize winners
- Considerations for future prizes and activities
- References to ASN and the kidney community's work to improve health equity and justice, including a short article describing efforts to obtain a USPSTF screening recommendation for kidney diseases

9. **Additional notes:**

ASN appreciates ADM Levine's support of kidney health as well as the society's focus on equity and justice. ASN looks forward to continued partnership to improve the care of the 37 million Americans living with kidney diseases.

ASN
American Society of Nephrology

August 9, 2022

ADM Rachel Levine, MD
Assistant Secretary of Health
Office of the Assistant Secretary of Health
US Department of Health and Human Services
200 Independence Avenue, S.W.
Room 715-G
Washington, D.C. 20201

Dear ADM Levine:

On behalf of the 37 million Americans living with kidney diseases and the 21,000 nephrologists, scientists, and other kidney health professionals who are members of the American Society of Nephrology (ASN), thank you for your leadership at the US Department of Health and Human Services (HHS) and with the Kidney Innovation Accelerator (KidneyX). We appreciated the opportunity to share the progress and discuss the future of KidneyX during our videoconference on Thursday, August 4, 2022.

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1401 H Street, NW • Suite 900 • Washington, DC 20005
202.640.4660 • www.ASN-online.org

ASN
American Society of Nephrology

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Sincerely,

John R. Sedor, MD, FASN
Chair
KidneyX Steering Committee

Keisha L. Gibson, MD, MPH, FASN
Treasurer

cc:
Kristen Honey, PhD
RADM Michael F. Iademarco, MD, MPH
Tod Ibrahim
Mark Lim, PhD

ASN
American Society of Nephrology

August 9, 2022

ADM Rachel Levine, MD
Assistant Secretary of Health
Office of the Assistant Secretary of Health
US Department of Health and Human Services
200 Independence Avenue, S.W.
Room 715-G
Washington, D.C. 20201

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Sincerely,

John R. Sedor, MD, FASN
Chair
KidneyX Steering Committee

Keisha L. Gibson, MD, MPH, FASN
Treasurer

cc:
Kristen Honey, PhD
RADM Michael F. Iademarco, MD, MPH
Tod Ibrahim
Mark Lim, PhD

OASH is pleased to announce that **B. Kaye Hayes, MPA** has been selected as the **Deputy Assistant Secretary for Infectious Disease and the Director of the Office of Infectious Disease and HIV/AIDS Policy**. A dedicated and passionate public health expert, Kaye has provided vast leadership within OASH for the past 25 years. Since September 2020, Kaye served as the Acting Director of the OASH Office of Infectious Disease and HIV/AIDS Policy (OIDP). In this role, she steadfastly provided strategic leadership and policy development, while encouraging coordination and innovation from our HIV, vaccines, viral hepatitis, sexually transmitted infections, blood and tissue safety, antimicrobial resistance, tick-borne diseases programs, and more.

Kaye also previously served as the Acting Deputy Director and Senior Advisor for Policy for the Office on Women's Health and worked as the Special Assistant and Senior Advisor for Policy for Dr. David Satcher, 16th U.S. Surgeon General and the Assistant Secretary for Health, an honor that continues to guide her work.

Kaye has also worked as the Extramural Community Liaison for the National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention at the Centers for Disease Control and Prevention (CDC), where she developed and strengthened partnerships with national, state, and local organizations, including business, labor, faith community, entertainment, and other nontraditional health partnerships. While at CDC, her career included assignments leading efforts on the Women's Health Equity Act and health care reform.

Kaye received her bachelor's degree from the University of Virginia and a master's degree in public administration from Georgia State University, with a concentration in strategic management and human resource management. While in graduate school, she was inducted into Pi Alpha Alpha National Honor Society, and she was selected as a Presidential Management Fellow and assigned to the CDC National AIDS Information and Education Program where she provided advice and counsel to implement one of the most successful and longest running public education and prevention campaigns for HIV/AIDS—*America Responds to AIDS and Business Responds to AIDS.*

During her federal tenure, Kaye is exceedingly proud of her work with the Presidential Advisory Council on HIV/AIDS (PACHA) to implement the *Ending the HIV Epidemic Initiative* and the *National HIV/AIDS Strategy* launch at the White House last December, along with the release of strategic plans on HIV, STI, Hepatitis and Vaccines, Blood Safety Report, and the Tick-Borne Disease Congressional Report. Kaye looks forward to continuing to guide the office during the COVID-19 pandemic and developing evidence-based approaches to responding to a range of infectious diseases and syndemics.

Please join me in congratulating Kaye in her new role and accomplishment!

Sincerely,

Rachel L. Levine, MD
ADM, U.S. Public Health Service
Assistant Secretary for Health

From: Fisher, Megan (HHS/OASH)
Sent: Wed, 9 Mar 2022 12:52:31 +0000
To: mbecker@endocrine.org
Cc: Boateng, Sarah (HHS/OASH)
Subject: RE: Transgender Health & Diabetes Updates

Sending on behalf of ADM Rachel Levine

Good morning Mila,

Thank you for your outreach and comprehensive update. I share your concern regarding the directive in Texas and want to thank you for the actions that the Endocrine Society has taken to ensure that gender affirming care and accurate information regarding care are accessible. I also echo your sentiments regarding the President's commitment to both gender affirming care and making insulin more affordable. I am very pleased to hear that the connection with Karen Hacker has been fruitful and I look forward to continuing to work with the Endocrine Society. I am hopeful and optimistic for the health and wellbeing of the Nation and it is in large part due to the dedication and commitment to public health that your society and advocates such as yourself demonstrate on a daily basis.

Regards,

ADM Levine

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

From: Becker, Mila <mbecker@endocrine.org>
Sent: Friday, March 4, 2022 12:58 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Subject: Transgender Health & Diabetes Updates

Dear Admiral Levine, First, hope you are doing well. I want to share a few updates about the Endocrine Society's work on access to transgender health care and diabetes with you following up on our previous conversations:
Transgender Health Care – The Endocrine Society is deeply concerned about the recent directive in Texas and the increasing number of state legislative proposals to restrict access to care for minors experiencing gender dysphoria/incongruence. As you know, we successfully intervened in the Bell v Tavistock case in the UK and we participated in an amicus brief with the AAP, APA, ACP and others in the Brandt v Rutledge case in Arkansas. We were really pleased President Biden showed his commitment during the State of the Union and with the recent notice and guidance on gender affirming care by the HHS Office for Civil Rights.

For your information:

- The Endocrine Society released the following statement regarding Governor Abbott's directive: https://www.endocrine.org/news-and-advocacy/news-room/2022/endocrine-society-alarmed-at-criminalization-of-transgender-medicine
- We also will be joining as an amicus in Doe v Abbott to share with the court the standard of care for gender affirming care.
- In response to our conversation with you last August, our Practice Guidelines Committee recommended to our Board that we update our guidelines on Gender Dysphoria/Gender Incongruence and our Board approved moving forward last weekend. While updating a guideline can take close to 18 months, in the meantime we are adding language at the top of the current guideline informing readers that as there is new data we will update the guideline but the current guideline does not contain any important inaccuracies or omissions that could lead to substandard patient care.
- We also are developing a science writers' workshop on gender affirming care to better educate reporters so they can report accurately on the topic.
- Finally, the Endocrine Society just announced that they will make it simpler for authors of articles published in its peer-reviewed journals to update their names following a name change: https://www.endocrine.org/news-and-advocacy/news-room/2022/endocrine-society-streamlines-name-change-policy-for-journal-authors

Insulin Affordability – As we have discussed, insulin affordability remains a top priority for the Society and we believe it a major health equity issue. We were very pleased President Biden affirmed his commitment to lowering both the price of insulin and out-of-pocket costs for consumers. For your information:

- We released the following statement urging the Congress to work in a bipartisan fashion to address insulin affordability following the State of the Union https://www.endocrine.org/news-and-advocacy/news-room/2022/endocrine-society-calls-on-congress-to-address-high-insulin-prices-and-consumer-out-of-pocket-costs and we continue to meet with congressional offices to share our recommendations.
- Following our meeting with you and your connecting us with Karen Hacker at the Chronic Disease Center, we have worked with Diabetes Division Director Christopher Holliday. This week we conducted a congressional briefing on the recent MMWR study on the observed link between COVID-19 and diabetes and also included information about disparities and insulin affordability and the National Clinical Care Commission's report and recommendations. Here is a link to the briefing recording: https://zoom.us/rec/play/qrosS_XsOTtk15dm-FFI7UauKsKflA9oNOJlWERvhpRc3V7jbw_uN4iy0V6NV6ueStQjWVY1GTG0sd4W.IKSpk0WBZvxIHge8?autoplay=true&startTime=1646244019000

We know you are very busy. We appreciate all you do to protect the nation's health. Please do not hesitate to contact me if you have any questions about the above information or any other issues you think the Endocrine Society can assist.

With best regards,

Mila

MILA BECKER, JD (she / her / hers)
CHIEF POLICY OFFICER
2055 L STREET NW, SUITE 600, WASHINGTON, DC 20036

T. 202.971.3636 F. 202.736.9705 D. 202.971.3633
mbecker@ENDOCRINE.ORG endocrine.org @MilaNBecker

From: HHS Office of Public Affairs
Sent: Fri, 31 Mar 2023 19:12:17 +0000
To: Levine, Rachel (HHS/OASH)
Subject: Statements from HHS Secretary Xavier Becerra, Assistant Secretary for Health Admiral Rachel Levine, and HHS Leaders on Trans Day of Visibility

News Release

U.S. Department of Health and Human Services

202-690-6343
media@hhs.gov
www.hhs.gov/news
Twitter @HHSGov

FOR IMMEDIATE RELEASE
Friday, March 31, 2023

Statements from HHS Secretary Xavier Becerra, Assistant Secretary for Health Admiral Rachel Levine, and HHS Leaders on Trans Day of Visibility

Earlier today, HHS raised a transgender pride flag outside its headquarters building for the second year in a row. HHS became the first cabinet-level agency to raise the flag outside of its headquarters building last year.

Today, U.S. Department of Health and Human Services (HHS) Secretary Xavier Becerra, alongside Assistant Secretary for Health Admiral Rachel Levine and leaders across HHS released the statements below in celebration of International Transgender Day of Visibility.

Earlier today, HHS raised a transgender pride flag outside its headquarters building for the second year in a row. HHS became the first cabinet-level agency to raise the flag outside of its headquarters building last year.

HHS Secretary Becerra and HHS Leaders:

"On Transgender Day of Visibility, and every day, we celebrate the courage and resilience of transgender people across this country in the face of violence, hatred, and bigotry. Everyone should be able to be who they are and access the care they need – but, too often, that is sadly and shamefully not the case for transgender people. The Biden-Harris Administration remains deeply committed to protecting the rights of LGBTQI+ Americans, including transgender Americans. HHS will do everything in its power to protect transgender people's right to healthcare, including their right to gender-affirming care. To the transgender community, and all who love and support them: we stand with you, we support your right to live completely and freely. Today and always, transgender health care is health care. Period."

Additional statement from HHS Assistant Secretary for Health Admiral Rachel Levine, the highest ranking openly trans person to serve in the federal government:

"As a proud transgender woman, I celebrate Transgender Day of Visibility by honoring the work that has brought attention to the greater acceptance of LGBTQI+ individuals. Despite

the progress that has been made, the most vulnerable among us continue to suffer, including transgender women of color, transgender youth, transgender immigrants, and so many more. We must do more. We need to create healthy people, healthy communities, and a healthy nation for all."

Secretary Becerra announced several immediate actions HHS is taking to support LGBTQI+ youth across the nation, including:

- Releasing guidance to state child welfare agencies through an Information Memorandum that makes clear that states should use their child welfare systems to advance safety and support for LGBTQI+ youth, which importantly can include access to gender-affirming care;
- Releasing guidance on patient privacy to clarify that health care providers are not required to disclose private patient information related to gender-affirming care; and
- Issuing guidance making clear that denials of health care based on gender identity are illegal, as is restricting doctors and health care providers from providing care because of a patient's gender identity.

These actions and others are detailed on HHS' LGBTQI+ website, which was updated ahead of today's observance as part of the Department's work to ensure that transgender communities – youth, adults, families, caretakers, and providers – have the resources they need to protect the health care of transgender individuals.

If you believe that you or another party has been discriminated against on the basis of gender identity or disability in seeking to access gender-affirming care, visit HHS' Office for Civil Rights complaint portal to file a complaint online.

###

Connect with HHS and sign up for HHS email updates

From: Levine, Rachel (HHS/OASH)
Sent: Tue, 4 Apr 2023 13:13:52 +0000
To: Shanker, Adrian (HHS/OASH); Schall, Theodore (HHS/OASH); Shanker, Adrian (HHS/OASH)
Subject: Articles to look at

Gender Identity 5 Years After Social Transition | Pediatrics | American Academy of Pediatrics (aap.org)

Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care | Adolescent Medicine | JAMA Network Open | JAMA Network

New Study Examines The "Social Contagion" Hypothesis Of Transgender And Gender Diverse Identities - Fenway Health: Health Care Is A Right, Not A Privilege.

Sex Assigned at Birth Ratio Among Transgender and Gender Diverse Adolescents in the United States | Pediatrics | American Academy of Pediatrics (aap.org)

'Social contagion' isn't causing more youths to be transgender, study finds (nbcnews.com)

Do Clinical Data from Transgender Adolescents Support the Phenomenon of "Rapid Onset Gender Dysphoria"? - The Journal of Pediatrics (jpeds.com)

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

OASH

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Levine, Rachel (HHS/OASH)
Sent: Sat, 22 Apr 2023 19:28:18 +0000
To: Iademarco, Michael (HHS/OASH)
Cc: Boateng, Sarah (HHS/OASH); Brown, Michele (HHS/OASH); Oh, Kathy (OS/OASH); Shanker, Adrian (HHS/OASH); Calsyn, Maura (HHS/OASH)
Subject: RE: (SBU) Background materials for Uganda

RADM Iademarco, Good afternoon. Thank you for your email and the information, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Iademarco, Michael (HHS/OASH) <Michael.Iademarco@hhs.gov>
Sent: Friday, April 21, 2023 12:06 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Brown, Michele (HHS/OASH) <Michele.Brown@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: RE: (SBU) Background materials for Uganda

ADM Levine, I spoke with the director of the CDC Uganda Office this morning. Note the attached USAID report is SBU. It provides an overall sense of the USG programs that could be affected by the law. It lists IBBS surveys which are funded and implemented by CDC. See attached Lancet article published tomorrow. The referenced National Resistance Movement (NRM) caucus met for two days, after which the President decided to send the bill back to parliament for amendments. V/r, Michael

Uganda's President Museveni to return anti-LGBTQ+ bill to parliament | CNN

From: Iademarco, Michael (HHS/OASH)
Sent: Wednesday, April 19, 2023 5:37 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Brown, Michele (HHS/OASH) <Michele.Brown@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: (SBU) Background materials for Uganda

ADM Levine, attached is the latest PEPFAR COP funding letter from Ambassador Nkengason to Ambassador Natalie Brown (US Mission, Uganda): $ 385 million for each of the next two years. Importantly there is specific reference to "gender identity and sexual orientation" (page 3). Below is a link to the total USG funding by category. Also attached are two **SBU** cables for a parallel situation in Tanzania in 2018, 2019. The logic might be helpful. I am studying this information. V/r, Michael

U.S. Foreign Assistance by Country

From: Mobasseri, Annaliese (HHS/OASH) (CTR)
Sent: Fri, 14 Apr 2023 17:27:45 +0000
To: Undisclosed recipients:
Subject: Long COVID Media Tracker

Happy Fri-YAY, my friends. Welcome to your Long COVID media tracker for the week of April 10-14
To submit your Long COVID work for the tracker, or to highlight any Long COVID communications products across USG please reach out!

Highlights
Association of State and Territorial Health Officials (ASTHO) released a Long COVID Policy Statement this week!

AHRQ published a press release to support their Long COVID funding opportunity.

Coverage of updated fact sheet by American Hospital Association.

Long Covid Help Gets Funding Push From Biden HHS, Lawmakers

- In his fiscal 2024 budget request, President Joe Biden pitched Congress on $130 million for the Health and Human Services Department for long Covid programs that would help rural communities, low-income Americans with HIV, and others. The funds would filter through the HHS' Health Resources and Services Administration, which serves hundreds of millions of low-income people.
- The administration has requested another $130 million for the HHS' Indian Health Service to treat and diagnose long Covid in 2025.
- Meanwhile, several bills have been introduced in Congress that would fund long Covid research and treatment education.

Research
Data-driven analysis to understand long COVID using electronic health records from the RECOVER initiative

- Part of the RECOVER initiative, electronic health records from the INSIGHT and ONEFlorida+ research networks were assessed to identify potential symptoms of Long COVID.
    - The study included over 57,000 individuals with a previous positive test for SARS-CoV-2 and over 503,000 individuals without a positive test for SARS-CoV-2.
- A variety of conditions and medications were identified as more common within the SARS-CoV-2 positive group, which included conditions of the nervous system.

- The authors identified that the presentation of Long COVID was similar between the New York City and Florida populations included within the study.

Long COVID and risk of erectile dysfunction in recovered patients from mild to moderate COVID-19

- This study investigated the relationship between Long COVID and erectile dysfunction

- Men experiencing erectile dysfunction three months after COVID-19 had significantly lower levels of testosterone and lower scores on the sexual health inventory for patients compared to healthy controls.

- **The authors hypothesize that endothelial dysfunction and low serum testosterone levels following SARS-CoV-2 infection leads to erectile dysfunction.**

Physical Activity Effects on Muscle Fatigue in Sport in Active Adults with Long COVID-19: An Observational Study

- Italian individuals with COVID-19 were stratified into groups based on their existing activity levels.
    - These groups included competitive cross-country ski athletes, mountain amateurs, ski instructors, and sedentary people.
- The perception of fatigue of individuals in these groups was assessed 6-months and 12-moinths following COVID-19.
- **Overall, there was less reported fatigues in all groups at12-months post infection compared to 6-months post infection.**
    - **The reduction in fatigue was less pronounced in the group of sedentary people, compared to the other activity levels.**

Definition of Post–COVID-19 Condition Among Published Research Studies

- This study highlights major issues in comparing interventions and outcomes between these reported studies in PCC due to differences in definition. The differences also result in considerable variation when translating findings into clinical management and cost-effectiveness assessments of interventions in patients with PCC.

Engagements

FDA Patient-Focused Drug Development for Long COVID Public Meeting April 25

Examining the Working Definition for Long COVID National Academies

- Interim Federal Working Definition

Effects of Long Covid and ME/CFS on Sleep, SolveME, April 27 @ 11:00 am - 12:00 pm PDT

Audio Options

79 - Michael Towers - Chronic Fatigue Superhero
Long Covid Podcast

Michael Towers, creator of Chronic Fatigue Superhero - a series of comics depicting life with a chronic illness discusses the character as well as the immense amount of work that goes into making a book when you have a chronic illness.

Episode 54: Dr Bhupesh Prusty - Molecular Virologist
TLC Sessions - Living with Long Covid
Dr Bhupesh Prusty believes that he has found 'the switch'. A molecular virologist from the University of Würzburg, Germany, he has turned his work looking at ME/CFS to look at Long Covid, and believes that viral reactivation in both diseases could hold the key.

Healing Long-Covid With Functional Medicine with Dr. Leo Galland
The Doctor's Farmacy with Mark Hyman, M.D.

Things to Elevate
Week of April 10: RECOVER social messaging to share

- #LongCOVID is a mysterious mix of 200+ symptoms in multiple organs with no clear pattern. A new #NIHRECOVER @eLife review looks at the potential mechanisms that connect #COVID to long-term health consequences - an essential guide to prevention & treatment http://bit.ly/3KNKKnF
- In an #NIHRECOVER study looking at nearly 28 million health records, researchers demonstrated the depth and complexity of #COVID in patients 30 days after infection, finding high incidence risk of #LongCOVID and impact on multiple organ systems. https://go.nature.com/3Kh0vC1

AHRQ Posted Content for Amplification and Sharing

- https://www.linkedin.com/feed/update/urn:li:activity:7051955805826277376
- https://www.linkedin.com/feed/update/urn:li:activity:7051955558462984193
- https://twitter.com/AHRQNews/status/1646189709708623872
- https://twitter.com/AHRQNews/status/1646189457341661194
- https://twitter.com/AHRQNews/status/1646189709708623872
- https://www.instagram.com/p/Cq8sQPiyOXS/?utm_source=ig_web_copy_link

Everything Else
Around 40% of long COVID patients have sleep issues, study shows

- "In our practice, there has been kind of an unequal access to long COVID care, where individuals with inadequate insurance don't tend to get referred to us as often… a lot of that falls under the lines of minority races…we need to be prepared to make sure that all patients, especially the most vulnerable, due to minority status, and socioeconomic status, they have access to the right physicians to provide the best clinical care for their post COVID complications" said Panagis Galiatsatos, M.D., an

assistant professor and physician in pulmonary and critical care medicine at the Johns Hopkins University School of Medicine.

Long COVID Hitting Some States, Minorities, Women Harder

- More than one in four adults sickened by the virus go on to have long COVID, according to a new report from the U.S. Census Bureau.

- Overall, nearly 15% of all American adults – more than 38 million people nationwide – have had long COVID at some point since the start of the pandemic, according to the report.

Paxlovid May Reduce Long Covid Risk, but Access Is About to Get Worse

- Paxlovid "can reduce the risk that that roulette goes the wrong way for you," said study author Ziyad Al-Aly, calling the apparent effect of Paxlovid on long COVID an "added bonus."

Physicians agree long COVID is a problem, but they may not be ready to spot it and help

- Half of doctors said long COVID is somewhat of a problem, while 28% called it a significant problem in the United States. Just 2% said it was not a problem at all – the same amount as those said they didn't know or had no opinion, according to the December 2022 findings published last month.

- In the results, 7% of physicians are "very confident" diagnosing long COVID and just 4% said they are "very confident" treating it.

- In that study, 92% of respondents agreed many people think long COVID is not a real illness and 78% said they worried people would judge them negatively upon hearing of a diagnosis, according to the Morning Consult/de Beaumont Foundation findings.

- **References We Can Do This, references updated Fact Sheet, references AHRQ Notice of Funding Opportunity**

Hospitals Intensify Efforts to Treat Long COVID in Kids and Teens

- One challenge in treating the condition is that many people still question that COVID in general and long COVID in particular are real threats to children, said Dr. Amy Edwards, director of the Pediatric COVID Recovery Clinic and associate medical director for infection control at UH Rainbow Babies and Children's Hospital in Cleveland.

- "What's the most challenging," Edwards said, "is just the sheer volume" of patients. In Ohio, between 30,000 and 70,000 children have long COVID. She sees kids whenever she can – even at night. But despite these efforts, "I can't possibly see them all." She emphasized the need for more help from state and federal officials as well as from schools to assist kids who are struggling.

- Many states don't have long COVID clinics, Malone added. So more need to be added nationwide, along with new clinical care models, "where you can spend the time with the patient and do what you need to do."

UC Berkeley research teams wins $100k prize for long COVID-19 prediction model

- A research team from the UC Berkeley School of Public Health has won a $100,000 prize from the National Institutes of Health for building a clinical prediction model to forecast a patient's risk of developing long Covid-19.

Long COVID may be due to the virus sticking around after infection, researchers say

The Long Haul: Millions with COVID Face Chronic Illness as Biden Declares End to National Emergency

- Interview with Ryan Prior

Stay Cool,

Annaliese Mobasseri
Health Communications Specialist (Long COVID)
Office of Science & Medicine
Office of the Assistant Secretary for Health
Department of Health and Human Services
Annaliese.Mobasseri@hhs.gov

From: Levine, Rachel (HHS/OASH)
Sent: Thu, 6 Apr 2023 10:50:42 +0000
To: Boateng, Sarah (HHS/OASH); Oh, Kathy (OS/OASH); Richmond, Alicia (HHS/OASH); Lee, Kinbo (HHS/OASH); Shanker, Adrian (HHS/OASH)
Subject: FW: Plume comment letter re: docket No. DEA-407
Attachments: Plume Public Comment on Docket No. DEA-407.pdf

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Jerrica Kirkley <jerrica@getplume.co>
Sent: Wednesday, April 5, 2023 4:33 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: Plume comment letter re: docket No. DEA-407

Hi Admiral Levine,

I just wanted to personally say thank you again for all the work you and the Administration have been doing to support our community. It was particularly touching to see the proclamation of Transgender Day of Visibility by President Biden and I know so much effort from you and HHS has and continues to go into the DEA's proposed rule re: the prescribing of controlled substances via telemedicine without a prior in-person evaluation to expand flexibilities for prescribing.

We have had a lot of productive conversations with Congress, other healthcare organizations, and advocacy organizations and it is nice to see the awareness and support for the transgender, nonbinary, and gender nonconforming community when it comes to testosterone access, as well as other communities for whom telehealth has been an invaluable access point for care. I thought I would share Plume's comment letter with you, which is attached. Our goal was to provide alternative scenarios

which provide as expansive access as possible, while ensuring effective controls against diversion and keeping in mind the public health of all communities.

As always, thank you, and if there is any way I or we at Plume can support further, do not hesitate to reach out.

All my best,
Jerrica

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Jerrica Kirkley (she/her)
Co-Founder, Chief Medical Officer

c: (b)(6)
jerrica@getplume.co
https://getplume.co

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March 30, 2023

Plume Public Comments on DEA Proposed Rulemaking on Prescribing of Controlled Substances

[Submitted electronically via www.regulations.gov]

Anne Milgram
Administrator
Drug Enforcement Administration
Attn: DEA Federal Register Representative/DPW
8701 Morrissette Drive
Springfield, VA 22152

RE: Telemedicine Prescribing of Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In-Person Medical Evaluation [Docket No. DEA-407]

Plume thanks the Drug Enforcement Administration ("DEA" or "Administration") for the opportunity to comment on its proposed rule regarding the prescribing of controlled substances when the practitioner and patient have not had a prior in-person medical evaluation. Plume is a telehealth medical provider that focuses on the transgender, non-binary, and gender nonconforming (collectively, "TGNC") community, which provides lifesaving services such as gender-affirming hormone therapy, primary care, and mental health support. In just three years since starting to see patients, we have become the largest provider of transgender health in the world, now having cared for over 17,000 patients since the start of 2020.

We appreciate the efforts by the DEA and the Department of Health and Human Services ("HHS") in the proposed rule to prevent diversion of controlled substances, expand access to telemedicine prescribing of controlled substances, and prevent disruptions in care, especially to those who are most underserved and at risk. However, despite the proposed flexibilities, we are concerned that the proposed regulatory structure will result in the TGNC community facing significant difficulty in accessing testosterone, resulting in long delays in care and disruptions in therapy. The TGNC community is under attack like never before. New bills are released every day which criminalize both parents and medical practitioners for providing gender-affirming care and which prevent public funds and health insurance from being used to support TGNC care. Therefore, we submit the following comments to highlight the ways in which the Administration could ensure that millions of members of the TGNC community have access to lifesaving care, while simultaneously continuing to prevent diversion of controlled substances.

I. Comment Summary

Plume's comments center on removing the need for an in-person evaluation for the prescription of non-narcotic schedule III-V controlled substances via telemedicine. While we strongly believe removal of an in-person evaluation would maintain expanded access to critical lifesaving medications for the TGNC community and others while ensuring consistency with effective controls against diversion, we have also provided alternative pathways to help prevent disruption in care should an in-person evaluation be deemed necessary to prescribe non-narcotic schedule III-V controlled substances. These suggested modifications include:

- Allowing for up to a 6-month initial supply of medication prior to an in-person visit;
- Streamlining the telemedicine referral process;
- Extending the time without an in-person evaluation for patients who have already established care during the PHE; and
- Not limiting telemedicine prescriptions of controlled substances to FDA-approved indications.

II. Background

A. Testosterone is lifesaving and has minimal diversion risk.

Testosterone is a critical component of gender-affirming hormone therapy for TGNC people. The use of testosterone for gender-affirming care is safe, lifesaving, and endorsed as medically necessary by many professional medical organizations including the World Professional Association of Transgender Health (WPATH), the Endocrine Society, the American Academy of Family Physicians, the American Medical Association, and the American Psychological Association.[1] Guidelines for care have existed since 1979 from multiple medical organizations including WPATH, the Endocrine Society, and the UCSF Center of Excellence for Transgender Care. Upwards of 80 percent of TGNC people in the United States seek hormone therapy, including testosterone, as part of their overall health care and well-being.[2] The WPATH standards of care make it clear that no in-person evaluation is needed to be able to safely and appropriately prescribe testosterone for gender-affirmation.[3]

While testosterone has been classified as a controlled substance under the Controlled Substances Act due to its recreational use among a small community of bodybuilders, testosterone is used for many medical indications including gender-affirming care, cancer, AIDS, and anemia.[4] Research demonstrates that access to gender-affirming hormone therapy decreases rates of depression, anxiety, and suicidality,

[1] Transgender Legal Defense & Education Fund. TLDEF's Trans Health Project. Accessed March 1, 2023.
[2] National Center for Transgender Equality. The Report of the 2015 Transgender Survey. December 2016.
[3] World Professional Association for Transgender Health. Standards of Care Version 8. Accessed March 2, 2023.
[4] DEA. Anabolic Steroids (Street Names: Arnolds, Gym Candy, Pumpers, Roids, Stackers, Weight Trainers, Gear, and Juice). December 2022.

and improves overall quality of life for TGNC individuals.[5] Further, the DEA's own research demonstrates that diversion is a minimal risk in the context of supervised medical care as recreational sources of testosterone are primarily obtained from overseas illicit pharmacies, rather than diverted from actual prescriptions from supervised medical care. [6]

B. The flexibility afforded medical providers during the PHE expanded access to lifesaving care in an unprecedented way.

The TGNC community has been–and continues to be–excluded from safe physical spaces to receive medically necessary healthcare due to a lack of culturally and clinically competent healthcare providers. LGBTQ+ –focused clinics are clustered in only a few major cities across the U.S. and typically have months-long waiting periods to secure an appointment. Although more accessible geographically, general practitioners and clinics often have providers and staff who are unfamiliar with the specific care needs of the transgender community, leading to transgender patients experiencing discriminatory and inadequate care in far too many instances. Data show that, of those transgender patients that see a physician, 33 percent reported harassment and care denial and 50 percent reported that they had to train their own physician on how to properly provide care.[7,8] Indeed, 85 percent of TGNC people delayed medically necessary care in 2021 for fear of discrimination.[9]

We have seen first hand over the last three years, along with many other healthcare providers who provide services to the TGNC community, how important telemedicine is for accessing culturally competent healthcare. In fact, 98 percent of TGNC people were estimated to use telemedicine in 2022, and the TGNC community is more than twice as likely as the general population to access healthcare via telemedicine.[10] In particular, the waiving of the in-person evaluation requirement under the Ryan Haight Act for the prescribing of controlled substances via telemedicine during the COVID-19 Public Health Emergency (PHE) helped break down barriers for underserved populations, including individuals needing testosterone (schedule III controlled substance) for gender-affirming care.

[5] Hughto J and Reisner S. "A Systematic Review of the Effects of Hormone Therapy on Psychological Functioning and Quality of Life in Transgender Individuals." *Transgender Health.* Vol. 1. No. 1. Jan 2016.
[6] DEA, supra n. 4.
[7] National Center for Transgender Equality. The Report of the 2015 U.S. Transgender Survey. December 2016.
[8] Lock et al. "Transgender Care and the COVID-19 Pandemic: Exploring the Initiation and Continuation of Transgender Care In-Person and Through Telehealth." *Transgender Health.* Vol. 7, No. 2. April 11, 2022.
[9] DeSilva et al. "Startup innovation for underserved groups: 2021 digital health consumer adoption insights." Rock Health and the Stanford Center of Digital Health. May 16, 2022.
[10] Knowles et al. "Consumer adoption of digital health in 2022: Moving at the speed of trust." February 21, 2023.

III. Detailed Comments

1. *Permit telemedicine access to testosterone along with all non-narcotic schedule III-V controlled substances without a prior in-person evaluation to the maximum extent legally permissible.*

   The plain text of the Ryan Haight Act, codified at 21 USC 829(e)(3) and 21 CFR 1300.04(i)(7), establishes that the DEA does have authority, as delegated by the Attorney General, to waive the need for an in-person evaluation for the telemedicine prescribing of controlled substances, while still ensuring effective controls against diversion and otherwise consistent with public health and safety.

   Eliminating the need for an in-person medical evaluation prior to a prescription will prevent disruption and delay in lifesaving care for millions of people. Indeed, the flexibility to prescribe testosterone therapy via telemedicine without an in-person evaluation during the COVID-19 PHE has meaningfully increased access to lifesaving care for transgender individuals. In fact, a recent study found a demonstrable increase in new transgender patient visits specifically for gender-affirming hormone therapy with the adoption of telehealth during the pandemic.[11] Further, research also shows that transgender individuals are more than twice as likely to use telehealth compared to the general population and, as noted above, 85 percent of transgender people delayed medically necessary care due to fear of discrimination in physical settings.[3]

   Moreover, use of telemedicine is consistent with the standard of care in the evaluation of a patient for a prescription of testosterone as part of gender-affirming care for TGNC individuals. As underscored at the outset of these comments, the COVID-19 experience clearly has demonstrated that an in-person physical exam is not required to safely prescribe testosterone for gender-affirming care as supported by the standards of care.[12] Changes to the current standard of care to require an in-person visit for testosterone therapy prescriptions could needlessly limit access to this lifesaving treatment for numerous TGNC individuals. A two-way audio-visual telemedicine encounter more than satisfies DEA'a overarching mandate to provide effective controls against diversion, while ensuring the public health and safety.

2. *Do not limit telemedicine prescribed controlled substances to FDA-approved indications. Many medications are used off-label, including testosterone for gender-affirming care.*

[11] Lock et al. "Transgender Care and the COVID-19 Pandemic: Exploring the Initiation and Continuation of Transgender Care In-Person and Through Telehealth." *Transgender Health.* Vol. 7, No. 2. April 11, 2022.
[12] World Professional Association for Transgender Health. Standards of Care Version 8. Accessed March 2, 2023.

As noted above, testosterone has been deemed safe and effective for the purpose of gender-affirming care as detailed in the WPATH standards of care since 1979. Despite this, testosterone has not been FDA-approved for gender-affirming care. Limiting telemedicine prescribed controlled substances to FDA-approved indications would effectively eliminate the ability of providers to prescribe gender-affirming testosterone via telemedicine. Further, testosterone is a necessary and lifesaving application for millions of people. It is critical that gender-affirming care is acknowledged as a valid medical indication for the purpose of prescribing testosterone via telemedicine. Eliminating providers' ability to prescribe testosterone via telemedicine would impede the Administration's ability to carry out its statutory mandate to safeguard the public health and safety in a context where diversion is of minimal concern.

While Plume strongly believes that providers should be able to prescribe testosterone therapy as part of gender-affirming care via telemedicine without the requirement of an in-person visit, we recognize that the Administration may still seek to impose limitations on telemedicine prescriptions of scheduled III-IV controlled substances. Thus, we respectfully offer the following suggestions to facilitate appropriate access to testosterone therapy for TGNC individuals via telemedicine under certain conditions as follows.

3. *Allow for up to a 6-month (30-day prescription with up to 5 refills) total initial supply without requiring an in-person medical evaluation with follow-up via telemedicine per the standard of care within that initial 6-month period.*

   Testosterone therapy is taken for the duration of a patient's life by most people undergoing testosterone gender-affirming hormone therapy. While allowing individuals to start or continue care without an in-person evaluation would be ideal, if the Administration believes that an in-person visit is preferred, we strongly recommend a longer period of initial medication supply prior to requiring any in-person evaluation. A 30-day one time prescription will not allow enough time for most TGNC individuals to find an in-person medical provider given the lack of culturally and clinically competent medical providers available to the TGNC community, in both urban and rural areas.

4. *Revise the proposed definition of "telemedicine referral" within the proposed rule to not require a referral but instead permit review of patient medical records reflecting an in-person evaluation to qualify an individual for a telemedicine prescription.*

   We appreciate how the telemedicine referral process takes the burden off of the telemedicine provider to facilitate an in-person visit or to virtually attend an encounter with a DEA-licensed practitioner who is physically present with the patient. However, due to discrimination and a lack of competent healthcare providers, many TGNC individuals do not have access to a brick and mortar clinic to facilitate the telemedicine referral. Further, the proposed rule specifies various

requirements within the referral and the prescription which are non-standard and will likely cause confusion among both prescribing practitioners and pharmacies, which will further delay and/or interrupt care. Therefore, in lieu of making a patient schedule an in-person evaluation, we recommend allowing a telemedicine referral to take place if the referring practitioner has reviewed the patient's medical record from an in-person medical evaluation or records from a blood draw.

5. *Allow any patient who has established care via telemedicine during the course of the COVID-19 Public Health Emergency ("PHE") to continue care indefinitely without requiring an in-person visit – and at a minimum, for one year, instead of the proposed 180 days.*

   While the current 180-day extension for those who have established care via telemedicine during the PHE will be helpful for some, as noted above, most TGNC individuals do not have access to culturally and clinically competent brick and mortar healthcare providers in their area. Given the long wait times and difficulty accessing a limited number of culturally and clinically competent healthcare providers, extending the current 180-day PHE to at least a one-year time frame would ensure that TGNC community members do not experience a potentially life-threatening lapse in access to care. Given these patients have already established care with appropriate safeguards and monitoring per the standard of care, we respectfully request that the Administration allow them to continue care indefinitely in a telemedicine setting.

IV. Conclusion

In conclusion, Plume again wishes to thank the DEA for the opportunity to comment on "Telemedicine Prescribing of Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In-Person Medical Evaluation" (Docket No. DEA-407). While we support efforts to limit inappropriate diversion of controlled substances, we respectfully urge the Administration to recognize the importance of ensuring that TGNC individuals maintain appropriate access to testosterone therapy via telemedicine to the fullest extent by ensuring continued access to lifesaving, gender-affirming care. We look forward to serving as a partner and source of expertise as the Administration continues to engage in this important work. Please do not hesitate to contact me, Jerrica Kirkley, at jerrica@getplume.co if you have any questions about these comments or other issues related to the provision of services to the TGNC community.

Sincerely,

Dr. Jerrica Kirkley, MD
Chief Medical Officer and Co-Founder of Plume

March 30, 2023

Plume Public Comments on DEA Proposed Rulemaking on Prescribing of Controlled Substances

[Submitted electronically via www.regulations.gov]

Anne Milgram
Administrator
Drug Enforcement Administration
Attn: DEA Federal Register Representative/DPW
8701 Morrissette Drive
Springfield, VA 22152

RE: Telemedicine Prescribing of Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In-Person Medical Evaluation [Docket No. DEA-407]

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[1] Transgender Legal Defense & Education Fund. TLDEF's Trans Health Project. Accessed March 1, 2023.
[2] National Center for Transgender Equality. The Report of the 2015 Transgender Survey. December 2016.
[3] World Professional Association for Transgender Health. Standards of Care Version 8. Accessed March 2, 2023.
[4] DEA. Anabolic Steroids (Street Names: Arnolds, Gym Candy, Pumpers, Roids, Stackers, Weight Trainers, Gear, and Juice). December 2022.

and improves overall quality of life for TGNC individuals.[5] Further, the DEA's own research demonstrates that diversion is a minimal risk in the context of supervised medical care as recreational sources of testosterone are primarily obtained from overseas illicit pharmacies, rather than diverted from actual prescriptions from supervised medical care. [6]

B. The flexibility afforded medical providers during the PHE expanded access to lifesaving care in an unprecedented way.

The TGNC community has been–and continues to be–excluded from safe physical spaces to receive medically necessary healthcare due to a lack of culturally and clinically competent healthcare providers. LGBTQ+ –focused clinics are clustered in only a few major cities across the U.S. and typically have months-long waiting periods to secure an appointment. Although more accessible geographically, general practitioners and clinics often have providers and staff who are unfamiliar with the specific care needs of the transgender community, leading to transgender patients experiencing discriminatory and inadequate care in far too many instances. Data show that, of those transgender patients that see a physician, 33 percent reported harassment and care denial and 50 percent reported that they had to train their own physician on how to properly provide care.[7,8] Indeed, 85 percent of TGNC people delayed medically necessary care in 2021 for fear of discrimination.[9]

We have seen first hand over the last three years, along with many other healthcare providers who provide services to the TGNC community, how important telemedicine is for accessing culturally competent healthcare. In fact, 98 percent of TGNC people were estimated to use telemedicine in 2022, and the TGNC community is more than twice as likely as the general population to access healthcare via telemedicine.[10] In particular, the waiving of the in-person evaluation requirement under the Ryan Haight Act for the prescribing of controlled substances via telemedicine during the COVID-19 Public Health Emergency (PHE) helped break down barriers for underserved populations, including individuals needing testosterone (schedule III controlled substance) for gender-affirming care.

[5] Hughto J and Reisner S. "A Systematic Review of the Effects of Hormone Therapy on Psychological Functioning and Quality of Life in Transgender Individuals." *Transgender Health.* Vol. 1. No. 1. Jan 2016.
[6] DEA, supra n. 4.
[7] National Center for Transgender Equality. The Report of the 2015 U.S. Transgender Survey. December 2016.
[8] Lock et al. "Transgender Care and the COVID-19 Pandemic: Exploring the Initiation and Continuation of Transgender Care In-Person and Through Telehealth." *Transgender Health.* Vol. 7, No. 2. April 11, 2022.
[9] DeSilva et al. "Startup innovation for underserved groups: 2021 digital health consumer adoption insights." Rock Health and the Stanford Center of Digital Health. May 16, 2022.
[10] Knowles et al. "Consumer adoption of digital health in 2022: Moving at the speed of trust." February 21, 2023.

III. Detailed Comments

1. *Permit telemedicine access to testosterone along with all non-narcotic schedule III-V controlled substances without a prior in-person evaluation to the maximum extent legally permissible.*

   The plain text of the Ryan Haight Act, codified at 21 USC 829(e)(3) and 21 CFR 1300.04(i)(7), establishes that the DEA does have authority, as delegated by the Attorney General, to waive the need for an in-person evaluation for the telemedicine prescribing of controlled substances, while still ensuring effective controls against diversion and otherwise consistent with public health and safety.

   Eliminating the need for an in-person medical evaluation prior to a prescription will prevent disruption and delay in lifesaving care for millions of people. Indeed, the flexibility to prescribe testosterone therapy via telemedicine without an in-person evaluation during the COVID-19 PHE has meaningfully increased access to lifesaving care for transgender individuals. In fact, a recent study found a demonstrable increase in new transgender patient visits specifically for gender-affirming hormone therapy with the adoption of telehealth during the pandemic.[11] Further, research also shows that transgender individuals are more than twice as likely to use telehealth compared to the general population and, as noted above, 85 percent of transgender people delayed medically necessary care due to fear of discrimination in physical settings.[3]

   Moreover, use of telemedicine is consistent with the standard of care in the evaluation of a patient for a prescription of testosterone as part of gender-affirming care for TGNC individuals. As underscored at the outset of these comments, the COVID-19 experience clearly has demonstrated that an in-person physical exam is not required to safely prescribe testosterone for gender-affirming care as supported by the standards of care.[12] Changes to the current standard of care to require an in-person visit for testosterone therapy prescriptions could needlessly limit access to this lifesaving treatment for numerous TGNC individuals. A two-way audio-visual telemedicine encounter more than satisfies DEA'a overarching mandate to provide effective controls against diversion, while ensuring the public health and safety.

2. *Do not limit telemedicine prescribed controlled substances to FDA-approved indications. Many medications are used off-label, including testosterone for gender-affirming care.*

[11] Lock et al. "Transgender Care and the COVID-19 Pandemic: Exploring the Initiation and Continuation of Transgender Care In-Person and Through Telehealth." *Transgender Health.* Vol. 7, No. 2. April 11, 2022.
[12] World Professional Association for Transgender Health. Standards of Care Version 8. Accessed March 2, 2023.

As noted above, testosterone has been deemed safe and effective for the purpose of gender-affirming care as detailed in the WPATH standards of care since 1979. Despite this, testosterone has not been FDA-approved for gender-affirming care. Limiting telemedicine prescribed controlled substances to FDA-approved indications would effectively eliminate the ability of providers to prescribe gender-affirming testosterone via telemedicine. Further, testosterone is a necessary and lifesaving application for millions of people. It is critical that gender-affirming care is acknowledged as a valid medical indication for the purpose of prescribing testosterone via telemedicine. Eliminating providers' ability to prescribe testosterone via telemedicine would impede the Administration's ability to carry out its statutory mandate to safeguard the public health and safety in a context where diversion is of minimal concern.

While Plume strongly believes that providers should be able to prescribe testosterone therapy as part of gender-affirming care via telemedicine without the requirement of an in-person visit, we recognize that the Administration may still seek to impose limitations on telemedicine prescriptions of scheduled III-IV controlled substances. Thus, we respectfully offer the following suggestions to facilitate appropriate access to testosterone therapy for TGNC individuals via telemedicine under certain conditions as follows.

3. *Allow for up to a 6-month (30-day prescription with up to 5 refills) total initial supply without requiring an in-person medical evaluation with follow-up via telemedicine per the standard of care within that initial 6-month period.*

   Testosterone therapy is taken for the duration of a patient's life by most people undergoing testosterone gender-affirming hormone therapy. While allowing individuals to start or continue care without an in-person evaluation would be ideal, if the Administration believes that an in-person visit is preferred, we strongly recommend a longer period of initial medication supply prior to requiring any in-person evaluation. A 30-day one time prescription will not allow enough time for most TGNC individuals to find an in-person medical provider given the lack of culturally and clinically competent medical providers available to the TGNC community, in both urban and rural areas.

4. *Revise the proposed definition of "telemedicine referral" within the proposed rule to not require a referral but instead permit review of patient medical records reflecting an in-person evaluation to qualify an individual for a telemedicine prescription.*

   We appreciate how the telemedicine referral process takes the burden off of the telemedicine provider to facilitate an in-person visit or to virtually attend an encounter with a DEA-licensed practitioner who is physically present with the patient. However, due to discrimination and a lack of competent healthcare providers, many TGNC individuals do not have access to a brick and mortar clinic to facilitate the telemedicine referral. Further, the proposed rule specifies various

requirements within the referral and the prescription which are non-standard and will likely cause confusion among both prescribing practitioners and pharmacies, which will further delay and/or interrupt care. Therefore, in lieu of making a patient schedule an in-person evaluation, we recommend allowing a telemedicine referral to take place if the referring practitioner has reviewed the patient's medical record from an in-person medical evaluation or records from a blood draw.

5. *Allow any patient who has established care via telemedicine during the course of the COVID-19 Public Health Emergency ("PHE") to continue care indefinitely without requiring an in-person visit – and at a minimum, for one year, instead of the proposed 180 days.*

   While the current 180-day extension for those who have established care via telemedicine during the PHE will be helpful for some, as noted above, most TGNC individuals do not have access to culturally and clinically competent brick and mortar healthcare providers in their area. Given the long wait times and difficulty accessing a limited number of culturally and clinically competent healthcare providers, extending the current 180-day PHE to at least a one-year time frame would ensure that TGNC community members do not experience a potentially life-threatening lapse in access to care. Given these patients have already established care with appropriate safeguards and monitoring per the standard of care, we respectfully request that the Administration allow them to continue care indefinitely in a telemedicine setting.

IV. Conclusion

In conclusion, Plume again wishes to thank the DEA for the opportunity to comment on "Telemedicine Prescribing of Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In-Person Medical Evaluation" (Docket No. DEA-407). While we support efforts to limit inappropriate diversion of controlled substances, we respectfully urge the Administration to recognize the importance of ensuring that TGNC individuals maintain appropriate access to testosterone therapy via telemedicine to the fullest extent by ensuring continued access to lifesaving, gender-affirming care. We look forward to serving as a partner and source of expertise as the Administration continues to engage in this important work. Please do not hesitate to contact me, Jerrica Kirkley, at jerrica@getplume.co if you have any questions about these comments or other issues related to the provision of services to the TGNC community.

Sincerely,

Dr. Jerrica Kirkley, MD
Chief Medical Officer and Co-Founder of Plume

From: Levine, Rachel (HHS/OASH)
Sent: Wed, 5 Apr 2023 11:09:43 +0000
To: Shanker, Adrian (HHS/OASH); Boateng, Sarah (HHS/OASH); Rabin, Brian (HHS/OASH/IO); Calsyn, Maura (HHS/OASH)
Subject: RE: FYI: OPM Releases Updated Guidance Advancing Gender Identity Inclusion in the Federal Workplace - Please Share w/ Your Networks

Great, thank you. We should consider including in speeches

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
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OASH | Office of the Assistant Secretary for Health

From: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>
Sent: Tuesday, April 4, 2023 5:50 PM
To: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Rabin, Brian (HHS/OASH/IO) <Brian.Rabin@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: Fwd: FYI: OPM Releases Updated Guidance Advancing Gender Identity Inclusion in the Federal Workplace - Please Share w/ Your Networks

For awareness - from OPM

From: White, Bonita (OS/ASA/EEODI) <Bonita.White@HHS.GOV>
Sent: Tuesday, April 4, 2023 5:43 PM
To: Morgan, Kelly M. (AHRQ/OMS) <kelly.morgan@ahrq.hhs.gov>; Chaudhuri (she/they), Ilina (CMS/CM) <Ilina.Chaudhuri@cms.hhs.gov>; White, Bali (NIH/OD) [F] <bali.white@nih.gov>; Coggins, Chandler (SAMHSA/CMHS) <Chandler.Coggins@samhsa.hhs.gov>; Wright, Natasha (ACF) <Natasha.Wright@acf.hhs.gov>; Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Walker, Edwin L. (ACL) <edwin.walker@acl.hhs.gov>; Wu, Wendy (OS/DAB) <Wendy.Wu@hhs.gov>; Kane-Lee, Emily (HRSA) <EKane-Lee@hrsa.gov>; Lees, Paul (HHS/OASH) <Paul.Lees@hhs.gov>; White, Bali (NIH/OD) [F] <bali.white@nih.gov>; Galang, Romeo R. (CDC/DDNID/NCCDPHP/DRH) <ydh0@cdc.gov>;

Rivera, Cynthia (HHS/OMHA) <Cynthia.Rivera@hhs.gov>; Johnson, Amy (HHS/OMHA) <Amy.Johnson@hhs.gov>; Wolicki, Sara (CDC/DDNID/NCIPC/DIP) <klx6@cdc.gov>; Haverkate, Richard (IHS/HQ) <Richard.Haverkate@ihs.gov>; Thompson, Sara (FDA/CDRH) <Sara.Thompson@fda.hhs.gov>; Mason, Byron (ACF) <Byron.Mason@acf.hhs.gov>; Tereshonkova, Alex (ACF) <Alexandra.Tereshonkova@acf.hhs.gov>; Williamson, Diane (OS/ASA/OHR) <Diane.Williamson@hhs.gov>; Abel, Brent (NIH/NIDDK) [C] <abelbrent@niddk.nih.gov>; White, Vanessa (NIH/OD) [E] <vanessa.white@nih.gov>; Jackson, Robyne L (OIG/OMP) <robyne.jackson@oig.hhs.gov>; Freggens, Zoe (CDC/DDPHSIS/OMHHE/MHHEP) <rvi9@cdc.gov>; Handerhan, Larry (ACF) <Larry.Handerhan@acf.hhs.gov>; Riera, Alfredo (OS/ASA/PSC/RLO) <Alfredo.Riera@psc.hhs.gov>; Boray, Gopinath (OS/ASA/PSC/RLO) <Gopinath.Boray@psc.hhs.gov>; Perez Castro, Fernando (OS/ASA/PSC/RLO) <Fernando.Perezcastro@psc.hhs.gov>; Gumapas, Leo Angelo (OS/ASA/PSC/RLO) <Leoangelo.Gumapas@psc.hhs.gov>; Fusaro, Vincent J - TFAA-FAS, Washington, DC <vincentj.fusaro@usda.gov>
Subject: FYI: OPM Releases Updated Guidance Advancing Gender Identity Inclusion in the Federal Workplace - Please Share w/ Your Networks

From: ODEIA <ODEIA@opm.gov>
Sent: Friday, March 31, 2023 10:30 AM
To: ODEIA <ODEIA@opm.gov>
Subject: OPM Releases Updated Guidance Advancing Gender Identity Inclusion in the Federal Workplace

Dear Chief Diversity Officers and DEIA Leaders,

Today, on International Transgender Day of Visibility, OPM released *Guidance Regarding Gender Identity and Inclusion in the Federal Workplace*, an update to existing guidance originally released in 2015. The updated guidance provides a baseline of gender identity inclusion practices in an effort to support agency compliance with non-discrimination laws and executive policies and to foster a welcoming and supportive workplace for all applicants and employees across the Federal government. Additionally, the White House issued this fact sheet.

Please email ODEIA@opm.gov with questions.

Best,

Dr. Janice Underwood
Government-wide Chief Diversity Officer and Director of OPM's Office of Diversity, Equity, Inclusion and Accessibility

Office of Diversity, Equity, Inclusion, and Accessibility
U.S. Office of Personnel Management
ODEIA@opm.gov
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OPM | ODEIA

Respectfully,

Bonita V. White, M.A., J.D.
Director, National Policy & Programs Division
Office of Equal Employment Opportunity, Diversity & Inclusion
Department of Health and Human Services
Mary E. Switzer Building - 330 C Street S.W. - Room 2517
Washington, D.C. 20201
Tel: 202-690-6674 (Voice/Relay) Mobile: (b)(6)
E-Mail: Bonita.White@hhs.gov
Pronouns I use: she, her, hers *why I share my pronouns*

From: Levine, Rachel (HHS/OASH)
Sent: Mon, 27 Mar 2023 16:31:40 +0000
To: Shanker, Adrian (HHS/OASH); Sarvana, Adam (HHS/OASH); Broido, Tara (HHS/OASH)
Cc: Boateng, Sarah (HHS/OASH)
Subject: RE: From Shawn Gaylord at The Raben Group

Sounds good, thanks!

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>
Sent: Monday, March 27, 2023 12:27 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Subject: RE: From Shawn Gaylord at The Raben Group

Hi ADM Levine, I shared some thoughts internally with Sarah, CAPT Oh, and Maura on this --- I'll get back to Shawn now to let him know we received the invite, and that we will get back to him soon.

Adrian

From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Monday, March 27, 2023 12:23 PM
To: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Subject: FW: From Shawn Gaylord at The Raben Group

Good afternoon. FYI.
Please reach out to him to let him know that we received the invitation and then let me know your thoughts. Thanks, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health

Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Shawn Gaylord <sgaylord@rabengroup.com>
Sent: Monday, March 27, 2023 11:54 AM

To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Rachel Levine <(b)(6)
Subject: Re: From Shawn Gaylord at The Raben Group

Dr. Levine,

Just wanted to follow up on this request. If your schedule is too hectic, we could try you at a later time and I could reach out to other potential contributors. But I'm still hoping we can work with you on this! :)

Regards,

Shawn

_____
Shawn Gaylord | Principal | THE RABEN GROUP
1341 G STREET NW, FIFTH FLOOR | WASHINGTON DC 20005
202 466 8585 MAIN | (b)(6) MOBILE
SGAYLORD@RABENGROUP.COM | WWW.RABENGROUP.COM
PRONOUNS: HE/HIM/HIS

THE RABEN GROUP IS MOVING!
Please take a moment to update your records.
As of April 1, 2023 our new DC address will be:
525 9TH ST NW, 7TH FLOOR
WASHINGTON, DC 20004
Can't wait to see you at the office warming!

On Thu, Mar 23, 2023 at 3:04?PM Shawn Gaylord <sgaylord@rabengroup.com> wrote:
Dr. Levine,

I hope all's well! You and I corresponded when I was the Director of the Equality Caucus on the House side. I am now at The Raben Group on LGBTQ and other human rights-related projects. We do a bi-monthly communication out to our LGBTQ list which includes profiles of key LGBTQ leaders. I was wondering if you might be interested in being featured in our April edition.

I will paste below the beginning of the profile we did with Co-Chair Mark Takano so you have an idea. It's a fairly simple Q&A about what you do and what your priorities are. We are happy to shape them around your areas of interest. Please let me know if you think this is of interest and you can connect me to people on your team who can assist.

Your voice is more important than ever these days, I believe. We'd love to help elevate it. Thanks in advance for your consideration!

Regards,

Shawn

_____
Shawn Gaylord | Principal | THE RABEN GROUP
1341 G STREET NW, FIFTH FLOOR | WASHINGTON DC 20005
202 466 8585 MAIN | (b)(6) MOBILE
SGAYLORD@RABENGROUP.COM | WWW.RABENGROUP.COM
PRONOUNS: HE/HIM/HIS

Congressman Mark Takano has been doing this work for a long time, but I don't think he's seen many years as topsy-turvy as 2022.

From the joy of the *Respect for Marriage Act* to the dismaying wave of anti-LGBTQ bills in the states, 2022 was a year of high highs and low lows for LGBTQ+ allies, and Takano sees more fights ahead in the historic 118th Congress — the "gayest Congress ever," he calls it.

The first time I met Congressman Takano was when he had just arrived in Washington for orientation after his first election. I was impressed then with his energy and his vision, and years later, I had the pleasure of working among his team as the executive director of the Equality Caucus. He remains one of my personal heroes, so I was thrilled at the chance to reconnect and ask him for his thoughts on everything happening in Congress.

I recently asked the Congressman for his outlook on LGBTQ+ issues in 2023... a queer State of the Union, if you will... and I think you'll find his thoughts fascinating. Please take a moment to read, and sign up here for timely breakdowns of news, strategy, interviews, and analysis for (and by) LGBTQ+ movement leaders.

SIGN UP NOW

Thank you,
Shawn Gaylord
Principal, The Raben Group

WHAT DO YOU SEE AS THE BIGGEST LGBTQ+ RELATED SUCCESS IN THE 117TH CONGRESS?

The *Respect for Marriage Act* is a massive victory and historic moment! As the first openly gay member of color elected in history, voting for and witnessing the signing of the *Respect for Marriage Act* meant the world to me. This was the first LGBTQ-specific legislation to pass the president's desk in twelve years.

President Joe Biden has also been an instrumental partner for the LGBTQ community — Congress is working alongside the most LGBTQ-friendly president and administration in history. Numerous Executive Orders signed by President Biden ordered federal agencies to address discrimination and promote equality as they interpret policy and enforce anti-discrimination protections.

These orders, from extending protections offered by Title IX covering sexual orientation and gender, to requiring jurisdictions that receive funding for the Fair Housing Assistance program to apply anti-discrimination protections for sexual orientation and gender identity,

to authorizing an agency-wide review of Department of Veterans Affairs policies and practices to remove barriers that transgender veterans and their families face, are all incredibly encouraging for our community's continued progress towards true equality.

WHAT ARE YOUR **REFLECTIONS ON THE CURRENT STATE OF AFFAIRS** FOR THE LGBTQ+ COMMUNITY?

This is a very difficult time for the LGBTQ community — we are seeing a coordinated attack on our rights, and those who are on the front lines are some of the most vulnerable and the most marginalized: kids/LGBTQ young people and the transgender community. The last year was the worst legislative year on record for the LGBTQ community, with the introduction of over 300 anti-LGBTQ bills (and the Texas legislature wasn't even in session).

I was hoping to engage him and the team down the road as part of my work with Raben. We do a bi-monthly communication out to our LGBTQ list which includes profiles of key LGBTQ leaders. We did one with Co-Chair. Takano already. We also do breakfast gatherings and are about to do one with Chair Pocan. I assumed we'd also ask your boss to participate with perhaps a focus on international LGBTQ issues. But now wondering if we might still get him for either or both before he departs. It would be amazing to have him talk about his legacy during his time in the House. I realize his schedule might be very tight but let me know what might be possible.

The breakfast events are small in-person events with 40-50 people - includes our clients in the advocacy world but we also invite corporate clients. We would work around his availability.

I will paste below the beginning of the profile we did with Co-Chair Takano so you have an idea. The next communication in this series would happen in the next few weeks (but this may not need as much of his personal attention).

If either of these opportunities work, please let me know. Would be great to highlight his tenure and work before he leaves DC.

Regards,

Shawn

From: Levine, Rachel (HHS/OASH)
Sent: Wed, 22 Mar 2023 11:24:24 +0000
To: Broido, Tara (HHS/OASH)
Cc: Boateng, Sarah (HHS/OASH); Cure, Kelly (OS/OASH) (CTR); Lee, Kinbo (HHS/OASH); Richmond, Alicia (HHS/OASH); Oh, Kathy (OS/OASH); Sarvana, Adam (HHS/OASH); Mikre, Meriam (HHS/OASH); Channer, Amber (OS/OASH); Shanker, Adrian (HHS/OASH); Mascarenas, Ana (HHS/OASH); Seigfreid, Kimberly (HHS/OASH); Brown, Michele (HHS/OASH); Calsyn, Maura (HHS/OASH); Rosenthal, Lynn (HHS/OASH); Iademarco, Michael (HHS/OASH); Migliaccio-Grabill, Kate (HHS/OASH); Lyles, Johnalyn (HHS/OASH)
Subject: RE: OASH Comms Nightly: Tuesday, March 21

Tara, thank you. Should we end the quote for TDOV with our vision statement instead of life liberty etc… Just a thought.
Otherwise. I approve, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Sent: Tuesday, March 21, 2023 3:52 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>; Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Mikre, Meriam (HHS/OASH) <Meriam.Mikre@hhs.gov>; Channer, Amber (OS/OASH) <Amber.Channer@hhs.gov>; Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Mascarenas, Ana (HHS/OASH) <Ana.Mascarenas@hhs.gov>; Seigfreid, Kimberly (HHS/OASH) <Kimberly.Seigfreid@hhs.gov>; Brown, Michele (HHS/OASH) <Michele.Brown@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Rosenthal, Lynn (HHS/OASH) <Lynn.Rosenthal@hhs.gov>; Iademarco, Michael (HHS/OASH) <Michael.Iademarco@hhs.gov>; Migliaccio-Grabill, Kate (HHS/OASH)

<Kate.Migliaccio-Grabill@hhs.gov>; Lyles, Johnalyn (HHS/OASH) <Johnalyn.Lyles@hhs.gov>
Subject: OASH Comms Nightly: Tuesday, March 21

Dear ADM Levine,

We have five updates today.

FOR YOUR REVIEW/APPROVAL

(b)(5)

(b)(5)

Thanks,
OASH Comms

From: Levine, Rachel (HHS/OASH)
Sent: Wed, 22 Mar 2023 11:19:00 +0000
To: Boateng, Sarah (HHS/OASH); Shanker, Adrian (HHS/OASH); Oh, Kathy (OS/OASH)
Subject: FW: Thank You from the first transgender specialty clinic in MS (spoke with you at the WPATH conference)

Adrian, This is a physician that I met at WPATH. Please reply for me. Thanks, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Stacie Pace (b)(6)
Sent: Tuesday, March 21, 2023 5:12 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: Re: Thank You from the first transgender specialty clinic in MS (spoke with you at the WPATH conference)

Hello Again Dr. Levine,

This is Stacie Pace, owner/operator of the only transgender hormone clinic in Mississippi. Basically just sending an update. We're still here. Still fighting. You may or may not know about the trans youth ban that passed in Mississippi a few weeks ago. Honestly, it is hard to keep track of so much hatred directed at this community. My husband and I traveled to the state capitol and begged the senators there to actually pick up a book, study, or some other literature to get real info on trans care. They declined. Senator Joey Fillingane actually lied in front of the senate while they voted on HB 1125. He said there were trans youth receiving surgeries here in MS. Of all the nonsense. He said he spoke to a surgeon in Hattiesburg (our own town) who did these procedures. I asked Fillingane who it was and he told me. And that surgeon was subsequently contacted and asked and said he absolutely never told Fillingane those things. And actually what he did tell him was that he performs breast augmentation on cisgender

teen girls. When confronted about this, Fillingane said “I heard what I heard.” Wow Seriously, it destroys my soul sometimes to see such lies twisted into use by our legislative system.
We tried. We really did. But no one else in the medical community here stood up. Not the University Medical Center School of Medicine. Not even our state boards of Nursing and Medicine. What are they even there for? At any rate, we managed to refer our youth patients out of state before the governor signed HB 1125 into law. Though things are getting slim for the picking down here since TN is enacting a ban and the AL ban is caught up in the court system. And others are jumping on the bandwagon. Sigh…
My husband and I are working through if we want to move out of state and continue to just do telemedicine for MS (this option is being decided on due to safety concerns from the barrage of death threats and otherwise that we receive). But with testosterone being a controlled substance, we will still have to maintain at least some physical presence in the state no matter what, unfortunately. I know the DEA is working on a sort of compromise for controlled prescribing via telemedicine, but what they’ve proposed will still make it very difficult for these poor MS trans people to access care as easily as they were able to during the pandemic when the Ryan Haight Act was fully suspended.
I guess I’m just writing to you to vent. I apologize. I know you have a world of troubles to deal with. It just helps my mental health to send this and know that there is at least one person in our upper levels of government who will know exactly what I am talking about herein. Thank you so much for “listening.”

With Love,

Stacie Pace
Spectrum: The Other Clinic
www.otherclinic.org
Cell: (b)(6)

On Sep 19, 2022, at 05:39, Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov> wrote:

?
Stacie, Good morning. Great to meet you at WPATH.
I am looking forward to keeping in touch and hearing about your work.
I am not sure when I will be coming to Mississippi but I hope to se you soon.
Take care, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

<image001.png>

Email: rachel.levine@hhs.gov
hhs.gov/ash

<image002.jpg>

From: Stacie Pace <spectrum@otherclinic.org>
Sent: Sunday, September 18, 2022 3:03 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: Thank You from the first transgender specialty clinic in MS (spoke with you at the WPATH conference)

Dear Dr. Levine,

It was such an honor having you speak at the WPATH conference, and getting to stand up and ask you questions in person was a true dream come true. As I mentioned when I stood up to the mic, my husband and I founded the first (and still only) transgender hormone specialty clinic in the state of Mississippi. And having support from folks such as yourself in positions of authority means the world to us and our patients here in MS. In this state, insurance coverage for gender services is hit or miss, and so many of our patients have no insurance coverage anyway. So we largely try not to depend on it and instead seek out affordable options for our patients to pay out of pocket by partnering with local lab companies and pharmacies. So far, this has really done wonders for hormone access down here. We have sought out grants for this purpose as well, but so far what we find available for trans people is earmarked more for HIV specific care measures.

Sorry to be long-winded, I guess that's just how we are here in MS. Getting to the point, I know you mentioned that y'all will be heading this way in the future, and we would love to come out and maybe speak again.

Thank you again for your national efforts on these matters and for taking the time to read/listen to us little folk.

Sincerely,

Stacie Pace, MSN, ACNP, AGNP, CCTSI
She/Her/They
Transgender Medicine Specialist
Spectrum: The Other Clinic
www.otherclinic.org
Cell Phone: (b)(6)
Clinic Line: 601-643-9708
Clinic Fax: 601-469-9965

From: Jerrica Kirkley
Sent: Fri, 17 Mar 2023 16:50:43 -0600
To: Levine, Rachel (HHS/OASH)
Cc: Cure, Kelly (OS/OASH) (CTR)
Subject: Thank you and TDOV program idea

Dear Admiral Levine,

I hope this finds you well since the last time we spoke. I first wanted to say thank you for all the work you, OASH, and HHS continue to do to support transgender and gender nonconforming folks, as well as all underrepresented and underserved communities. At Plume we continue to expand our services and reach as best we can. We are working diligently on expanding our scope of care to include more primary care and mental health support services and also be able to accept insurance from a variety of payers across the country to further decrease out of pocket cost for patients.

Understandably, we are concerned how the PHE ending will affect access to care at Plume and around the nation for TGNC folks. I deeply appreciate your efforts in working with the DEA to get a proposed rule out for the telemedicine prescribing of controlled substances that will hopefully minimize barriers in accessing testosterone for gender-affirming care and other life saving medications via telehealth.

As you know, March 31st marks the annual Trans Day of Visibility - a time to celebrate the community and highlight the many challenges those in the community continue to face.

As the highest-ranking transgender person in the Biden Administration, your work is an inspiration to me and so many others. At Plume we have been thinking of how we can use our platform to shine a light on our community and highlight Trans joy amidst an increasingly scary and challenging time for many TGNC individuals. I would like to humbly ask if you would be willing to join me in a conversation to talk about our experiences breaking barriers in the healthcare and tech fields; navigating being a trailblazer (while paving a path behind for others to follow); and holding onto joy in dark moments — while also offering insights for women, trans, gender-diverse and all people everywhere on how we can work together to build the inclusive world we deserve.

Would you be able to lend 30-45 minutes to record and participate in a virtual conversation? We can pre-record the discussion any time between now and March 31st, with topics of interest provided in advance. Plume would assume responsibility for editing the video in post-production and, with sign-off from the HHS press office, would promote the final cut widely as part of its TDOV efforts. I realize this is a particularly busy time and if that timeline doesn't align, we would be happy to do this at a later time after March 31st.

Thank you for your time, and I look forward to hearing from you. Kelly, I hope you are doing well, and I am happy to provide further details and answer any questions either of you may have.

All my best,
Jerrica

--

Jerrica Kirkley (she/her)
Co-Founder, Chief Medical Officer

c: (b)(6)
jerrica@getplume.co
https://getplume.co

From: Levine, Rachel (HHS/OASH)
Sent: Tue, 14 Mar 2023 16:40:12 +0000
To: Oh, Kathy (OS/OASH); Shanker, Adrian (HHS/OASH); Richmond, Alicia (HHS/OASH)
Cc: Boateng, Sarah (HHS/OASH); Calsyn, Maura (HHS/OASH)
Subject: RE: please practice medicine and report on the HARMS OF GENDER MEDICINE!!!!

Ok, Thanks

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Sent: Tuesday, March 14, 2023 12:38 PM
To: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: RE: please practice medicine and report on the HARMS OF GENDER MEDICINE!!!!

(b)(5) Adding Sarah and Maura just for their situational awareness in case it comes back to us some way later.

From: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>
Sent: Tuesday, March 14, 2023 12:29 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>
Subject: RE: please practice medicine and report on the HARMS OF GENDER MEDICINE!!!!

(b)(5)

From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Tuesday, March 14, 2023 12:21 PM
To: Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>
Cc: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>
Subject: FW: please practice medicine and report on the HARMS OF GENDER MEDICINE!!!!

Thoughts?

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Emily Viola <(b)(6)
Sent: Tuesday, March 14, 2023 12:11 PM
To: Becerra, Xavier (OS/IOS) <Xavier.Becerra@hhs.gov>; Palm, Andrea (OS/IOS) <Andrea.Palm@hhs.gov>; Bagenstos, Samuel (HHS/OGC) <Samuel.Bagenstos@hhs.gov>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: please practice medicine and report on the HARMS OF GENDER MEDICINE!!!!

I'm disgusted by the harms you are causing vulnerable children like mine.

How dare you promote such ignorant, false information. I'm astounded by your ignorance and criminal lack of curiosity on the terrible harms that the left is doing to our children.

Shame on you.

Please do medicine. You are a disgrace to truth. I'm so ashamed of having been a lifelong Democrat.

Here is some help:

https://www.city-journal.org/yes-europe-is-restricting-gender-affirming-care

https://vimeo.com/800032857

https://www.bmj.com/company/newsroom/gender-dysphoria-in-young-people-is-rising-and-so-is-professional-disagreement/

https://twitter.com/segm_ebm/status/1634032333618819073?s=20

https://www.tabletmag.com/sections/science/articles/finland-youth-gender-medicine

https://www.reddit.com/r/detrans/

https://www.detransvoices.org/

https://segm.org/Finland_deviates_from_WPATH_prioritizing_psychotherapy_no_surgery_for_minors

https://www.medscape.co.uk/viewarticle/1000-families-sue-tavistock-gender-service-2022a10021ac

https://genspect.org/detrans-awareness-day-2023/

https://www.city-journal.org/wpath-finally-acknowledges-europes-restrictions-on-gender-affirming-care

https://www.dailymail.co.uk/news/article-11099561/Leaked-internal-files-pediatricians-angry-professional-bodys-transgender-policy.html

https://pitt.substack.com/p/gender-dysphoria-the-science-is-not

https://www.thefp.com/p/top-trans-doctors-blow-the-whistle

https://www.trevoices.org/post/12-leading-complications-medical-transing-kids-usa-estimate-of-money-generated-312-million-a-year

https://www.dailywire.com/news/detransitioners-flood-social-media-with-testimony-photos-the-darkest-time-in-my-life

https://wesleyyang.substack.com/p/a-tale-of-two-states-gender-affirming

https://www.foxnews.com/media/detransitioner-chloe-cole-announces-lawsuit-hospitals-pushing-medical-mutilation

https://www.psychologytoday.com/us/blog/women-who-stray/202111/does-affirmative-treatment-impair-sexual-response-in-trans-youth

https://archive.ph/2022.08.17-231017/https://www.wsj.com/amp/articles/the-american-academy-of-pediatrics-dubious-transgender-science-jack-turban-research-social-contagion-gender-dysphoria-puberty-blockers-uk-11660732791

https://www.bmj.com/content/380/bmj.p382

https://ago.mo.gov/docs/default-source/press-releases/2-07-2023-reed-affidavit---signed.pdf?sfvrsn=6a64d339_2

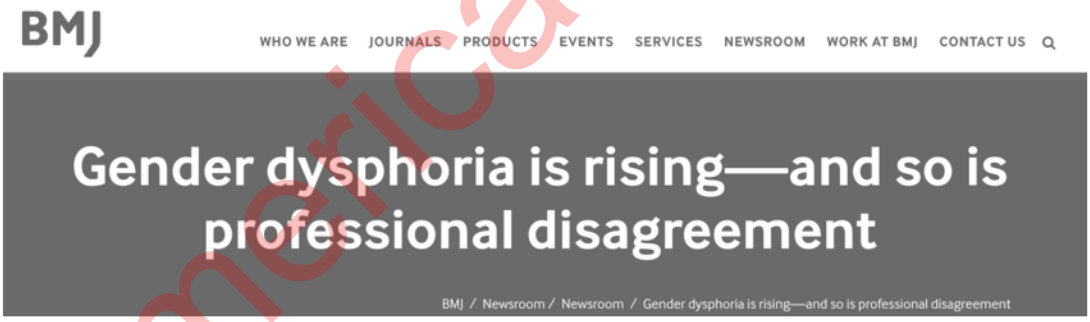
https://lisaselindavis.substack.com/p/on-jamie-reeds-extraordinary-testimony

https://www.youtube.com/watch?v=NW_VlnZ_W7Y

https://funkypsyche.substack.com/

https://pitt.substack.com/

Genspect, The Society for Evidence Based Gender Medicine, Stats for Gender, Parents with Inconvenient Truths about Trans, Detrans Voices, Gender: A Wider Lens Podcast, Deborah Soh _Lisa Littman, Post-Trans Transpsyche TransparencyPod The Detransitioners



The Trevor Project is chock-full of harmful advice for kids as well as disturbing levels of sexual and gender grooming.

From: Emily Viola
Sent: Tue, 14 Mar 2023 12:05:38 -0400
To: Becerra, Xavier (OS/IOS); Palm, Andrea (OS/IOS); Bagenstos, Samuel (HHS/OGC); Levine, Rachel (HHS/OASH)
Subject: WE WERE WRONG and Autistic children more likely to seek gender treatment

Please warn parents. Children are being harmed. Mine almost died from transition!!!

New story of doctors address the harms we are doing:

"We were wrong," she said. "They're not as reversible as we always thought, and they have longer term effects on kids' growth and development, including making them sterile and quite a number of things affecting their bone growth."

"Blocking the sexual development of children is a highly authoritarian intervention. Children are asexual, and so they can't understand the impact of impaired sexual functioning, she said. "We are roughly 10 years into this large-scale experiment and already we have reports on issues with cognitive development, bone mineral density, and fertility. All the up-to-date evidence shows that puberty blockers are neither safe nor reversible."

Canadian pioneer in gender therapy speaks out:
https://dailycaller.com/2023/03/11/pioneer-in-child-gender-dysphoria-treatment-says-trans-medical-industry-is-harming-kids/

Huge proportion of gender care seeking kids are autistic
https://dailycaller.com/2023/03/12/horrifying-huge-proportion-of-children-pursuing-gender-transitions-are-actually-autistic-experts-believe/

puberty blockers can cause brain swelling
https://publications.aap.org/aapnews/news/20636/Risk-of-pseudotumor-cerebri-added-to-labeling-for?autologincheck=redirected

most kids desist on their own:
https://pubmed.ncbi.nlm.nih.gov/33854450/

Detransitioners harmed:
https://dailycaller.com/2023/02/24/detransitioner-suing-kaiser-permanente-sex-change-transgender-chloe-cole/
https://post-trans.com/
https://affirmationgenerationmovie.com/testimonies/
https://www.trevoices.org/post/finally-we-did-it-we-are-being-heard-stop-transing-kids-keep-it-going
https://www.reddit.com/r/detrans/
https://www.youtube.com/results?search_query=detransition

‘We Were Wrong’: Pioneer In Child Gender Dysphoria Treatment Says Trans Medical Industry Is Harming Kids

Photo by Brandon Bell/Getty Images

‘Horrifying’: Huge Proportion Of Children Pursuing Gender Transitions Are Actually Autistic, Experts Believe

Jeff J Mitchell/Getty Images

Detransitioner Suing Doctors, Major Hospital Over Her Childhood Gender Transition

Screenshot/Twitter/Center for American Liberty

From: Sarvana, Adam (HHS/OASH)
Sent: Mon, 6 Mar 2023 16:12:18 +0000
To: Levine, Rachel (HHS/OASH); Broido, Tara (HHS/OASH); Boateng, Sarah (HHS/OASH); Oh, Kathy (OS/OASH); Richmond, Alicia (HHS/OASH); Shanker, Adrian (HHS/OASH); Calsyn, Maura (HHS/OASH)
Subject: RE: Article

The two I was thinking of (the first was in the Washington Post, not the NYT – sorry for the confusion).

Faith leaders with transgender kids fight raft of trans bills - The Washington Post

'Our state is at war with our family': Clergy with trans kids fight back

They say their children's lives and religious liberty are threatened by bills in Missouri and elsewhere

By Ariana Eunjung Cha

Updated February 28, 2023 at 2:18 p.m. EST|Published February 28, 2023 at 6:00 a.m. EST

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"Daddy, do you think God could make me over again as a boy?"

Rabbi Daniel Bogard had just finished reading a story to his 6-year-old twin daughters one evening in 2019 when the older one by 15 seconds asked that question. Bogard wasn't sure what to say, so he tucked them into bed, kissed them good night and left.
"It shook me," he recalled.

As the months passed, and the child began asking people to use "boy words" to refer to him, cropping his hair short and joining the boys' soccer team, the change just seemed to make sense. Friends, family and schoolmates accepted him as a boy, and he flourished.

All of which had brought the family to this fateful moment three years later. As Bogard and his now 9-year-old son piled into the family minivan at dawn for one of their regular four-hour round trips to the Missouri Capitol in Jefferson City to share their story with lawmakers, the rabbi worried what might lie ahead. Bills "to protect children," as some Republicans described their measures restricting gender-affirming health care and limiting how schools treat gender identity, have become this year's rallying cry in this state and elsewhere.

“Our state is at war with our family,” Bogard said. “It’s not an exaggeration that we are up at night talking about when and how far we might have to flee.”

In Missouri, Senate President Pro Tem Caleb Rowden (R) had promised “big stuff” regarding “the transgender issue” this session. At least 31 bills, one of the largest number in any U.S. state, have been introduced by the Republican supermajority, targeting youth participation in competitive school sports, the ability to revise gender on birth certificates, gender-affirming medical treatments and other rights of LGBTQ people. Similar bills have been introduced in at least 11 states.

The measures that frighten families like the Bogards the most would classify efforts to support children and teens seeking medical treatment to help them transition to their preferred gender as child abuse. The legislation would carry criminal penalties for providers and possibly parents, although such treatments are supported by the country’s major medical associations such as the American Academy of Pediatrics, the American Psychological Association and the American Association of Clinical Endocrinology.
Mississippi last week became the fifth state after Alabama, Utah, South Dakota and Arkansas to pass legislation restricting minors seeking gender-affirming care. Governors in Utah and South Dakota have signed the measures into law. In Florida, the state’s board of medicine has imposed similar limits.

The bills come at a time when gender identity in the United States is at a cultural inflection point. While the percentage of teens and young adults identifying as transgender remains minuscule, it has more than doubled from one generation to the next. Whereas 0.5 percent of all adults said in a 2017-2020 survey by the Centers for Disease Control and Prevention that they were transgender, 1.4 percent of 13-to-17-year-olds and 1.3 percent of those 18-to-24 identified themselves that way in the survey.

While the trend has been celebrated by those who see it as a reflection of social acceptance, there are deep divisions over the issue of gender identity, especially along religious and political lines.

On their recent trip to the state Capitol, the Bogards joined the families of two other faith leaders also intent on stopping measures they say would wreak havoc on their children’s lives. Despite being from different religious traditions — two are Jewish, and one is Christian — the leaders had become fast friends years ago while doing community service work. All had been in their 30s, idealistic and, as the years passed, had something else in common: Each ended up having a child who felt like they had been born the wrong gender.

Rori Picker Neiss, 37, an Orthodox Jewish rabbi, has a child who came out as a boy at 7, while still wearing dresses, taking ballet and sporting super-long hair — to the “total shock” of Picker Neiss.

Jennifer Harris Dault, 40, is a pastor at a Mennonite church. Her child had gravitated toward pink and purple, sparkly animal toys and other stereotypically girly things for years before telling her family at 5 that she is a girl. (The names of the children are being withheld to protect their privacy.)

The three faith leaders say religious liberty is at the core of the debate over transgender rights.

“It’s the imposition of one religious group’s gender norms on the rest of us. It’s theocracy and fascism,” said Bogard, 39.

Picker Neiss said her faith “doesn’t have simple answers to any of these questions,” adding, “But I don’t think God lives in binary. I think everything in our world has so much room for complexity and multiplicity.”

Harris Dault said her congregation has also been loving and supportive toward her child, but other “people claim their Christian faith is behind a lot of these bills, and that’s been hard to grapple with.”

The house his grandfather built

When Bogard’s child first brought up the idea of being a boy, he had gone to find his wife, Karen, also a rabbi at Central Reform Congregation in St. Louis, and they stayed up all night talking.

He wondered if his child’s feelings would pass. Karen Bogard, 39, thought she had seen clues, recalling how their middle child was always swiping his older brother’s clothing to wear in place of dresses and had been teased at camp the previous summer for wearing a boy’s bathing trunks and top.

An activist in the LGBTQ community whom Daniel Bogard confided in was the first to bring up the idea they had a “trans kid.” Bogard remembers being taken aback and stopping them, “Oh, don’t use labels.” But as weeks and then months went by, it became clear it was not a phase.

Their daughter kept asking for a boy’s haircut. Bogard and his wife hesitated and went through several, successively shorter iterations — first to the shoulders, then to the ears, and higher. “You could see us processing our internalized transphobia,” he said.

Finally, on March 13, 2020, Bogard’s child told his teacher that he was a boy and that he had picked a new name. The transition, it turned out, was almost a nonevent. Bogard recalled, “The school was like, ‘Great, change his name on the form. Just making sure this is the same human being?’ And that was that.”

Their synagogue, part of the Reform movement, also embraced the child as a boy. The largest Jewish denomination in the United States, Reform congregations have welcomed LGBTQ members for decades. In 2015, its Religious Action Center released a trans inclusion guide, and last week its rabbis vowed to play a leading role against anti-transgender bills. “It is our holy obligation to nurture and nourish each sacred human being, in all our diverse expressions and experiences of gender,” the Central Conference of American Rabbis said in a resolution.

In supporting their view that God intended there to be only two genders, some Christian groups have focused on the biblical story of how God created a man and a woman in his own image. But Bogard said the same text has been interpreted by some Jewish scholars as showing how we started out as having an amorphous gender and then were split apart — an analysis they say affirms all types of gender identities.

As a student of theology, Bogard remembered finding references to nonbinary people in the Talmud and classical Jewish law going back thousands of years, such as a trans man born female who was taught to lead prayers, marries a woman and is described as an upstanding member of the community.

“There’s this idea that being trans is something new, but it goes back all the way to the very beginning,” he said.

A local rabbi knitted the Bogards’ son a yarmulke, a skull cap worn by Jewish men, in the light blue, pink and white colors of the transgender pride flag, and a few families asked some questions about pronouns. But his son’s friends remained his friends. And he still had the same outgoing personality and loves all things sports. These days, he plays on the boys’ basketball and soccer teams and is starting baseball in the spring. He is also into chess, ceramics and 3D modeling software; teaching himself the ukulele; and talks about becoming a space scientist.

“Being trans is just about the least interesting thing about him,” Bogard likes to say.
His twin sister initially had a harder time accepting the change. She expressed sadness she might not have anyone to play dolls with anymore — until her dad pointed out that her brother had never played dolls with her. These days, she said, she feels lucky to have had a sister but is used to her twin being a boy.

“Trans people are regular people, but they just want to change a little bit,” she said.
Her twin brother, meanwhile, has matured enough to worry about how his life might change if new laws force children like him to play on sports teams according to their sex at birth.

“I would quit sports if I had to play on a girls’ team,” he said in an interview. “It’s not because I don’t like girls. I don’t want to play on a girls’ team because I’m a boy. I want to be fair.”

The Bogards’ son is still too young to be thinking about adolescence, but it’s something that his parents agonize about.

Many trans teens and adults have described the special pain of those years, of waking up each day feeling like their body is changing all of a sudden into the wrong gender, and the swirl of confusion, sadness and horror they felt. Gender-affirming care, such as hormone therapy, can delay puberty to give kids time to decide on the best treatment for them, or to help them develop masculine or feminine physical characteristics.
“We don’t know the future of what care looks like for him, but these are decisions that should be made by families and doctors,” Karen Bogard said.

Daniel Bogard is unsure whether the family will stay in Missouri if one of the sports bills passes, but he said they would be compelled to leave if lawmakers limit or, worse, criminalize medical treatments for children like his son.

That pains him on several levels because it recalls his family's history of persecution and how that had led them to Missouri.

The Bogards live in a house built by his grandfather, whose own grandfather came to the United States in the late 1800s fleeing pogroms in Eastern Europe. Bogard's father grew up in the same room that Bogard occupied as a child and that his son is now in — the fourth generation of his family to be in the home and the sixth in Missouri.

In the attacks on trans people in the United States, Bogard sees parallels to his great-great-grandfather's plight and that of the Jewish community preceding the Holocaust.

"These are the conversations Jewish families were having in the late '20s and early '30s," he said. "We'll be talking about who's taking the kids to soccer practice tomorrow one minute, and then it's what's the plan if we have to leave?"

As the family made their way along the bumpy ride to Jefferson City this month, Bogard's 9-year-old was playing games on a phone, his wife was in the back working, and his mother, Denise, was anxiously wondering what to expect. Denise, 68, who has Parkinson's disease, had been isolated for most of the past three years because of the coronavirus but had insisted on tagging along to support her grandchild.

Bogard was contemplating strategy.

Over the years, he had come to believe the best — and possibly only — hope for heading off aggressive anti-trans bills is to humanize the children and their families to help lawmakers understand they are scarcely different from their own — which is why he had allowed both his sons to go with him to tell lawmakers about their lives, despite the online vitriol and even death threats they have gotten in the past.

"We want them to see the cost of what they are doing to families like ours," Bogard said.
The Democrats had been welcoming, and more moderate Republicans had been willing to listen. But on previous trips, some lawmakers and staff members had asked the children about their genitals, unapologetically used the wrong pronouns and offered to help them if they ever felt they needed protection from their parents.

The first time Harris Dault's daughter, now 8, went to Jefferson City last year to talk about the anti-trans bills, Harris Dault recalled, "she had a breakdown."

"She was clearly upset, and she didn't have names for the emotions she was feeling," Harris Dault, 40, recalled. It took her daughter a while to say, "I'm scared."

Like Bogard's son, Harris Dault's daughter had enjoyed a childhood in which her gender identity had not been much of an issue: At 2, when she still identified as a boy, she wore tutus on special occasions. She had asked for dresses to wear to preschool. A couple of days after she told her family she was a girl, she logged onto her virtual kindergarten Zoom and typed into the chat: "im a girl." She's now an active Girl Scout and loves to play video games such as Animal Crossing and Minecraft when her parents allow.

Picker Ness, whose son told his first-grade teacher he wanted to be treated like a boy, is also a regular presence at the state Capitol now that he is 11. She said one of her most difficult moments as the parent of a transgender child was when she had to explain the bills being introduced in the state legislature.

"My son didn't know a world where he was discriminated against, and it was really painful to have to be the one to introduce that concept to him," she said.

During this trip to the state Capitol, discrimination was the theme of an emotional plea from the Bogards' eldest son, an 11-year-old who wants to be a meteorologist.

"I'm here because I have a trans brother and a trans friend," he said in remarks that he wrote himself. "I am here because you, the Missouri government, keep trying to take away what they have a passion for … Kids just want to have fun playing sports."

A video of the testimony on TikTok, posted by his dad, has garnered 57,000 likes and counting.

Later, the adolescent recalled that he was nervous but happy to see that the lawmakers were silent and appeared to be listening: "It made me feel like I have some power to say stuff."

"My biggest fear is probably: Is this bill going to lead to more bills that will be worse?" he added in an interview. He then paused. "I don't know if it's even possible. Is it possible for a bill to say that you're not even allowed to be transgender? Is that even possible?"

Dueling views

In Missouri, many lawmakers promoting transgender legislation cite their Christian faith.
Like several sponsors of transgender legislation, state Rep. Justin Sparks (R) lists his church in his official House biography. He introduced the Children Deserve Help Not Harm Act, which would bar health professionals from providing, and others from aiding, gender-affirming care for minors. He said that while some people "believe for moral or religious reasons, gender transition should be fully outlawed, I am not one of those people."
Sparks said he worried some children would regret having had such treatments when they were older. He spoke of a family member who had transitioned to another gender, then changed their mind after several years and transitioned back.

"I am a man of faith and I am a Christian, and I believe the Lord gives us free will," Sparks said. "And when you are above the age of 18, you will have free will."

State Rep. Michael Davis (R), a 20-something from Kansas City, Mo., who used to work as a grass-roots director for a conservative advocacy group and for an elementary school after-care program, also proclaims his Christian faith. He tweeted recently that his "religious views oppose allowing transgenders to place their nonbiological sex onto their birth certificates."

"Laws allowing the practice creates an undue burden on my faith, violating the free exercise clause," he wrote.

Those views reflect a fault line in American attitudes about policies regarding transgender individuals that often follows religious ties. White evangelicals, in particular, more strongly favor bans on teacching about gender identity in public schools, and requiring transgender athletes compete on teams that match their sex at birth, for example, than those who are not religiously affiliated, according to a 2022 Pew Research Center survey.

With emotions running so high this session, state Sen. Greg Razer (D), the chamber's only openly gay member, worried the fight this year is stacked against transgender children and their families. "The extremes are driving the agenda, and every year, the extremes get more extreme," said Razer, a Missouri native who previously worked for former senator Claire McCaskill (D-Mo.).

Bogard shares that view. He said he once felt hopeful that "progress was possible, and even if we weren't winning, we would win eventually."

"That's not what it feels like anymore," he said. "It feels like we've lost and the levers of power have been stolen."

^^^

States push back against blacklisting climate-friendly banks - The Washington Post

The conservative battle against 'woke' banks is backfiring

States and cities fear that blacklisting financial giants for their climate policies will hurt their bottom line, because of reduced competition

By Steven Mufson

Updated February 28, 2023 at 5:54 p.m. EST

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Conservatives have long held that the government should avoid interfering with private business decisions. But over the last two years, Republican state treasurers and attorneys general in Texas, Florida and other states have sought to blacklist banks that factor climate risks and social concerns into their investment decisions.

Now the backlash is coming.

In Republican strongholds such as North Dakota, Indiana, Mississippi and Kentucky, state lawmakers have recently defeated proposals that would prohibit state governments or pension funds from doing business with the big financial institutions that have adopted ESG — environmental, social and governance — goals and policies.

In North Dakota a pair of proposed laws went to crushing defeats with one losing by a 90-3 margin on Feb. 1. They were shot down, in part, by arguments that these proposals contradicted conservative principles.

"Our biggest concern is the idea of somebody telling our banks who to do business with or who not to do business with," Rick Clayburgh, chief executive of the North Dakota Bankers Association, said after beating back those proposals. "We believe our banks should be allowed to do business with customers they know, the people they know and to make those decisions."

North Dakota lawmakers may still approve less strident versions of the legislation, but those would simply put into law current practices, such as avoiding social investing, according to testimony from the state's retirement and investment board director.

Across the country, the battle rages over sustainable investing, with more than $500 billion pouring into climate and socially conscious investments in 2021, according to JPMorgan Chase.

Conservative groups have sought to use public pension plans and state and local bond offerings to freeze out selected financial institutions. Those groups say they are simply trying to counter the injection of "woke" values into Wall Street investment decisions.
But big banks and asset managers supportive of ESG — including BlackRock, JPMorgan Chase, Citigroup and State Street — say their strategies are being mischaracterized amid the larger culture wars of the day. They say it makes financial sense to factor climate risks and other societal concerns into investment strategies.

More and more, big and small banks are winning that argument on the state level, despite a national effort by conservative dark money groups — nonprofits that don't have to disclose their donors — to blacklist climate-friendly businesses.

Many of these state laws were inspired by the American Legislative Exchange Council, a conservative group that draws up model legislation for state legislators. But ALEC said its board had recently withdrawn its prototype and sent it back to its energy task force "for further discussion." The initial version, the Eliminate Economic Boycotts Act, would have required states to stop doing business with companies deemed to be "boycotting" loans or investments in fossil fuel or firearms industries.

“We’re starting to see rather large cracks appearing” in the anti-ESG movement, said Frances Sawyer, the head of a San Francisco-based strategic planning firm called Pleiades Strategy who served as a policy adviser to former California governor Jerry Brown (D) and Tom Steyer, a climate investor and philanthropist. “The whole idea of blacklisting institutions just isn’t it when it comes to free market principles. It feels like government overreach.”

Conservative groups say they are not alarmed. Will Hild, executive director of Consumers’ Research, a Washington-based organization fighting ESG policies nationwide, said that his group is not “back on its heels” and said he hopes that between five and eight states pass one of his group’s bills this year. “That would be a huge year,” he said. “I’m not expecting overwhelming victory in one year.”

On Jan. 26, half the country’s state attorneys general filed a lawsuit against the Labor Department over a regulation that gives money managers greater freedom to consider environmental, social and governance factors when selecting investments.

On Tuesday, the Republican-controlled House voted 216-204 to limit the latitude of money managers who want to factor ESG into account when investing the Labor Department’s large pensions. The effort may be moot, however, since Senate Democrats are expected to block it. ALEC also said it is pushing forward. “State legislators are rightfully concerned with radicalized ESG,” the group said in a statement, adding that it seeks to address “politically motivated investment strategies that have contributed to severe underfunding in state pension plans across the country.”

In North Dakota, one big backer of anti-ESG legislation is state Rep. Bill Tveit, a Republican from Hazen who has been quoted as calling sustainable governance “a worldwide human satanic organized effort.” In an interview, he acknowledged the banking industry was upset by the original bill but is confident that an amended version can be enacted. He added that ESG proponents “want to control every inch of our lives while enhancing their fantasy green world.”

While conservative groups have talked largely about taking on the half dozen or so biggest banks and asset managers — firms such as JPMorgan Chase, Citigroup, BlackRock and State Street — many of the firms that would be hit include community banks.

“I believe it infringes on a private business’s right to choose who they do business with,” Lise Kruse, North Dakota’s commissioner for financial institutions, said in written testimony about the initial draft legislation.

The current version, which awaits state Senate action, dropped provisions that would have permitted boycotts and the blacklisting of financial institutions, Kruse said in an email to The Washington Post.

Opposition from the American Bankers Association (ABA) has contributed to the rash of setbacks. The ABA said through its Banking Journal that ALEC’s model proposal “undermined

the organization's own commitment to free markets and limited government." The ABA said that "government should not be dictating business decisions to the private sector."

In Kentucky, the state treasurer, Allison Ball, in January drew up a list of 11 financial institutions she said should not do business with the state because they were engaged in boycotts of energy companies. But in a letter to Ball, the board of the $10.8 billion Kentucky County Employees' Retirement System said that it would not divest from firms like BlackRock because doing so "would be inconsistent with our fiduciary duty."

Retaining competition is one reason state and local officials are hesitant to blacklist financial firms. Fewer competing institutions can be costly to state pension funds and municipal bond managers seeking the highest returns for their money.

The Indiana Public Retirement System estimated that a bill limiting the portfolio managers could slash investment returns from 6.25 percent a year to 5.05 percent, costing state pension funds $6.7 billion over the next 10 years.

In 2021, Texas Gov. Greg Abbott signed laws that barred municipalities from dealing with banks that restrict funding to fossil fuel or firearms companies. That led to the abrupt exit of five of the largest bond underwriters, costing the state between $300 million and $504 million, according to a paper co-authored by Daniel Garrett, a professor of finance at the University of Pennsylvania's Wharton School, and Ivan Ivanov, an economist at the Federal Reserve.
"Banks do leave the market," Garrett said. "And Texas borrowers wind up paying a little more than they would."

Overall, Texas state and municipalities raised $31.8 billion during the eight months after the exit of five of the biggest underwriters and Texans ended up paying 0.14 percent more than they would have, Garrett and Ivanov said.

On the other hand, Garrett said, many Texas municipalities began to forge new relationships with their lenders and costs began to decline. "It's not clear if the increased cost was a short-run phenomenon," he said.

As the debate continues on the financial costs of anti-ESG legislation, conservative-leaning groups have been hopping from state to state to seek more such laws.

In mid-February, an Arizona statehouse committee heard Eric Bledsoe, a senior fellow at the Foundation for Government Accountability, — testify that ESG "lines the pockets of political operatives" and that public pension funds were "not the play things of activist speculators."

Bledsoe, who has championed anti-ESG policies in several states, formerly worked at the U.S. Chamber of Commerce Foundation and Charles Koch Foundation.

A month earlier, state legislators heard testimony from several anti-ESG groups, including Reliable Energy, a public relations agency for coal interests, and Bette Grande, former

chair of ALEC's energy division and state government relations manager at the Heartland Institute, a group that has rejected the science of climate change and policies to address it.

But in mid-February, Arizona Attorney General Kris Mayes (D) said the state would no longer investigate financial institutions' ESG policies. "Corporations should be permitted to access capital markets in ways that they feel are necessary for the advancement of their investor objectives and for society," Mayes said.

On Feb. 13, Florida Gov. Ron DeSantis (R) announced legislation he said would protect Floridians from the "woke environmental, social, and corporate governance (ESG) movement." DeSantis, who has been harping on the dangers of woke-ism, said that "by applying arbitrary ESG financial metrics that serve no one except the companies that created them, elites are circumventing the ballot box to implement a radical ideological agenda."
Florida Gov. Ron DeSantis (R) speaks as he announces a proposal for Digital Bill of Rights on Feb. 15 at Palm Beach Atlantic University in West Palm Beach, Fla. (Wilfredo Lee/AP)
DeSantis along with his allies, Florida's state chief financial officer Jimmy Patronis and the state Attorney General Ashley Moody, all sit on the nearly $218 billion Florida State Board of Administration.

Republicans are divided over the role of government when it comes to ESG issues. "It's not really a natural fit for Republican politicians," said Joshua A. Lichtenstein, a lawyer and ESG specialist with the firm Ropes & Gray. He said there was a tension "between somebody traditional for free markets versus someone from the anti-woke movement."

"I think he's absolutely right that the wokeness is really invading this culture in a very negative way," New Hampshire Gov. Chris Sununu (R) said about DeSantis in an interview on CNN. "Now, where we might disagree is: Should the government come in and fix woke? Well, the government is never useful at coming in and fixing a cultural issue."

Adam Sarvana
Director of Communications
Office of the Assistant Secretary for Health

Email: adam.sarvana@hhs.gov
Mobile: (b)(6)
Desk: (202) 795-7619
hhs.gov/ash

From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Monday, March 6, 2023 9:17 AM
To: Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>; Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: Article

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Levine, Rachel (HHS/OASH)
Sent: Thu, 2 Mar 2023 13:57:28 +0000
To: Sarvana, Adam (HHS/OASH); Shanker, Adrian (HHS/OASH); Boateng, Sarah (HHS/OASH); Calsyn, Maura (HHS/OASH); Lyles, Johnalyn (HHS/OASH); Broido, Tara (HHS/OASH); Oh, Kathy (OS/OASH); Richmond, Alicia (HHS/OASH)
Subject: RE: Three New Media Items on Gender-Affirming Care

Thanks for the update.

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>
Sent: Thursday, March 2, 2023 8:11 AM
To: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Lyles, Johnalyn (HHS/OASH) <Johnalyn.Lyles@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>
Subject: RE: Three New Media Items on Gender-Affirming Care

An update on the St. Louis gender clinic.

I've attached the full article for ease of reading.

<< File: Parents push back on allegations against St Louis transgender center.docx >>
Adam Sarvana

Director of Communications
Office of the Assistant Secretary for Health

Email: adam.sarvana@hhs.gov
Mobile: (b)(6)
Desk: (202) 795-7619
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From: Sarvana, Adam (HHS/OASH)
Sent: Tuesday, February 21, 2023 10:08 AM
To: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Lyles, Johnalyn (HHS/OASH) <Johnalyn.Lyles@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>
Subject: RE: Three New Media Items on Gender-Affirming Care

Another from the St. Louis Post-Dispatch:

From: Sarvana, Adam (HHS/OASH)
Sent: Tuesday, February 21, 2023 8:34 AM
To: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Lyles, Johnalyn (HHS/OASH) <Johnalyn.Lyles@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Subject: Three New Media Items on Gender-Affirming Care

USA Today opinion: Trans, transgender people: What to learn from New York Times debacle (usatoday.com)

USA Today news: Gender-affirming care, books about gender identity targeted by GOP (usatoday.com)

NPR: Florida bans gender-affirming care for trans kids. Parents raise concerns : NPR

Adam Sarvana
Director of Communications
Office of the Assistant Secretary for Health

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From: Levine, Rachel (HHS/OASH)
Sent: Sat, 25 Feb 2023 21:01:06 +0000
To: Sarvana, Adam (HHS/OASH)
Cc: Broido, Tara (HHS/OASH); Seigfreid, Kimberly (HHS/OASH); Migliaccio-Grabill, Kate (HHS/OASH); Boateng, Sarah (HHS/OASH); Oh, Kathy (OS/OASH); Calsyn, Maura (HHS/OASH); Shanker, Adrian (HHS/OASH)
Subject: Re: Sports TPs for VADM Murthy

Adam, sounds great. Thank you very much. RLL.

Get Outlook for iOS
From: Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>
Sent: Saturday, February 25, 2023 1:00:57 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Seigfreid, Kimberly (HHS/OASH) <Kimberly.Seigfreid@hhs.gov>; Migliaccio-Grabill, Kate (HHS/OASH) <Kate.Migliaccio-Grabill@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>
Subject: Sports TPs for VADM Murthy

These are very lightly modified TPs from Adrian, with references tracked down by Theo. If these look good, we'll send them to OSG and you can speak with him about raising the issue. He'll be in Denver on March 2 or 3 (he's there for two days - not sure which date is the CBS Sports interview).

(b)(5)

From: Oh, Kathy (OS/OASH)
Sent: Wed, 15 Feb 2023 16:32:29 +0000
To: Arguello, Andres (OS/IOS); Lee, Kinbo (HHS/OASH); Cabinet Affairs Report
Subject: RE: OASH Weekly Report | Week ending February 17, 2023

Adding ADM Levine and others on the bcc line to save their email.

(b)(5)

Respectfully,
Kathy

From: Arguello, Andres (OS/IOS) <Andres.Arguello@hhs.gov>
Sent: Wednesday, February 15, 2023 9:57 AM
To: Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Cabinet Affairs Report <Cabinet-Affairs-Report@hhs.gov>
Cc: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>
Subject: RE: OASH Weekly Report | Week ending February 17, 2023

Thanks! (b)(5)

(b)(5)

From: Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Sent: Wednesday, February 15, 2023 9:12 AM
To: Arguello, Andres (OS/IOS) <Andres.Arguello@hhs.gov>; Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Cabinet Affairs Report <Cabinet-Affairs-Report@hhs.gov>
Cc: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Calsyn, Maura

(HHS/OASH) <Maura.Calsyn@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>
Subject: RE: OASH Weekly Report | Week ending February 17, 2023

Hi Andres, does this work?

(b)(5)

Thank you, Kathy

From: Arguello, Andres (OS/IOS) <Andres.Arguello@hhs.gov>
Sent: Tuesday, February 14, 2023 9:23 PM
To: Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Cabinet Affairs Report <Cabinet-Affairs-Report@hhs.gov>
Cc: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Subject: RE: OASH Weekly Report | Week ending February 17, 2023

Additionally, can we summarize this in paragraph form? It can be brief. Thanks!

(b)(5)

From: Arguello, Andres (OS/IOS) <Andres.Arguello@hhs.gov>
Sent: Tuesday, February 14, 2023 9:22 PM
To: Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Cabinet Affairs Report <Cabinet-Affairs-Report@hhs.gov>
Cc: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Calsyn, Maura

(HHS/OASH) <Maura.Calsyn@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Subject: RE: OASH Weekly Report | Week ending February 17, 2023

Hi,

(b)(5)

From: Arguello, Andres (OS/IOS) <Andres.Arguello@hhs.gov>
Sent: Tuesday, February 14, 2023 7:41 PM

To: Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Cabinet Affairs Report <Cabinet-Affairs-Report@hhs.gov>
Cc: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Subject: RE: OASH Weekly Report | Week ending February 17, 2023

Thanks!

From: Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>
Sent: Tuesday, February 14, 2023 6:39 PM
To: Cabinet Affairs Report <Cabinet-Affairs-Report@hhs.gov>
Cc: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Subject: OASH Weekly Report | Week ending February 17, 2023

Good afternoon Cabinet Affairs Report Team,

Please find OASH's weekly Cabinet Report attached.

V/r,

Kinbo J. Lee, PharmD, MHS, BCPS, CPH
Lieutenant Commander, US Public Health Service

Special Assistant to the Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: kinbo.lee@hhs.gov
Mobile: (b)(6)
OASH Office of the Assistant Secretary for Health

From: Zuniga, Ilse (HHS/ASPA)
Sent: Thu, 9 Feb 2023 21:14:08 +0000
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Subject: RE: ROLLOUT GO: PHE Letter to Governors and HHS Fact Sheet
Attachments: Exec Sec - PHE Ending GOVS LTR 2.9.23 Formatted.doc_Completed.pdf, HHS PHE FACT SHEET_Final.pdf

Letter to Governors and Fact Sheet are out.

CNN story:

CNN: First on CNN: HHS secretary sends letter to state governors on what's to come when Covid-19 public health emergency ends
By Jacqueline Howard, CNN
Published 4:08 PM EST, Thu February 9, 2023

Plans are moving forward at the US Department of Health and Human Services to prepare for the end of the nation's Covid-19 public health emergency declaration in May.

On Thursday, HHS Secretary Xavier Becerra sent a letter and fact sheet to state governors detailing what exactly the end of the emergency declaration will mean for jurisdictions and their residents.

"Addressing COVID-19 remains a significant public health priority for the Administration, and over the next few months, we will transition our COVID-19 policies, as well as the current flexibilities enabled by the COVID-19 emergency declarations, into improving standards of care for patients. We will work closely with partners including state, local, Tribal, and territorial agencies, industry, and advocates, to ensure an orderly transition," Becerra wrote in a draft of the letter obtained by CNN.

"In the coming days, the Centers for Medicare & Medicaid Services (CMS) will also provide additional information, including about the waivers many states and health systems have adopted and how they will be impacted by the end of the COVID-19 PHE," he wrote. "I will share that resource with your team when available."

Declaring a public health emergency in the United States means that certain actions, access to funds, grants, waivers and data – among other steps – can happen more quickly in response to the crisis for the duration of the emergency. A declaration lasts 90 days – unless HHS ends it – and may be renewed.

On January 30, the White House announced its intention to end the Covid-19 national and public health emergencies on May 11, signaling that the administration considers the nation to have moved out of the emergency response phase.

'We are having ongoing conversations'

Becerra had agreed to give governors a 60-day notice to prepare for the end of the emergency. Thursday's letter was sent 90 days ahead of the emergency's planned end.

"We are having ongoing conversations about what else we need to do in the next 90 days to ensure a smooth transition. I can tell you that every one of our agencies has been working hard on this plan," an HHS official told CNN. "We're going to have a series of additional materials that will go out, as well as a series of conversations over the coming days and weeks."

The end of the public health emergency will affect some Medicare and state Medicaid flexibilities provided for the duration of the emergency. This includes waivers like the requirement for a three-day hospital stay before Medicare will cover care at a skilled nursing facility.

"We've been working closely with the governors on the public health emergency. This is a combination of both federal flexibilities that we allow, and the states are often the ones who are using those flexibilities," the HHS official said.

"Just about every aspect of the pandemic response, I would say, has been in partnership with our state partners. And so, I think they have been, frankly for months now, the ones that we have been going to and the ones that we publicly committed to notifying in advance of changes to the public health emergency declaration."

But the emergency's end will not impact the authorizations of Covid-19 devices, including tests, vaccines and treatments that have been authorized for emergency use by the US Food and Drug Administration.

During the Covid-19 pandemic, the FDA has issued about 15 times as many emergency use authorizations as it did for all other previous public health emergencies, Commissioner Dr. Robert Califf said Wednesday in a joint hearing of the House Oversight and Investigations and Health subcommittees.

"Today, we've issued EUAs or provided traditional marketing authorizations to over 2,800 medical devices for Covid-19, which is 15 times more EUAs than all other previous emergencies combined," Califf said. He added that the effects of the end of the emergency declaration will be "modest" because the "EUAs are independent of the public health emergency, so we can keep them going as long as we need to."

The emergency is slated to end May 11. “What happens on May 12? On May 12, you can still walk into a pharmacy and get your bivalent vaccine,” Dr. Ashish Jha, the White House’s coronavirus response coordinator, wrote on Twitter last week.

He said that at some point, probably in the summer or early fall, the Biden administration will transition from federal distribution of Covid-19 vaccines and treatments to purchases through the regular health care system – but that’s not happening quite yet.

What will end and what will continue

Overall, there are additional Medicaid waivers and other flexibilities that states and territories have received under the public health emergency. Some of those will be terminated. But state Medicaid programs will have to continue covering Covid-19 testing, treatments, and vaccinations without cost-sharing through September 30, 2024.

The end of the public health emergency declaration means Medicare beneficiaries will face out-of-pocket costs for over-the-counter home Covid-19 tests and treatment. However, people with Medicare will continue to have no cost for medically necessary lab-conducted Covid-19 tests ordered by their health care providers.

Covid-19 vaccinations will continue to be covered at no cost for all Medicare beneficiaries.

Those with private insurance could face charges for lab tests, even if they are ordered by a provider, according to the Kaiser Family Foundation. Vaccinations will continue to be free for those with private insurance who go to in-network providers, but going to an out-of-network providers could incur charges once federal supplies run out.

And the privately insured will not be able to get free at-home tests from pharmacies and retailers anymore unless their insurers choose to cover them.

Americans with private insurance have not been charged for monoclonal antibody treatment since they were prepaid by the federal government, though patients may be charged for the office visit or administration of the treatment, according to Kaiser. But that is not tied to the public health emergency, and the free treatments will be available until the federal supply is exhausted. The government has already run out of some of the treatments so those with private insurance may already be picking up some of the cost.

The uninsured had been able to access no-cost testing, treatments and vaccines through a different pandemic relief program. However, the federal funding ran out in the spring of 2022, making it more difficult for those without coverage to obtain free services.

Also, the “ability of health care providers to safely dispense controlled substances via telemedicine without an in-person interaction is affected; however, there will be rulemaking that will propose to extend these flexibilities,” according to the letter’s fact sheet.

Medicaid coverage no longer tied to the public health emergency

One of the most meaningful pandemic enhancements for states is no longer tied to the public health emergency. Congress severed the connection in December as part of its fiscal year 2023 government funding package, which state Medicaid officials had urged lawmakers to do.

States will now be able to start processing Medicaid redeterminations and disenrolling residents who no longer qualify, starting April 1. They have 14 months to review the eligibility of their beneficiaries.

As part of a Covid-19 relief package passed in March 2020, states were barred from kicking people off Medicaid during the public health emergency in exchange for additional federal matching funds. Medicaid enrollment has skyrocketed to a record 91 million people since then.

A total of roughly 15 million people could be dropped from Medicaid when the continuous enrollment requirement ends, according to an analysis the Department of Health and Human Services released in August. About 8.2 million folks would no longer qualify, but 6.8 million people would be terminated even though they are still eligible, the department estimated.

Many who are disenrolled from Medicaid, however, could qualify for other coverage.

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Subject: RE: ROLLOUT GO: PHE Letter to Governors and HHS Fact Sheet

Letter to Govs and Fact Sheet are still being finalized. We are pushing back the timeline to this:

2/9	3:00pm	ASL/ASFR send notification of 90-day PHE renewal to Speaker, Senate Maj. Leader, House/Senate Min. Leaders and Authorizing & Appropriations Committees ***[This may be done before]***	ASL/ASFR
2/9	3:00pm	ASPR Posts PHE Declaration on the PHE Page ***[This may be done before]***	ASPR
2/9	3:00pm	Letter to Governors announcing the 90-day PHE renewal + Fact Sheet on May 11 end	IEA
2/9	3:00pm	ASL sends PHE Fact Sheet to All Health Las	ASL
2/9	3:00pm	ASPA sends media RSVPs Letter to Governors + Fact Sheet embargoed until 5:00pm ASPA sends CNN items with 4:00 embargo for exclusive	ASPA
2/9	3:30pm	CNN embargo lifts; story pops	ASPA
2/9	4:30pm	Background call with media • Steve Cha (HHS) • Rachel Pryor (HHS) • Will Harris (CMS) • Dan Tsai (CMS) • Robbie Goldstein (CDC)	HHS, CMS, CDC
2/9	5:00pm	ASPA posts to web the Governors letter and Fact Sheet	ASPA

From: Zuniga, Ilse (HHS/ASPA)
Sent: Thursday, February 9, 2023 12:01 PM
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Subject: RE: ROLLOUT GO: PHE Letter to Governors and HHS Fact Sheet

12:00PM timeline has been pushed back slightly as documents still going through final edits. We will keep this chain posted on progress.

From: Zuniga, Ilse (HHS/ASPA) <Ilse.Zuniga@hhs.gov>
Sent: Thursday, February 9, 2023 10:34 AM
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Subject: ROLLOUT GO: PHE Letter to Governors and HHS Fact Sheet

Hi everyone – the purpose of this email chain is to keep everyone updated for our PHE roll out activities today.

Folks in the "to" line of this email – please advise when the below highlighted items in the tick tock are complete.

Folks in the "cc" line of this email – please direct questions regarding the rollout plan to Stephen Cha, Kimberly Miller-Tolbert, and myself only to keep this chain strictly on the status of these GO tick tock items. Thank you.

2/9	11:00am	ASPA sends off the record invite to reporters for media briefing with 12:00pm deadline to RSVP	ASPA
2/9	12:00pm	ASL/ASFR send notification of 90-day PHE renewal to Speaker, Senate Maj. Leader, House/Senate Min. Leaders and Authorizing & Appropriations Committees ***[This may be done before 12:00pm]***	ASL/ASFR
2/9	12:00pm	ASPR Posts PHE Declaration on the PHE Page ***[This may be done before 12:00pm]***	ASPR
2/9	12:00pm	Letter to Governors announcing the 90-day PHE renewal + Fact Sheet on May 11 end	IEA
2/9	12:00pm	ASL sends PHE Fact Sheet to All Health Las	ASL

2/9	12:00pm	ASPA sends media RSVPs Letter to Governors + Fact Sheet embargoed until 2:30pm ASPA sends CNN items with 1:00 embargo for exclusive	ASPA
2/9	1:00pm	CNN embargo lifts; story pops	ASPA
2/9	1:00pm	Media briefing prep	ASPA, CMS, CDC, WH
2/9	2:00pm	Background call with media • Steve Cha (HHS) • Rachel Pryor (HHS) • Will Harris (CMS) • Dan Tsai (CMS) • Robbie Goldstein (CDC)	HHS, CMS, CDC
2/9	2:30pm	ASPA posts to web the Governors letter and Fact Sheet	ASPA

Ilse Zuniga
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THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

February 9, 2023

Dear Governor:

Thank you for your ongoing partnership throughout the COVID-19 response. I write today to inform you that effective February 11, 2023, I am renewing for 90 days the COVID-19 Public Health Emergency (PHE) as declared under Section 319 of the Public Health Service Act. Based on current trends regarding COVID-19, the U.S. Department of Health and Human Services is planning for this to be the final renewal and for the COVID-19 PHE to end on May 11, 2023. In providing this notice today, I am fulfilling the commitment made in January 2021 by then-Acting Secretary Norris Cochran to provide states at least 60 days' notice before the COVID-19 PHE expires.[1] Rather than 60 days' notice, I am providing 90 days' notice before the COVID-19 PHE ends to give you and your communities ample time to transition.

Thanks to the Administration's whole-of-government approach to combatting the virus, we are in a better place in our response than we were three years ago, and we can transition away from the emergency phase. Over the last two years, the Biden Administration has effectively implemented the largest adult vaccination program in U.S. history, with nearly 270 million Americans receiving at least one shot of a COVID-19 vaccine.

As a result of this and other efforts, since the peak of the Omicron surge at the end of January 2022:

- Daily COVID-19 reported cases are down 92%,
- COVID-19 deaths have declined by over 80%, and
- New COVID-19 hospitalizations are down nearly 80%.

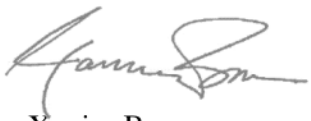
We have come to this point in our fight against the virus because of our historic investments and efforts to mitigate its worst impacts. Addressing COVID-19 remains a significant public health priority for the Administration, and over the next few months, we will transition our COVID-19 policies, as well as the current flexibilities enabled by the COVID-19 emergency declarations, into improving standards of care for patients. We will work closely with partners including state, local, Tribal, and territorial agencies, industry, and advocates, to ensure an orderly transition.

To help you and your communities in your preparations for the end of the COVID-19 PHE, I have attached a fact sheet to this letter that includes information on what will and will not be impacted by the end of the COVID-19 PHE.[2] In the coming days, the Centers for Medicare & Medicaid Services (CMS) will also provide additional information, including about the waivers many states and health systems have adopted and how they will be impacted by the end of the COVID-19 PHE. I will share that resource with your team when available.

[1] Letter to Governors on the COVID-19 Response (hhs.gov)
[2] Attachment 1

My team throughout the entire Department and I are eager to partner with you to ensure this process is as seamless as possible. If you or your team have any questions, please do not hesitate to contact Lee.Stevens@hhs.gov or Zach.Kahan@hhs.gov in my Office of Intergovernmental and External Affairs.

Sincerely,



Xavier Becerra

COVID-19 Public Health Emergency Transition Roadmap

Based on current COVID-19 trends, the Department of Health and Human Services (HHS) is planning for the federal Public Health Emergency (PHE) for COVID-19, declared under Section 319 of the Public Health Service (PHS) Act, to expire at the end of the day on May 11, 2023. Our response to the spread of SARS-CoV-2, the virus that causes COVID-19, remains a public health priority, but thanks to the Administration's whole of government approach to combatting the virus, we are in a better place in our response than we were three years ago, and we can transition away from the emergency phase.

Over the last two years, the Biden Administration has effectively implemented the largest adult vaccination program in U.S. history, with nearly 270 million Americans receiving at least one shot of a COVID-19 vaccine.

As a result of this and other efforts, since the peak of the Omicron surge at the end of January 2022:

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We have come to this point in our fight against the virus because of our historic investments and our efforts to mitigate its worst impacts. Addressing COVID-19 remains a significant public health priority for the Administration, and over the next few months, we will transition our COVID-19 policies, as well as the current flexibilities enabled by the COVID-19 emergency declarations, into improving standards of care for patients. We will work closely with partners, including state, local, Tribal, and territorial agencies, industry, and advocates, to ensure an orderly transition.

What will not be affected:

It is important to note that the Administration's continued response to COVID-19 is not fully dependent on the COVID-19 PHE, and there are significant flexibilities and actions that will not be affected as we transition from the current phase of our response. As described below, the Administration is committed to ensuring that COVID-19 vaccines and treatments will be widely accessible to all who need them. There will also be continued access to pathways for emergency use authorizations (EUAs) for COVID-19 products (tests, vaccines, and treatments) through the Food and Drug Administration (FDA), and major telehealth flexibilities will continue to exist for those participating in Medicare or Medicaid.

Access to COVID-19 vaccinations and certain treatments, such as Paxlovid and Lagevrio, will generally not be affected. To help keep communities safe from COVID-19, HHS remains committed to maximizing continued access to COVID-19 vaccines and treatments.

Partners across the U.S. Government (USG) are developing plans to ensure a smooth transition

for the provision of COVID-19 vaccines and treatments as part of the traditional health care marketplace and are committed to executing this transition in a thoughtful, well-coordinated manner.

Importantly, this transition to more traditional health care coverage is not tied to the ending of the COVID-19 PHE and in part reflects the fact that the federal government has not received additional funds from Congress to continue to purchase more vaccines and treatments.

When this transition to traditional health care coverage occurs later this year, many Americans will continue to pay nothing out-of-pocket for the COVID-19 vaccine. Vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) are a preventive health service for most private insurance plans and will be fully covered without a co-pay. Currently, COVID-19 vaccinations are covered under Medicare Part B without cost sharing, and this will continue. Medicaid will continue to cover all COVID-19 vaccinations without a co-pay or cost sharing through September 30, 2024, and will cover ACIP-recommended vaccines for most beneficiaries thereafter.

Out-of-pocket expenses for certain treatments may change, depending on an individual's health care coverage, similar to costs that one may experience for other drugs through traditional coverage. Medicaid programs will continue to cover COVID-19 treatments without cost sharing through September 30, 2024. After that, coverage and cost sharing may vary by state.

FDA's EUAs for COVID-19 products (including tests, vaccines, and treatments) will not be affected. The ending of the COVID-19 PHE will not affect the FDA's ability to authorize various products, including tests, treatments, or vaccines for emergency use. Existing EUAs for COVID-19 products will remain in effect under Section 564 of the Federal Food, Drug, and Cosmetic Act, and the agency may continue to issue new EUAs going forward when criteria for issuance are met.

Major Medicare telehealth flexibilities will not be affected. The vast majority of current Medicare telehealth flexibilities that Americans—particularly those in rural areas and others who struggle to find access to care—have come to rely upon over the past two years, will remain in place through December 2024 due to the bipartisan Continuing Appropriations Act, 2023 passed by Congress in December 2022.

Medicaid telehealth flexibilities will not be affected. States already have significant flexibility with respect to covering and paying for Medicaid services delivered via telehealth. State requirements for approved state plan amendments vary as outlined in CMS' Medicaid & CHIP Telehealth Toolkit. This flexibility was available prior to the COVID-19 PHE and will continue to be available after the COVID-19 PHE ends. Similar to Medicare, these telehealth flexibilities can provide an essential lifeline to many, particularly for individuals in rural areas and those with limited mobility.

The process for states to begin eligibility redeterminations for Medicaid will not be affected. During the COVID-19 PHE, Congress has provided critical support to state Medicaid programs by substantially increasing the federal matching dollars they receive, as long as they agreed to important conditions that protected tens of millions of Medicaid beneficiaries, including the condition to maintain Medicaid enrollment for beneficiaries until the last day of the month in which the PHE ends. However, as part of the Continuing Appropriations Act, 2023,

Congress agreed to end this condition on March 31, 2023, independent of the duration of the COVID-19 PHE.

Access to buprenorphine for opioid use disorder treatment in Opioid Treatment Programs (OTPs) will not be affected. Early in the COVID-19 pandemic, the Substance Abuse and Mental Health Services Administration (SAMHSA) released guidance allowing patients to start buprenorphine in an OTP by telehealth without the required in-person physical examination first. This flexibility has proven to be safe and effective in engaging people in care such that SAMHSA proposed to make this flexibility permanent as part of changes to OTP regulations in a Notice of Proposed Rulemaking that it released in December 2022. SAMHSA has committed to providing an interim solution if the proposed OTP regulations are not finalized prior to May 11.

Access to expanded methadone take-home doses for opioid use disorder treatment will not be affected. Early in 2020, SAMHSA allowed an increased number of take-home doses to patients taking methadone in an OTP. Research and feedback from patients, OTPs, and states have demonstrated that this flexibility has allowed people with opioid use disorder to stay in treatment longer, supported recovery, and has not resulted in increases in methadone-related overdoses. SAMHSA announced it will extend this flexibility for one year from the end of the COVID-19 PHE, which will be May 11, 2024, to allow time for the agency to make these flexibilities permanent as part of the proposed OTP regulations published in December 2022.

What will be affected:

Many COVID-19 PHE flexibilities and policies have already been made permanent or otherwise extended for some time. However, HHS continues to review the flexibilities and policies implemented during the COVID-19 PHE to determine whether others can and should remain in place, even for a temporary duration, to facilitate jurisdictions' ability to provide care and resources to Americans. Still, others will expire. Below is a list of some of the changes people will see in the months ahead.

Certain Medicare and Medicaid waivers and broad flexibilities for health care providers are no longer necessary and will end. During the COVID-19 PHE, CMS has used a combination of emergency authority waivers, regulations, and sub-regulatory guidance to ensure and expand access to care and to give health care providers the flexibilities needed to help keep people safe. States, hospitals, nursing homes, and others are currently operating under hundreds of these waivers that affect care delivery and payment and that are integrated into patient care and provider systems. Many of these waivers and flexibilities were necessary to expand facility capacity for the health care system and to allow the health care system to weather the heightened strain created by COVID-19; given the current state of COVID-19, this excess capacity is no longer necessary.

CMS developed a roadmap for the eventual end of the COVID-19 PHE, which was published in August 2022, and has been sharing information on what health care facilities and providers can do to prepare for future emergencies. This includes facilities returning to normal operations and meeting CMS requirements that promote the safety and quality of care they provide. CMS will continue to provide updated information and is also offering technical assistance to states and engaging in public education about the necessary steps to prepare for the end of the COVID-19 PHE.

For Medicaid, some additional COVID-19 PHE waivers and flexibilities will end on May 11, while others will remain in place for six months following the end of the PHE. But many of the Medicaid waivers and flexibilities, including those that support home and community-based services, are available for states to continue beyond the PHE, if they choose to do so. For example, states have used COVID-19 PHE-related flexibilities to increase the number of individuals served under a waiver, expand provider qualifications, and other flexibilities. Many of these options may be extended beyond the PHE.

Coverage for COVID-19 testing for Americans will change. Medicare beneficiaries who are enrolled in Part B will continue to have coverage without cost sharing for laboratory-conducted COVID-19 tests when ordered by a provider, but their current access to free over-the-counter (OTC) COVID-19 tests will end, consistent with the statute on Medicare payment for OTC tests set by Congress.

The requirement for private insurance companies to cover COVID-19 tests without cost sharing, both for OTC and laboratory tests, will end. However, coverage may continue if plans choose to continue to include it. We are encouraging private insurers to continue to provide such coverage going forward.

State Medicaid programs must provide coverage without cost sharing for COVID-19 testing until the last day of the first calendar quarter that begins one year after the last day of the COVID-19 PHE. That means with the COVID-19 PHE ending on May 11, 2023, this mandatory coverage will end on September 30, 2024, after which coverage may vary by state.

Additionally, dependent on supply and resources, the USG may continue to distribute free COVID-19 tests from the Strategic National Stockpile through the United States Postal Service, states, and other community partners. Pending resource availability, the Centers for Disease Control and Prevention's (CDC) Increasing Community Access to Testing (ICATT) program will continue working to ensure continued equitable access to testing for uninsured individuals and areas of high social vulnerability through pharmacies and community-based sites.

Reporting of COVID-19 laboratory results and immunization data to CDC will change. CDC COVID-19 data surveillance has been a cornerstone of our response, and during the PHE, HHS has had the authority to require lab test reporting for COVID-19. At the end of the COVID-19 PHE, HHS will no longer have this express authority to require this data from labs, which may affect the reporting of negative test results and impact the ability to calculate percent positivity for COVID-19 tests in some jurisdictions. CDC has been working to sign voluntary Data Use Agreements (DUAs), encouraging states and jurisdictions to continue sharing vaccine administration data beyond the PHE. Additionally, hospital data reporting will continue as required by the CMS conditions of participation through April 30, 2024, but reporting may be reduced from the current daily reporting to a lesser frequency.

Certain FDA COVID-19-related guidance documents for industry that affect clinical practice and supply chains will end or be temporarily extended. FDA published several dozen guidance documents to address challenges presented by the COVID-19 PHE, including limitations in clinical practice or potential disruptions in the supply chain. FDA is in the process of addressing which policies are no longer needed and which should be continued, with any appropriate changes, and the agency will announce plans for each guidance prior to the end of the PHE.

FDA's ability to detect early shortages of critical devices related to COVID-19 will be more limited. During the PHE, manufacturers of certain devices related to the diagnosis and treatment of COVID-19 have been required to notify the FDA "of a permanent discontinuance in the manufacture of the device" or "an interruption in the manufacture of the device that is likely to lead to a meaningful disruption in the supply of that device in the United States." This requirement will end when the PHE ends. While FDA will still maintain its authority to detect and address other potential medical product shortages, it is seeking congressional authorization to extend the requirement for device manufacturers to notify FDA of significant interruptions and discontinuances of critical devices outside of a PHE which will strengthen the ability of FDA to help prevent or mitigate device shortages.

Public Readiness and Emergency Preparedness (PREP) Act liability protections for may be impacted. Currently, the amended PREP Act declaration provides liability immunity to manufacturers, distributors, public and private organizations conducting countermeasure programs, and providers for COVID-19 countermeasure activities related to a USG agreement (e.g., manufacturing, distribution, or administration of the countermeasures subject to a federal contract, provider agreement, or memorandum of understanding). That coverage will not be affected by the end of the PHE. However, PREP Act liability protections for countermeasure activities that are not related to any USG agreement (e.g., products entirely in the commercial sector or solely a state or local activity) will end unless another federal, state, or local emergency declaration is in place for area where countermeasures are administered. HHS is currently reviewing whether to continue to provide this coverage going forward.

The ability of health care providers to safely dispense controlled substances via telemedicine without an in-person interaction is affected; however, there will be rulemaking that will propose to extend these flexibilities. During the PHE, the Drug Enforcement Administration (DEA) and HHS adopted policies to allow DEA-registered practitioners to prescribe controlled substances to patients without an in-person interaction. These policies allowed for audio-only modalities to initiate buprenorphine prescribing. DEA is planning to initiate rulemaking that would extend these flexibilities under certain circumstances without any gap in care and will provide additional guidance to practitioners soon.

###

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

February 9, 2023

Dear Governor:

Thank you for your ongoing partnership throughout the COVID-19 response. I write today to inform you that effective February 11, 2023, I am renewing for 90 days the COVID-19 Public Health Emergency (PHE) as declared under Section 319 of the Public Health Service Act. Based on current trends regarding COVID-19, the U.S. Department of Health and Human Services is planning for this to be the final renewal and for the COVID-19 PHE to end on May 11, 2023. In providing this notice today, I am fulfilling the commitment made in January 2021 by then-Acting Secretary Norris Cochran to provide states at least 60 days' notice before the COVID-19 PHE expires.[1] Rather than 60 days' notice, I am providing 90 days' notice before the COVID-19 PHE ends to give you and your communities ample time to transition.

Thanks to the Administration's whole-of-government approach to combatting the virus, we are in a better place in our response than we were three years ago, and we can transition away from the emergency phase. Over the last two years, the Biden Administration has effectively implemented the largest adult vaccination program in U.S. history, with nearly 270 million Americans receiving at least one shot of a COVID-19 vaccine.

As a result of this and other efforts, since the peak of the Omicron surge at the end of January 2022:

- Daily COVID-19 reported cases are down 92%,
- COVID-19 deaths have declined by over 80%, and
- New COVID-19 hospitalizations are down nearly 80%.

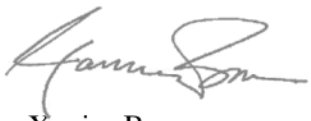
We have come to this point in our fight against the virus because of our historic investments and efforts to mitigate its worst impacts. Addressing COVID-19 remains a significant public health priority for the Administration, and over the next few months, we will transition our COVID-19 policies, as well as the current flexibilities enabled by the COVID-19 emergency declarations, into improving standards of care for patients. We will work closely with partners including state, local, Tribal, and territorial agencies, industry, and advocates, to ensure an orderly transition.

To help you and your communities in your preparations for the end of the COVID-19 PHE, I have attached a fact sheet to this letter that includes information on what will and will not be impacted by the end of the COVID-19 PHE.[2] In the coming days, the Centers for Medicare & Medicaid Services (CMS) will also provide additional information, including about the waivers many states and health systems have adopted and how they will be impacted by the end of the COVID-19 PHE. I will share that resource with your team when available.

[1] Letter to Governors on the COVID-19 Response (hhs.gov)
[2] Attachment 1

My team throughout the entire Department and I are eager to partner with you to ensure this process is as seamless as possible. If you or your team have any questions, please do not hesitate to contact Lee.Stevens@hhs.gov or Zach.Kahan@hhs.gov in my Office of Intergovernmental and External Affairs.

Sincerely,



Xavier Becerra

COVID-19 Public Health Emergency Transition Roadmap

Based on current COVID-19 trends, the Department of Health and Human Services (HHS) is planning for the federal Public Health Emergency (PHE) for COVID-19, declared under Section 319 of the Public Health Service (PHS) Act, to expire at the end of the day on May 11, 2023. Our response to the spread of SARS-CoV-2, the virus that causes COVID-19, remains a public health priority, but thanks to the Administration's whole of government approach to combatting the virus, we are in a better place in our response than we were three years ago, and we can transition away from the emergency phase.

Over the last two years, the Biden Administration has effectively implemented the largest adult vaccination program in U.S. history, with nearly 270 million Americans receiving at least one shot of a COVID-19 vaccine.

As a result of this and other efforts, since the peak of the Omicron surge at the end of January 2022:

- Daily COVID-19 reported cases are down 92%,
- COVID-19 deaths have declined by over 80%, and
- New COVID-19 hospitalizations are down nearly 80%.

We have come to this point in our fight against the virus because of our historic investments and our efforts to mitigate its worst impacts. Addressing COVID-19 remains a significant public health priority for the Administration, and over the next few months, we will transition our COVID-19 policies, as well as the current flexibilities enabled by the COVID-19 emergency declarations, into improving standards of care for patients. We will work closely with partners, including state, local, Tribal, and territorial agencies, industry, and advocates, to ensure an orderly transition.

What will not be affected:

It is important to note that the Administration's continued response to COVID-19 is not fully dependent on the COVID-19 PHE, and there are significant flexibilities and actions that will not be affected as we transition from the current phase of our response. As described below, the Administration is committed to ensuring that COVID-19 vaccines and treatments will be widely accessible to all who need them. There will also be continued access to pathways for emergency use authorizations (EUAs) for COVID-19 products (tests, vaccines, and treatments) through the Food and Drug Administration (FDA), and major telehealth flexibilities will continue to exist for those participating in Medicare or Medicaid.

Access to COVID-19 vaccinations and certain treatments, such as Paxlovid and Lagevrio, will generally not be affected. To help keep communities safe from COVID-19, HHS remains committed to maximizing continued access to COVID-19 vaccines and treatments.

Partners across the U.S. Government (USG) are developing plans to ensure a smooth transition

for the provision of COVID-19 vaccines and treatments as part of the traditional health care marketplace and are committed to executing this transition in a thoughtful, well-coordinated manner.

Importantly, this transition to more traditional health care coverage is not tied to the ending of the COVID-19 PHE and in part reflects the fact that the federal government has not received additional funds from Congress to continue to purchase more vaccines and treatments.

When this transition to traditional health care coverage occurs later this year, many Americans will continue to pay nothing out-of-pocket for the COVID-19 vaccine. Vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) are a preventive health service for most private insurance plans and will be fully covered without a co-pay. Currently, COVID-19 vaccinations are covered under Medicare Part B without cost sharing, and this will continue. Medicaid will continue to cover all COVID-19 vaccinations without a co-pay or cost sharing through September 30, 2024, and will cover ACIP-recommended vaccines for most beneficiaries thereafter.

Out-of-pocket expenses for certain treatments may change, depending on an individual's health care coverage, similar to costs that one may experience for other drugs through traditional coverage. Medicaid programs will continue to cover COVID-19 treatments without cost sharing through September 30, 2024. After that, coverage and cost sharing may vary by state.

FDA's EUAs for COVID-19 products (including tests, vaccines, and treatments) will not be affected. The ending of the COVID-19 PHE will not affect the FDA's ability to authorize various products, including tests, treatments, or vaccines for emergency use. Existing EUAs for COVID-19 products will remain in effect under Section 564 of the Federal Food, Drug, and Cosmetic Act, and the agency may continue to issue new EUAs going forward when criteria for issuance are met.

Major Medicare telehealth flexibilities will not be affected. The vast majority of current Medicare telehealth flexibilities that Americans—particularly those in rural areas and others who struggle to find access to care—have come to rely upon over the past two years, will remain in place through December 2024 due to the bipartisan Continuing Appropriations Act, 2023 passed by Congress in December 2022.

Medicaid telehealth flexibilities will not be affected. States already have significant flexibility with respect to covering and paying for Medicaid services delivered via telehealth. State requirements for approved state plan amendments vary as outlined in CMS' Medicaid & CHIP Telehealth Toolkit. This flexibility was available prior to the COVID-19 PHE and will continue to be available after the COVID-19 PHE ends. Similar to Medicare, these telehealth flexibilities can provide an essential lifeline to many, particularly for individuals in rural areas and those with limited mobility.

The process for states to begin eligibility redeterminations for Medicaid will not be affected. During the COVID-19 PHE, Congress has provided critical support to state Medicaid programs by substantially increasing the federal matching dollars they receive, as long as they agreed to important conditions that protected tens of millions of Medicaid beneficiaries, including the condition to maintain Medicaid enrollment for beneficiaries until the last day of the month in which the PHE ends. However, as part of the Continuing Appropriations Act, 2023,

Congress agreed to end this condition on March 31, 2023, independent of the duration of the COVID-19 PHE.

Access to buprenorphine for opioid use disorder treatment in Opioid Treatment Programs (OTPs) will not be affected. Early in the COVID-19 pandemic, the Substance Abuse and Mental Health Services Administration (SAMHSA) released guidance allowing patients to start buprenorphine in an OTP by telehealth without the required in-person physical examination first. This flexibility has proven to be safe and effective in engaging people in care such that SAMHSA proposed to make this flexibility permanent as part of changes to OTP regulations in a Notice of Proposed Rulemaking that it released in December 2022. SAMHSA has committed to providing an interim solution if the proposed OTP regulations are not finalized prior to May 11.

Access to expanded methadone take-home doses for opioid use disorder treatment will not be affected. Early in 2020, SAMHSA allowed an increased number of take-home doses to patients taking methadone in an OTP. Research and feedback from patients, OTPs, and states have demonstrated that this flexibility has allowed people with opioid use disorder to stay in treatment longer, supported recovery, and has not resulted in increases in methadone-related overdoses. SAMHSA announced it will extend this flexibility for one year from the end of the COVID-19 PHE, which will be May 11, 2024, to allow time for the agency to make these flexibilities permanent as part of the proposed OTP regulations published in December 2022.

What will be affected:

Many COVID-19 PHE flexibilities and policies have already been made permanent or otherwise extended for some time. However, HHS continues to review the flexibilities and policies implemented during the COVID-19 PHE to determine whether others can and should remain in place, even for a temporary duration, to facilitate jurisdictions' ability to provide care and resources to Americans. Still, others will expire. Below is a list of some of the changes people will see in the months ahead.

Certain Medicare and Medicaid waivers and broad flexibilities for health care providers are no longer necessary and will end. During the COVID-19 PHE, CMS has used a combination of emergency authority waivers, regulations, and sub-regulatory guidance to ensure and expand access to care and to give health care providers the flexibilities needed to help keep people safe. States, hospitals, nursing homes, and others are currently operating under hundreds of these waivers that affect care delivery and payment and that are integrated into patient care and provider systems. Many of these waivers and flexibilities were necessary to expand facility capacity for the health care system and to allow the health care system to weather the heightened strain created by COVID-19; given the current state of COVID-19, this excess capacity is no longer necessary.

CMS developed a roadmap for the eventual end of the COVID-19 PHE, which was published in August 2022, and has been sharing information on what health care facilities and providers can do to prepare for future emergencies. This includes facilities returning to normal operations and meeting CMS requirements that promote the safety and quality of care they provide. CMS will continue to provide updated information and is also offering technical assistance to states and engaging in public education about the necessary steps to prepare for the end of the COVID-19 PHE.

For Medicaid, some additional COVID-19 PHE waivers and flexibilities will end on May 11, while others will remain in place for six months following the end of the PHE. But many of the Medicaid waivers and flexibilities, including those that support home and community-based services, are available for states to continue beyond the PHE, if they choose to do so. For example, states have used COVID-19 PHE-related flexibilities to increase the number of individuals served under a waiver, expand provider qualifications, and other flexibilities. Many of these options may be extended beyond the PHE.

Coverage for COVID-19 testing for Americans will change. Medicare beneficiaries who are enrolled in Part B will continue to have coverage without cost sharing for laboratory-conducted COVID-19 tests when ordered by a provider, but their current access to free over-the-counter (OTC) COVID-19 tests will end, consistent with the statute on Medicare payment for OTC tests set by Congress.

The requirement for private insurance companies to cover COVID-19 tests without cost sharing, both for OTC and laboratory tests, will end. However, coverage may continue if plans choose to continue to include it. We are encouraging private insurers to continue to provide such coverage going forward.

State Medicaid programs must provide coverage without cost sharing for COVID-19 testing until the last day of the first calendar quarter that begins one year after the last day of the COVID-19 PHE. That means with the COVID-19 PHE ending on May 11, 2023, this mandatory coverage will end on September 30, 2024, after which coverage may vary by state.

Additionally, dependent on supply and resources, the USG may continue to distribute free COVID-19 tests from the Strategic National Stockpile through the United States Postal Service, states, and other community partners. Pending resource availability, the Centers for Disease Control and Prevention's (CDC) Increasing Community Access to Testing (ICATT) program will continue working to ensure continued equitable access to testing for uninsured individuals and areas of high social vulnerability through pharmacies and community-based sites.

Reporting of COVID-19 laboratory results and immunization data to CDC will change. CDC COVID-19 data surveillance has been a cornerstone of our response, and during the PHE, HHS has had the authority to require lab test reporting for COVID-19. At the end of the COVID-19 PHE, HHS will no longer have this express authority to require this data from labs, which may affect the reporting of negative test results and impact the ability to calculate percent positivity for COVID-19 tests in some jurisdictions. CDC has been working to sign voluntary Data Use Agreements (DUAs), encouraging states and jurisdictions to continue sharing vaccine administration data beyond the PHE. Additionally, hospital data reporting will continue as required by the CMS conditions of participation through April 30, 2024, but reporting may be reduced from the current daily reporting to a lesser frequency.

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###

From: Shanker, Adrian (HHS/OASH)
Sent: Tue, 7 Feb 2023 14:49:21 +0000
To: Levine, Rachel (HHS/OASH)
Cc: Calsyn, Maura (HHS/OASH); Orsega, Susan (OS/OASH)
Subject: two articles on LGBTQI+ vaping disparities

ADM Levine

In advance of the meeting this week with Brian King at FDA, here are two articles that demonstrate the disparities in vaping:

- Vaping Disparities at the Intersection of Gender Identity and Race/Ethnicity in a Population-Based Sample of Adolescents - PMC (nih.gov)
- Rising vaping rates among lesbian, gay, and bisexual young people outpace peers (truthinitiative.org)

This information is incorporated into your talking points. The articles are for background / awareness.

Adrian

Adrian Shanker (he/him)
Senior Advisor on LGBTQI+ Health Equity
Office of the Assistant Secretary for Health
U.S. Department of Health and Human Services

Email: adrian.shanker@hhs.gov
Mobile: (b)(6)
www.hhs.gov/ash

OASH Office of the Assistant Secretary for Health
LEADING AMERICA TO HEALTHIER LIVES

From: Levine, Rachel (HHS/OASH)
Sent: Tue, 31 Jan 2023 20:27:22 +0000
To: Shanker, Adrian (HHS/OASH); Boateng, Sarah (HHS/OASH); Calsyn, Maura (HHS/OASH)
Subject: RE: LGBTI+ older adults and vaccination.

Thank you

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

OASH

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>
Sent: Tuesday, January 31, 2023 3:25 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: FW: LGBTI+ older adults and vaccination.

For awareness, from OIDP based on 2020 BRFSS data (which is limited since not all states collect SOGI)

From: Farrall, Susan (HHS/OASH) <>
Sent: Tuesday, January 31, 2023 2:25 PM
To: Barber, Mariah (HHS/OASH) <Mariah.Barber@hhs.gov>; Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>
Subject: LGBTI+ older adults and vaccination.

Fyi: **Data that suggests:transgender adults had the lowest rates of uptake across all three vaccines (older adults/ 3 vaccines)**

Sexual Orientation and Gender Identity Differences in Influenza, Shingles, and Pneumococcal Vaccination Among U.S. Older Adults

Andrea N. Polonijo
and
Eric M. Vogelsang
Published Online: 26 Oct 2022 https://doi.org/10.1089/lgbt.2022.0191

- Article Tools Title
- **Share**

Abstract

Purpose: LGBT older adults face challenges accessing and receiving culturally competent health care and may be more vulnerable to serious outcomes from vaccine-preventable diseases. This study examines whether sexual orientation and gender identity are associated with older adult influenza, zoster ("shingles"), and pneumococcal vaccine uptake.

Methods: Data come from the 2020 Behavioral Risk Factor Surveillance System. The sample included older adults aged 50+ (eligible for influenza and shingles vaccination; $n = 136{,}528$) and 65+ (eligible for pneumococcal vaccination; $n = 74{,}779$). We calculated rates of influenza, shingles, and pneumococcal vaccine uptake by gender-stratified sexual orientation groups and for transgender versus cisgender populations. Logistic regression models tested for associations between sexual orientation, gender identity, and vaccine uptake, controlling for key sociodemographic characteristics.

Results: Transgender adults had the lowest rates of uptake across all three vaccines, including 46% lower odds of shingles vaccination and 61% lower odds of pneumococcal vaccination, when compared with cisgender adults. Gay (vs. straight) men had 1.5–1.9 times greater odds of flu and shingles vaccination. Bisexual (vs. straight) women had 32% lower odds of flu vaccination.

Conclusion: Our findings indicate that vaccine uptake among LGBT older adults varies by sexual orientation, gender identity, and vaccine type. Bisexual women and transgender people are groups that tend to underutilize health care

Susan Farrall
Public Health Advisor
National Vaccine Program
Office of Assistant Secretary of Health
Department of Health and Human Services
404-964-2674
susan.farrall@hhs.gov

From: Levine, Rachel (HHS/OASH)
Sent: Wed, 25 Jan 2023 19:11:06 +0000
To: Galvez, Jorge; Shanker, Adrian (HHS/OASH)
Subject: RE: Meeting follow up

Julia, Good afternoon. Thanks so much for your email and for coming to visit. Please take care and keep in touch, Rachel

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Galvez, Jorge <jgalvez@childrensomaha.org>
Sent: Wednesday, January 25, 2023 12:39 PM
To: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: Meeting follow up

Hello Admiral Levine and Mr. Shanker

It was truly an honor and pleasure to meet you today. I am grateful for your advice and guidance as I prepare to enter the world of advocacy for all people.

My physician and colleague, Alex Dworak, who practices at the OneWorld community center in Omaha, has spent his career serving the Midwest community. He is also planning to participate in the upcoming legislative sessions and testify on the hearings for LB 574 and LB 575 recently introduced to the Nebraska legislature.

He is interested in connecting with either of you to discuss the advocacy strategy. His e-mail is:

adworak@oneworldomaha.org and his clinic profile is:
https://www.oneworldomaha.org/staff-members/alex-dworak/

> Alex Dworak, MD | OneWorld
>
> OneWorld Community Health Centers complies with applicable Federal civil rights laws and does not discriminate on the basis of race, religion, color, national origin, sexual orientation, pregnancy, age, gender identity, disability, military status, veteran status, ancestry, immigration status or ability to pay.
>
> www.oneworldomaha.org

I cannot speak highly enough about the OneWorld clinic. It is truly an incredible place. All of the staff in the enterprise are bilingual and serve all people in the region. It a robust community resource and one of the many gems that I serendipitously stumbled upon in my journey.

Here is a copy of the photo from our meeting. Thank you again for the coin. I enjoyed learning the history of the coin and its design from Lieutenant Commander Lee.

Thank you again for your guidance and support.
For reference, my contact information is below:

Cell: (b)(6)
personal email: (b)(6)

Respectfully,

Julia A. Gálvez Delgado, MD MBI *(She/Her/Hers)*

Division Chief

Pediatric Anesthesiology

Kugler Vonderfecht Professor

Vice-Chair of Pediatric Anesthesiology

University of Nebraska Medical Center

Children's Hospital & Medical Center
8200 Dodge Street • Omaha, NE 68114-4113
jgalvez@childrensomaha.org

ChildrensOmaha.org

Our Places are Inclusive Spaces

I sometimes write at seemingly irregular times because they are convenient for me.

Should this e-mail reach you outside of **your working hours**, please **do not feel obligated** to respond until you are back at work.

In exchange, I promise to do the same.

From: Levine, Rachel (HHS/OASH)
Sent: Sun, 22 Jan 2023 15:23:30 +0000
To: Broido, Tara (HHS/OASH)
Subject: RE: Study finds no increased overdose risk from pandemic waivers to treat opioid addiction virtually

Thank you

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Sent: Friday, January 20, 2023 2:06 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Mikre, Meriam (HHS/OASH) <Meriam.Mikre@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Iademarco, Michael (HHS/OASH) <Michael.Iademarco@hhs.gov>; States, Leith (HHS/OASH) <Leith.States@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Cc: Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Seigfreid, Kimberly (HHS/OASH) <Kimberly.Seigfreid@hhs.gov>; Migliaccio-Grabill, Kate (HHS/OASH) <Kate.Migliaccio-Grabill@hhs.gov>; Channer, Amber (OS/OASH) <Amber.Channer@hhs.gov>
Subject: FW: Study finds no increased overdose risk from pandemic waivers to treat opioid addiction virtually

FYSA

From: POLITICO Pro <alert@email.politicopro.com>
Sent: Friday, January 20, 2023 1:29 PM
To: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Subject: Study finds no increased overdose risk from pandemic waivers to treat opioid addiction virtually

POLITICOPRO

Study finds no increased overdose risk from pandemic waivers to treat opioid addiction virtually

BY **BEN LEONARD** | 01/20/2023 01:26 PM EST

Eased rules permitting doctors to prescribe buprenorphine to treat opioid use disorder through telemedicine during the Covid-19 pandemic didn't result in a rise in the share of overdose deaths involving the drug, a study published Friday in JAMA Network Open found.

The report, from researchers at the CDC and NIH, comes as the Drug Enforcement Administration is in the rulemaking process on regulations to permit virtual prescribing of buprenorphine — an opioid and a controlled substance subject to DEA regulation — after HHS declares the Covid public health emergency over. That could happen as soon as April.

The findings: The researchers examined CDC data from 46 states and Washington, D.C., and found that the share of opioid deaths involving buprenorphine, which is used to get patients off more dangerous opioids, didn't rise between July 2019 and June 2021.

Buprenorphine was involved in 2.6 percent of opioid-involved overdose deaths during that time period, but about 93 percent of the people who died with buprenorphine in their systems also had recently used other drugs.

"Research has shown beyond a doubt that medications for opioid use disorder are overwhelmingly beneficial and can be lifesaving, yet they continue to be vastly underused," said senior author and National Institute on Drug Abuse Director Nora Volkow, in a release. "The findings from this study strengthen existing evidence suggesting that greater flexibility in prescribing may be one safe method for working toward this goal."

What it matters: Most people with opioid use disorder go untreated, and public health officials see buprenorphine as one of their most valuable tools to combat the opioid epidemic. The research adds to a body of previous literature that showed

prescribing buprenorphine via telemedicine is at least as effective, and sometimes more effective, in keeping patients on the medication.

More than 80,000 people died due to opioid overdoses in 2021, according to federal data.

Congress tasked the DEA with setting up a special registration process to allow virtual prescribing in a 2008 law, but the DEA hasn't done so. The agency missed 2018 and 2019 deadlines that Congress set.

What's next: The pending end of the Covid public health emergency has fueled opioid treatment advocates' push for the DEA to issue rules that would enable controlled substance prescribing via telemedicine permanently.

Patients have also been able to receive prescriptions for mental health treatments and testosterone for gender-affirming care because of a DEA waiver during the pandemic. They would need to return to in-person visits if the DEA does not act before the end of the emergency.

The Biden administration says it wants to propose a rule this month to facilitate virtual buprenorphine prescribing and another regulation allowing access to controlled substances by telemedicine broadly.

The DEA didn't immediately respond to a request for comment on the study.

HHS' Substance Abuse and Mental Health Services Administration has proposed to permanently allow virtual buprenorphine prescribing in SAMHSA-certified opioid treatment programs, but potential DEA regulations could have a broader scope.

View this article online.

1000 Wilson Blvd.
Arlington, VA 22209
USA

Politico Transaction: correlation=9401fe52-943f-47b1-bcd0-79c48d2d7edf, doc=00000185-d054-dde8-a9af-d4fdd44a0000, send=e9f38a94-5b45-4593-83eb-3225d02ee7b1, user=0000014e-f104-dd93-ad7f-f905690d0002

From: Levine, Rachel (HHS/OASH)
Sent: Tue, 29 Nov 2022 22:08:32 +0000
To: Oh, Kathy (OS/OASH); Boateng, Sarah (HHS/OASH); Shanker, Adrian (HHS/OASH); Calsyn, Maura (HHS/OASH)
Subject: RE: [WARNING : MESSAGE ENCRYPTED] Fwd: Case: 06-22-470434-CP-CR-PGM Lopez, Ximena vs University of Texas Southwestern Medical Center

Do you want me to send you new ones or hold??

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Sent: Tuesday, November 29, 2022 4:12 PM
To: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: RE: [WARNING : MESSAGE ENCRYPTED] Fwd: Case: 06-22-470434-CP-CR-PGM Lopez, Ximena vs University of Texas Southwestern Medical Center

I'll send to OCR. Thanks,

From: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Sent: Tuesday, November 29, 2022 1:18 PM
To: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: RE: [WARNING : MESSAGE ENCRYPTED] Fwd: Case: 06-22-470434-CP-CR-PGM Lopez, Ximena vs University of Texas Southwestern Medical Center

Yes, OCR forward sounds good to me

From: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>
Sent: Tuesday, November 29, 2022 12:58 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: RE: [WARNING : MESSAGE ENCRYPTED] Fwd: Case: 06-22-470434-CP-CR-PGM Lopez, Ximena vs University of Texas Southwestern Medical Center

(b)(5)

Adrian

From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Tuesday, November 29, 2022 12:33 PM
To: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>
Subject: FW: [WARNING : MESSAGE ENCRYPTED] Fwd: Case: 06-22-470434-CP-CR-PGM Lopez, Ximena vs University of Texas Southwestern Medical Center

Thoughts

Rachel L. Levine, M.D.
ADM, United States Public Health Service
Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Ximena Lopez <(b)(6)
Sent: Tuesday, November 29, 2022 11:27 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: [WARNING : MESSAGE ENCRYPTED] Fwd: Case: 06-22-470434-CP-CR-PGM Lopez, Ximena vs University of Texas Southwestern Medical Center

Dear Dr. Levine,

We met at the WPATH meeting last September in Montreal and you kindly dedicated some of your time to speak with me and you gave me your card.
I also asked in front of the audience about HHS investigations of federally funded institutions that were restricting gender affirming care to youth. You gave your word that HHS would investigate complaints to the OCR.

I am kindly asking if you can review this response to my complaint to the OCR (see attached).
In short, I filed a complaint because my employer, the University of Texas Southwestern Medical Center, which receives federal funding, ordered me to stop gender affirming care to transgender youth, due to direct political pressure from the Texas Governor and legislators.
It is with great disappointment that I received this letter that my complaint is closed due to related litigation against the state, but this is not true.

The ongoing litigation against the state is NOT related to the events that occurred at the University of Texas Southwestern Medical Center.
The ongoing litigation against the state relates to the directive from the Texas Governor to investigate parents of transgender youth for child abuse. I have a separate litigation against Children's Health Dallas where I see patients, this is a private hospital and not the state or state institution.

I am very disappointed that the HHS is not making my institution accountable for their unethical actions and hope that with this clarification, you are able to revise this and take action as promised.

Thank you so much in advance for your support of these vulnerable patients, and please let me know if you need any other information.

Ximena Lopez, MD
Pronouns: She/her/hers

Founder of the GENder, Education and Care Interdisciplinary Support (GENECIS) program
Associate Professor of Pediatrics, Division of Pediatric Endocrinology
University of Texas Southwestern and Children's Medical Center

5323 Harry Hines Blvd.
Dallas, Texas 75390-9063
Tel: 214-648-3501
Fax: 214-456-2940

---------- Forwarded message ---------
From: **Bingham, Stephanie (HHS/OCR)** <Stephanie.Bingham@hhs.gov>
Date: Wed, Nov 2, 2022 at 2:20 PM
Subject: Case: 06-22-470434-CP-CR-PGM Lopez, Ximena vs University of Texas Southwestern Medical Center
To: (b)(6)

Please do not alter or change the subject line above.
Please reference the transaction number above when e-mailing.

Closure Letter

Attached is the closure of your complaint received by the Office for Civil Rights.

Respectfully,

Stephanie Bingham
Program Staff Assistant
US Department of Health and Human Services
Office for Civil Rights
1301 Young Street Suite 106-1130
Dallas, TX 75202
214-767-2293

- *There is no amount of good you can do if you don't care who gets the credit.*

From: Levine, Rachel (HHS/OASH)
Sent: Fri, 13 Jan 2023 13:22:45 +0000
To: 'Sarah Boateng'; Oh, Kathy (OS/OASH); Sarvana, Adam (HHS/OASH); Broido, Tara (HHS/OASH); Shanker, Adrian (HHS/OASH); Calsyn, Maura (HHS/OASH)
Subject: LGBTQ articles

https://thehill.com/homenews/state-watch/3810926-transgender-youth-health-care-bans-have-a-new-target-adults/

https://thehill.com/changing-america/3811406-new-studies-find-millions-of-young-nonbinary-and-transgender-americans/

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

OASH

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Broido, Tara (HHS/OASH)
Sent: Thu, 12 Jan 2023 16:13:29 +0000
To: Levine, Rachel (HHS/OASH); Calsyn, Maura (HHS/OASH); Boateng, Sarah (HHS/OASH); Iademarco, Michael (HHS/OASH)
Cc: Mikre, Meriam (HHS/OASH); Migliaccio-Grabill, Kate (HHS/OASH); Channer, Amber (OS/OASH); Seigfreid, Kimberly (HHS/OASH); Sarvana, Adam (HHS/OASH)
Subject: FW: Covid emergency's end could curtail access to opioid disorder, mental health drugs

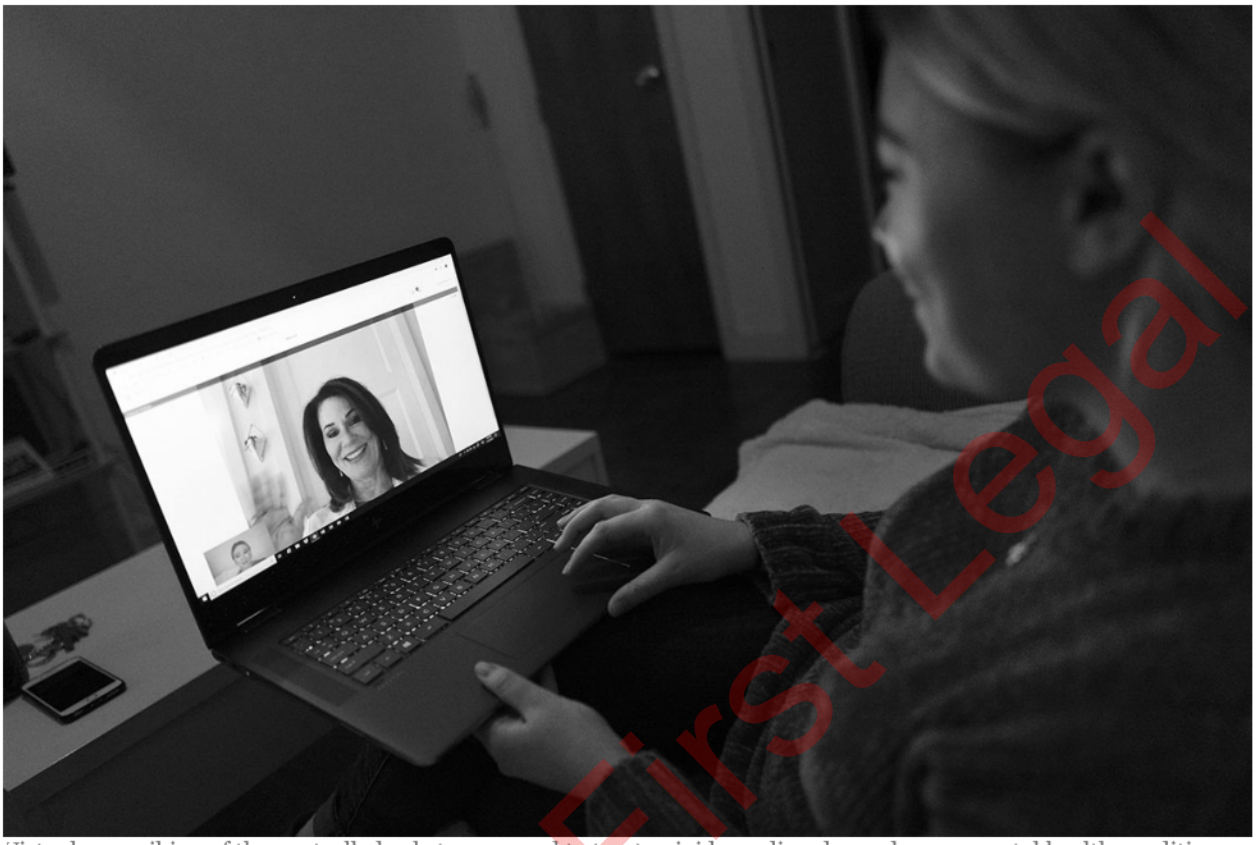
FYSA

From: POLITICO Pro <alert@email.politicopro.com>
Sent: Thursday, January 12, 2023 11:01 AM
To: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Subject: Covid emergency's end could curtail access to opioid disorder, mental health drugs

POLITICOPRO

Covid emergency's end could curtail access to opioid disorder, mental health drugs

BY **BEN LEONARD** | 01/12/2023 10:57 AM EST



Virtual prescribing of the controlled substances used to treat opioid use disorder and some mental health conditions has hit a hitch at the DEA. | Mark Lennihan/AP Photo

Pandemic waivers made it easier for people suffering from substance use disorders and mental health problems to get virtual care, including for medicine prescribed after telehealth visits.

But if the Biden administration ends the Covid public health emergency in April, as it is considering, those exemptions could end. Public health experts and providers say that would take away a key tool they're using to fight the opioid epidemic, which claimed the lives of more than 80,000 people in the U.S. in 2021 alone, as well as the number of mental health-related illnesses that jumped during the Covid pandemic.

Congress has extended through the end of 2024 many of the provisions tied to the emergency, including expanded Medicare and high-deductible health plan telehealth access and hospital-at-home care. But virtual prescribing of the controlled substances used to treat opioid use disorder and some mental health conditions has hit a hitch at the Drug Enforcement Administration.

"Congress has already used the levers they have to push the DEA," said Krista Drobac, executive director of the Alliance for Connected Care, a lobbying group that promotes telehealth. "At this point, it's up to the [White House Office of Management and Budget] and DEA to get the proposal out ... before there's a gap in coverage"

Congress tasked the DEA with setting up a special registration process to allow prescribing of controlled substances via telemedicine in a 2008 law.

The agency pledged to do so in 2009 but has missed 2018 and 2019 deadlines that Congress set.

The Biden administration has said in its policy agenda that it expects to issue a proposed rule this month to facilitate virtual prescribing of buprenorphine — a drug used to treat opioid use disorder — and a separate regulation permitting access to controlled substances by telemedicine generally.

Members of Congress, including Sen. Mark Warner (D-Va.) and former Sen. Rob Portman (R-Ohio), most state attorneys general, many medical providers and telehealth firms have urged the DEA to proceed.

But the DEA, tasked with preventing the misuse of drugs, is concerned that some virtual prescribers abused pandemic waivers to overprescribe medicine. The agency is reportedly investigating two firms, Cerebral and Done, for allegedly overprescribing controlled substances used to treat attention-deficit hyperactivity disorder.

The DEA alleged last month that Truepill, which served as the pharmacy for Cerebral, doled out controlled substances without a legitimate medical purpose. According to The Wall Street Journal, Truepill's CEO said the firm is cooperating with the DEA and is "confident we will be able to demonstrate the absence of wrongdoing."

The agency declined to comment on its post-Covid emergency plans.

Telehealth advocates said evidence of fraudulent virtual prescribing is rare, despite these high-profile cases. The HHS inspector general reported in September that it believed only 0.2 percent of Medicare telehealth claims during the pandemic were a high risk for waste, fraud or abuse.

At the same time, the need for treatment is immense.

HHS' Substance Abuse and Mental Health Services Administration said earlier this month that its 2021 survey found more than 15 percent of the population, about 46 million people, had a substance use disorder, and about 1 in 4 adults had a mental illness.

At the same time, nearly 94 percent of people with substance use disorder didn't receive any treatment in 2021, SAMHSA said.

Gender-affirming care providers like Plume and FOLX also hope that expanded access to virtual controlled substance prescribing stays intact. Otherwise, testosterone access would become more limited.

"Given the difficulty that many trans patients encounter finding safe, affirming care in their communities, that would present a significant hardship," said Jerrica Kirkley, co-founder and chief medical officer of Plume.

Plume is calling for the DEA to reclassify testosterone to make it easier for patients to access.

Robert Krayn, founder and CEO of New York-based virtual mental health startup Talkiatry, said he hopes the DEA's rules enable treatment for both mental health and substance use because many patients deal with both conditions.

"They can't treat substance use disorder in a bubble," Krayn said.

Since the process to finalize rules can be lengthy, there could be a lapse in waivers even if the DEA proposes a rule before the emergency ends. Shawn Ryan, chair of the American Society of Addiction Medicine's legislative advocacy committee, suggested that the eased regulations could be extended through the opioid crisis public health emergency, which has been intact since 2017.

Kyle Zebley, senior vice president for public policy at the American Telemedicine Association and head of its lobbying arm, urged the DEA — and providers — to have a plan in place in case of a lapse.

"Good public policy does not mean you take a leap in the dark, particularly when you can prevent this crisis," Zebley said.

Politico Transaction: correlation=9e252a68-94ed-4000-8b15-518bcae07740, doc=00000185-a687-d88f-aba5-b6af40c80000, send=99eea61b-2132-4508-ac20-86f270c62ef2, user=0000014e-f104-dd93-ad7f-f905690d0002

From: Levine, Rachel (HHS/OASH)
Sent: Thu, 22 Dec 2022 13:45:51 +0000
To: Boateng, Sarah (HHS/OASH)
Subject: RE: TEXAS MAN INDICTED FOR THREATENING DOCTOR AFFILIATED WITH THE NATIONAL LGBTQIA+ HEALTH EDUCATION CENTER

Thank you

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Sent: Thursday, December 22, 2022 8:15 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: FW: TEXAS MAN INDICTED FOR THREATENING DOCTOR AFFILIATED WITH THE NATIONAL LGBTQIA+ HEALTH EDUCATION CENTER

FYSA

From: Powers, John (CRT) <John.Powers@usdoj.gov>
Sent: Wednesday, December 21, 2022 2:13 PM
To: de Kervor, Dylan (HHS/OCR) <Dylan.deKervor@hhs.gov>
Subject: FW: TEXAS MAN INDICTED FOR THREATENING DOCTOR AFFILIATED WITH THE NATIONAL LGBTQIA+ HEALTH EDUCATION CENTER

Hi Dylan:

You might've seen this news already but I wanted to share this with you in an abundance of caution.

Thanks, John

John Powers
Counsel
Civil Rights Division
U.S. Department of Justice
(202) 514-1055 (office)
(b)(6) (cell)

From: USAMA-Media (USAMA) <USAMA.MEDIA@usa.doj.gov>
Sent: Thursday, December 15, 2022 4:53 PM
Subject: TEXAS MAN INDICTED FOR THREATENING DOCTOR AFFILIATED WITH THE NATIONAL LGBTQIA+ HEALTH EDUCATION CENTER

Department of Justice

United States Attorney Rachael S. Rollins
District of Massachusetts

FOR IMMEDIATE RELEASE
December 15, 2022
www.justice.gov/usao/ma/news.html

CONTACT: CHRISTINA DiIORIO-STERLING
Phone (617) 748-3356
usama.media@usdoj.gov

twitter.com/dmanews1

TEXAS MAN INDICTED FOR THREATENING DOCTOR AFFILIATED WITH THE NATIONAL LGBTQIA+ HEALTH EDUCATION CENTER

BOSTON – A federal grand jury returned an indictment today charging a Texas man with threatening a Boston doctor because the doctor provided care for members of the transgender community.

Matthew Jordan Lindner, 38, of Comfort, Texas, was charged with interstate transmission of threatening communication, and selecting the victim because of the gender identity of persons

for whom the victim provided medical care. Lindner was arrested on Dec. 2 and subsequently released on bond by a U.S. Magistrate Judge in San Antonio. He will appear in federal court in Boston on Dec. 22 before U.S. District Court Magistrate Judge Donald L. Cabell.

According to the indictment, in August 2022, inaccurate information spread online regarding procedures at Boston Children's Hospital for gender nonconforming children. It is alleged that on Aug. 31, 2022, Lindner called the Boston-based National LGBTQIA+ Health Education Center and left a threatening voicemail targeting one of the Center's affiliated doctors. In that voicemail, Lindner allegedly said: "You sick motherf*****s, you're all gonna burn. There's a group of people on their way to handle [victim]. You signed your own warrant, [victim]. Castrating our children. You've woken up enough people. And upset enough of us. And you signed your own ticket. Sleep well, you f******, c***."

In August 2022, U.S. Attorney Rollins announced the creation of the "End Hate Now" hotline – 1-83-END-H8-NOW (1-833-634-8669) – for reporting hate-based incidents or potential criminal activity. Massachusetts residents and visitors are encouraged to call the hotline to report concerning or troubling incidents of hate, potential hate crimes, or concerns regarding individuals believed to be espousing the hate-filled views or actions we learn of far too often in the wake of mass shootings and/or acts of hate-based violent extremism. Callers are encouraged to leave their contact information but may remain anonymous. At this time, the hotline is available in English, Spanish, Cantonese and French.

The charge of interstate transmission of threatening communication provides for a sentence of up to five years in prison, up to three years of supervised release and a fine of up to $250,000. Sentences are imposed by a federal district court judge based upon the U.S. Sentencing Guidelines and statutes which govern the determination of a sentence in a criminal case.

U.S. Attorney Rachael A. Rollins and Joseph R. Bonavolonta, Special Agent in Charge of the Federal Bureau of Investigation, Boston Division made the announcement today. Assistant U.S. Attorney Brian A. Fogerty of Rollins' Human Trafficking & Civil Rights Unit is prosecuting the case.

The details contained in the charging documents are allegations. The defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

###

From: Levine, Rachel (HHS/OASH)
Sent: Sun, 18 Dec 2022 20:23:16 +0000
To: Marcella, Jessica (HHS/OASH)
Subject: RE: Update: Title X Deanda Case Loss

Thank you

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Marcella, Jessica (HHS/OASH) <Jessica.Marcella@hhs.gov>
Sent: Friday, December 16, 2022 5:03 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Lopez, Steven (HHS/OS/IOS) <Steven.Lopez@hhs.gov>; Arguello, Andres (OS/IOS) <Andres.Arguello@hhs.gov>; Wulff, Kacey (OS/IOS/) <Kacey.Wulff@hhs.gov>
Cc: Margolis, Amy (HHS/OASH) <Amy.Margolis@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Subject: Update: Title X Deanda Case Loss
Importance: High

Good afternoon:

As I mentioned in my note yesterday, (b)(5)

(b)(5)

(b)(5)

As soon as we know more, I will loop you all in. Please do not hesitate to call me at any point on my cell: (b)(6) I expect that much of this could happen rapidly and before we enter the new year even as many are taking time off.

Thanks

Jess
(proposals attached for your awareness/interest)

From: Marcella, Jessica (HHS/OASH)
Sent: Thursday, December 15, 2022 7:22 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Steven Lopez (HHS/OS/IOS) (Steven.Lopez@hhs.gov) <Steven.Lopez@hhs.gov>; Andres Arguello (OS/IOS) (Andres.Arguello@hhs.gov) <Andres.Arguello@hhs.gov>; Wulff, Kacey (OS/IOS/) <Kacey.Wulff@hhs.gov>
Cc: Margolis, Amy (HHS/OASH) <Amy.Margolis@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Subject: Title X Deanda Case Loss
Importance: High

Hi Admiral Levine and leadership and IOS colleagues:

(b)(5)

(b)(5)

Let me know if you have any questions or if there are other details that would be helpful to provide. We have already heard from one of our grantees in Texas who is seeking further guidance, but as I noted, we can provide additional guidance until the judge issues his ruling on the remedy.

Jess

Jessica Swafford Marcella, MPA
Deputy Assistant Secretary for Population Affairs
Director, Office of Adolescent Health
Office of Population Affairs

Email: jessica.marcella@hhs.gov

<< OLE Object: Picture (Device Independent Bitmap) >>

From: Headquarters, Commissioned Corps on behalf of "Commissioned Corps HQ (HHS/OSG)" <COMMCORPS-HQ@HHS.GOV>
Sent: Thu, 8 Dec 2022 17:14:47 +0000
To: COMMCORPS-HQ@LIST.NIH.GOV
Subject: Revision to CCI 412.01, "Uniforms and Appearance"

For Official Use Only - Not for Public Release

Dear Public Health Service Officers

The Assistant Secretary for Health has approved revisions to Commissioned Corps Instruction (CCI) 412.01, "Uniforms and Appearance," that update the U.S. Public Health Service (USPHS) Commissioned Corps' policy regarding tattoos, as well as ponytails for female officers. These changes attempt to balance the desire of individual officers to display their own personality with the need to maintain the professional and disciplined appearance others have come to expect from the USPHS Commissioned Corps. With that balance in mind, the revised policy aims to reduce the number of prohibited tattoos, streamline the tattoo review process, and change the maximum ponytail length. These changes reflect the USPHS Commissioned Corps' effort to recruit and retain the most qualified candidates as possible.

This revision:

- Provides updates to the limitations/requirements related to tattoos and moves such guidance from Section 6-8. l. to its own Section 6-9.

- Adds a sentence that "PHS officers should use discretion and good judgement regarding the application and display of tattoos".

- Removes the restriction on tattoo size.

- States that this policy applies to ultra-violet tattoos.

- Adds language to the list of extremist tattoos to forbid tattoos advocating discrimination against sexual orientation and gender identity, advocating terrorism, or supporting the overthrow of the U.S. Government. It also now forbids obscene or indecent tattoos.

- Modifies permitted locations for tattoos to include chest and back (although these must be covered), and lower arm. The policy does not forbid tattoos on the leg or foot.

- Adds new sections on applicants and officers including an optional advance content review for officers before they get a new tattoo. Both applicants and officers must complete Appendix B listing their tattoos.

- Allows the Director, CCHQ, or designee to review tattoos.

- Removes tattoo waivers.

- Removes the requirement in Appendix B that the Director, CCHQ, approve all new tattoos on exposed skin; and

- Changes the maximum ponytail length in Section 6-8. a.

After reviewing the policy, if you have any further questions regarding tattoos, brands, body art/piercings, or dental ornamentation, please email **PHSOS-CADQuestions@hhs.gov.**

In Officio Salutis,

Richard P. Schobitz, Ph.D. ABPP
CAPT, USPHS
Director, Commissioned Corps Headquarters

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From: Levine, Rachel (HHS/OASH)
Sent: Mon, 28 Nov 2022 16:28:12 +0000
To: Shanker, Adrian (HHS/OASH); Boateng, Sarah (HHS/OASH); Oh, Kathy (OS/OASH); Sarvana, Adam (HHS/OASH); Broido, Tara (HHS/OASH)
Cc: Calsyn, Maura (HHS/OASH)
Subject: RE: article

Adrian, Great. Thanks.
Adam, Tara, Should we engage with the reporter?? RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

OASH

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>
Sent: Monday, November 28, 2022 11:27 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Cc: Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: RE: article

Very thorough article, the one in Politico yesterday (which quoted you, ADM Levine) is also helpful for awareness – how families are making the decision to leave states that pass these laws.

I'll share the NPR article with Suzanne at DOE also since it addresses the school-based laws specifically.

adrian

From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Monday, November 28, 2022 11:15 AM
To: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Shanker, Adrian (HHS/OASH) <Adrian.Shanker@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Subject: article

Historic wave of anti-trans bills focuses almost entirely on trans youth : NPR

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Levine, Rachel (HHS/OASH)
Sent: Thu, 29 Sep 2022 11:15:08 +0000
To: 'Sarah Boateng'; Oh, Kathy (OS/OASH)
Subject: FW: D. M. Maynard: Follow Up to Our In-Person Conversation

Sarah, FYI. Maybe Adrian can respond when he arrives. Thanks, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Denise M <(b)(6)
Sent: Wednesday, September 28, 2022 11:18 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: D. M. Maynard: Follow Up to Our In-Person Conversation

Dear Dr. Levine,

It was quite an honor to hear your keynote address and meet you in person at the WPATH conference. Your powerful words and passionate support of TGD youth truly inspired me. You are a role model for all who understand firsthand the challenges facing TGD communities both inside and outside of the classroom. Your emphasis on the important role teachers play in the lives of their students warmed my heart. As a queer educator and author, I was energized and overjoyed when we spoke briefly post your presentation. I am humbled and grateful you offered me your card and requested I email you after the conference.

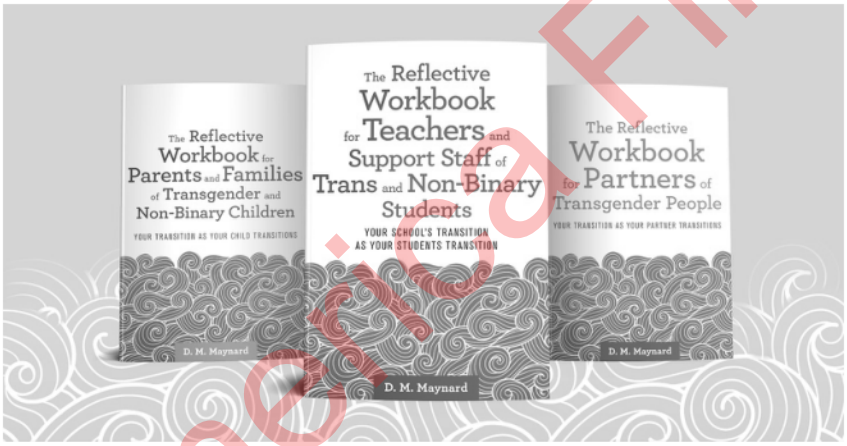
After teaching for more than 30 years in the classroom, I retired to dedicate my time and energy toward supporting the voices and journeys of TGD people and those who love or teach them. This

commitment to the community has led me to create a series of highly regarded books for teachers and support staff, parents and families, and partners of trans and non-binary people. The education book, *The Reflective Workbook for Teachers and Support Staff of Trans and Non-Binary Students: Your School's Transition as Your Students Transition* was selected to be on *In The Margins* 2022's list as one of the top five books promoting social justice and advocacy. It was also chosen to be placed in more than 200 of *Hope in a Box*'s packages that were sent to rural school communities throughout the U.S. to provide books that have LGBTQ representation. Moreover, the workbook for parents and families has been translated into Polish.

It would be my distinct privilege to have the opportunity to speak with you about my books and life's mission to educate those who work in schools on how to best protect and support their trans, non-binary, and gender diverse students, as well as meet the needs of their parents and family members.

With much appreciation and respect,

D. M. Maynard
(b)(6)
--
D. M. Maynard-she/her/hers
Maynard's W.I.S.D.O.M., Inc.
www.maynardswisdom.com



https://www.amazon.com/s?k=maynard+transgender&ref=nb_sb_noss
https://www.jkp.com/usa/catalogsearch/result/?q=maynard

From: Levine, Rachel (HHS/OASH)
Sent: Mon, 21 Nov 2022 20:34:46 +0000
To: Calsyn, Maura (HHS/OASH); Shanker, Adrian (HHS/OASH); Oh, Kathy (OS/OASH)
Cc: 'Sarah Boateng'
Subject: FW: SOGI Data Inclusion Letter from LGBTQI+ service providers and advocacy organizations
Attachments: HHS Data Collection Letter FINAL.pdf

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Brooks, Benjamin (He/Him/His) <BBrooks@whitman-walker.org>
Sent: Tuesday, June 21, 2022 4:08 PM
To: Becerra, Xavier (OS/IOS) <Xavier.Becerra@hhs.gov>
Cc: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Contreras, January (ACF) <January.Contreras@acf.hhs.gov>; Barkoff, Alison (ACL) <Alison.Barkoff@acl.hhs.gov>; Valdez, Robert (AHRQ/IOD) <Robert.Valdez@ahrq.hhs.gov>; Montz, Ellen (CMS/CCIIO) <ellen.montz@cms.hhs.gov>; director@cdc.gov; Derrick.harkins@hud.gov; Brooks-LaSure, Chiquita (CMS/OA) <Chiquita.Brooks-Lasure@cms.hhs.gov>; Pino, Lisa (HHS/OCR) <Lisa.Pino@hhs.gov>; Califf, Robert (FDA/OC) <Robert.Califf@fda.hhs.gov>; Sommers, Benjamin (HHS/ASPE) <Benjamin.Sommers@hhs.gov>; Carole.johnson@hrsa.gov; Fowler, Elizabeth (IHS/HQ) <Elizabeth.Fowler@ihs.gov>; McIver, LaShawn (CMS/OMH) <lashawn.mciver@cms.hhs.gov>; Tabak, Lawrence (NIH/OD) [E] <Lawrence.Tabak@nih.gov>; Tripathi, Micky (OS/ONC) <Micky.Tripathi@hhs.gov>; Delphin-Rittmon, Miriam (SAMHSA/OAS) <Miriam.Delphin-rittmon@samhsa.hhs.gov>; Murthy, Vivek (HHS/OASH) <Vivek.Murthy@hhs.gov>
Subject: SOGI Data Inclusion Letter from LGBTQI+ service providers and advocacy organizations

Dear Secretary Becerra:

Attached please find a letter from 42 national, state and local health care and advocacy organizations serving LGBTQI+ communities throughout the United States, urging the Health and Human Services Administration (HHS) to effectuate the policy recommendations of President Biden's June 15 Executive Order, Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI) Individuals and the recommendations from the National Academies of Sciences, Engineering, and Medicine's report Measuring Sex, Gender Identity, and Sexual Orientation (SOGI).

We are thankful for the leadership of HHS and your demonstrated commitment to a data-driven approach to addressing health equity among LGBTQI+ people. We are appreciative of the opportunity to be in partnership with you to continue building on your historic investments for SOGI data inclusion.

Respectfully,

Benjamin Brooks,
on behalf of the Federal LGBTQI Health Policy Roundtable
(a coalition of 22 national advocacy organizations and community health centers, and a number of individual health care experts)

Benjamin Brooks, J.D., M.P.H.
Associate Director of Policy and Education
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www.whitman-walker.org | 202.745.7000

RECIPIENT, PLEASE DESTROY ALL COPIES AND CONTACT BENJAMIN BROOKS AT BBROOKS@WHITMAN-WALKER.ORG. THANK YOU.

June 21, 2022

TO: The Honorable Xavier Becerra, Secretary of Health and Human Services

CC: Admiral Rachel L. Levine, MD, Assistant Secretary for Health;
January Contreras, JD, ACF Administrator;
Alison Barkoff, JD, ACL Administrator;
Robert Otto Valdez, PhD, AHRQ Administrator;
Ellen Montz, PhD, Deputy Administrator and Director of the Center for Consumer Information and Insurance Oversight;
Rochelle P. Walensky, MD, Director of the Centers for Disease Control and Prevention;
Derrick Harkins, MDiv, Center for Faith-Based and Neighborhood Partnerships Administrator;
Chiquita Brooks-LaSure, MPP, Administrator for the Centers for Medicare and Medicaid Services;
Lisa Pino, JD, Director, Office for Civil Rights, HHS;
Robert M. Califf, MD, FDA Administrator
Benjamin Sommers, MD, PhD, Senior Official Performing the Duties of the Assistant Secretary for Planning and Evaluation, Deputy Assistant Secretary, Office of Health Policy;
Carole Johnson, MA, HRSA Administrator;
Elizabeth Fowler, BS, IHS Administrator;
LaShawn McIver, MD, Director of the Office of Minority Health;
Lawrence A. Tabak, DDS, PhD, NIH Administrator;
Micky Tripathi, PhD, ONC Administrator;
Miriam E. Delphin-Rittmon, PhD, SAMHSA Administrator;
Vice Admiral Vivek Murthy, MD, U.S. Surgeon General,

Re: Expanding and enhancing data collection on LGBTQI+ communities

Dear Secretary Becerra:

On behalf of the undersigned 42 organizations committed to advancing the health and wellbeing of lesbian, gay, bisexual, transgender, queer, intersex, and other sexual and gender minority (LGBTQI+) people in the United States, we write in response to President Biden's June 15 Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals[1] and the recent release of the National Academies of Sciences, Engineering, and Medicine's (NASEM) report *Measuring Sex, Gender Identity, and Sexual Orientation*.[2] The milestone NASEM report presents guiding principles and best practices for collecting data on sex, sexual orientation, gender identity, and variations in sex characteristics, which are essential to identify and address the specific needs of LGBTQI+ populations. We are thrilled to see sexual orientation, gender identity, and sex characteristics inclusive data collection in President Biden's Executive Order. Data collection is a

[1] Executive Office of the President, "Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals," *Federal Register* 87 (118) (2022): 37189-95, available at https://www.govinfo.gov/content/pkg/FR-2022-06-21/pdf/2022-13391.pdf

[2] National Academies of Sciences, Engineering, and Medicine, "Measuring Sex, Gender Identity, and Sexual Orientation" (Washington: 2022), available at https://www.nap.edu/catalog/26424/measuring-sex-gender-identity-and-sexual-orientation.

critical goal for this Administration as well as for us, and we are so appreciative of the opportunity to work in partnership with you.

The U.S. Department of Health and Human Services (HHS) has demonstrated a commitment to advancing the rights of LGBTQI+ communities and to adopting a data-driven approach to policymaking.[3] Since at least 2001, HHS has recognized the staggering health inequities that LGBTQI+ people face,[4] and in 2016 the Department developed a plan to advance LGBTQI+ health equity that included demographic data collection as a priority for both population-based surveys and program administration.[5] Just recently, HHS published a comprehensive list of strategies to improve demographic data collection for all projects and programs in its Strategic Plan for 2022-2026.[6] The Centers for Medicare & Medicaid Services (CMS) put expanded demographic data collection front and center in its 2022-2032 Framework for Health Equity. Priority 1 of CMS's Framework outlines a commitment to improve standardized collection of information on beneficiaries' "race, ethnicity, language, gender identity, sex, sexual orientation, disability status, and social determinants of health."[7]

We now write to encourage HHS to continue building on its historic work by adopting the NASEM report's recommendations. Specifically, we respectfully request that HHS take necessary action to 1) support the addition of recommended measures of sexual orientation, gender identity, and variations in sex characteristics to priority HHS data collection mechanisms and 2) invest in future research to continue to develop, test, and improve measures of sexual orientation, gender identity, and sex characteristics.

Implementing and continuously improving these measures is essential to capture a more comprehensive, accurate, and data-driven understanding of the disparities and challenges that LGBTQI+ communities face with regard to their health, well-being, and opportunities, and to develop evidence-based policy interventions that advance health and equity. Expanding and enhancing data collection on LGBTQI+ communities is also critical to fulfill directives set out by Executive Order 13985,[8] which directs federal agencies to promote equity for LGBTQI+ and other underserved communities through various actions, including but not limited to increasing data collection efforts.

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[3] For example, see U.S. Department of Health and Human Services, "HHS Announces Prohibition on Sex Discrimination Includes Discrimination on the Basis of Sexual Orientation and Gender Identity," Press release, May 10, 2021, available at https://www.hhs.gov/about/news/2021/05/10/hhs-announces-prohibition-sex-discrimination-includes-discrimination-basis-sexual-orientation-gender-identity.html.

[4] See Healthy People 2010: Companion Document for Lesbian, Gay, Bisexual, and Transgender (LGBT) Health, Gay and Lesbian Med. Assoc. (2001), https://www.glma.org/_data/n_0001/resources/live/HealthyCompanionDoc3.pdf.

[5] Advancing LGBT Health & Well-Being: 2016 Report, HHS LGBT Policy Coordinating Committee, U.S. Department of Health and Human Services. (2016), https://www.hhs.gov/sites/default/files/2016-report-with-cover.pdf.

[6] See Objective 4.4: Improve Data Collection, HHS Strategic Plan FY 2022-2026, U.S. Department of Health and Human Services, https://healthapiguy.substack.com/p/the-scheduling-conundrum?s=r.

[7] Centers for Medicare and Medicaid Services, CMS Framework for Health Equity 2022-2032, https://www.cms.gov/files/document/cms-framework-health-equity.pdf.

[8] Executive Office of the President, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," *Federal Register* 86 (14) (2021): 7009-7013, available at https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf

As such, we urge HHS to take swift and meaningful action to adopt the NASEM report's recommendations and to begin collecting these important data as soon as possible.

I. The need to collect quality data on LGBTQI+ populations

Existing research reveals that LGBTQI+ people encounter significant barriers to accessing affordable, quality health care and insurance, as well as disparate outcomes related to physical, mental, and behavioral health.[9] Importantly, the health of LGTBQI+ communities is severely impacted by discrimination, stigma, prejudice, as well as other social determinants of health.[10] For transgender individuals,[11] LGBTQI+ people of color,[12] and LGBTQI+ people with disabilities,[13] obstacles to care and disparate health outcomes are even more pronounced. Health and social disparities affect LGBTQI+ children, youth, families, and older adults, including in the child welfare system and in accessing necessary services and supports across the lifespan.[14]

Lack of routine data collection on sexual orientation, gender identity, and variations in sex characteristics remains a significant barrier for policymakers, researchers, service providers, and advocates who want to more deeply understand these disparities and improve the wellbeing of LGBTQI+ communities. Currently, only a limited number of HHS-supported surveys collect data on sexual orientation and gender identity, and none ask questions that allow for the identification of people with intersex traits. HHS operating divisions that provide direct services to beneficiaries, such as CMS, also often do not require collection of information on the sexual orientation, gender identity, or variations in sex characteristics of their program participants even where other demographic data are collected. These gaps significantly restrict our ability to better understand and address the health and social challenges that LGBTQI+ people and their families face.[15, 16] Improving data collection on sexual orientation, gender identity, and variations in sex characteristics will help researchers characterize the experiences and outcomes of LGBTQI+ people; health care and human services

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[9] National Academies of Sciences, Engineering, and Medicine, "Understanding the Wellbeing of LGBTQI+ Populations" (Washington: 2020), available at https://www.nap.edu/read/25877/chapter/1

[10] Ibid.

[11] Caroline Medina, Thee Santos, Lindsay Mahowald, and Sharita Gruberg, "Protecting and Advancing Health Care for Transgender Adult Communities" (Washington: Center for American Progress, 2021), available at https://www.americanprogress.org/article/protecting-advancing-health-care-transgender-adult-communities/

[12] Lindsay Mahowald, "LGBTQ People of Color Encounter Heightened Discrimination" (Washington: Center for American Progress, 2021), available at https://www.americanprogress.org/issues/lgbtq-rights/news/2021/06/24/500918/lgbtq-people-color-encounter-heightened-discrimination/

[13] Caroline Medina, Lindsay Mahowald, Thee Santos, and Mia Ives-Rublee, "The United States Must Advance Economic Security for Disabled LGBTQI+ Workers" (Washington: Center for American Progress, 2021), available at https://www.americanprogress.org/article/united-states-must-advance-economic-security-disabled-lgbtqi-workers/

[14] National Academies of Sciences, Engineering, and Medicine, "Understanding the Wellbeing of LGBTQI+ Populations" (Washington: 2020), available at https://www.nap.edu/read/25877/chapter/1

[15] Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys, "Measurements of Sexual Orientation and Gender Identity in Federal Surveys," available at https://nces.ed.gov/FCSM/pdf/buda5.pdf (last accessed March 2021).

[16] Baker, Kellan E., Carl G. Streed Jr, and Laura E. Durso. "Ensuring That LGBTQI+ People Count-Collecting Data on Sexual Orientation, Gender Identity, and Intersex Status." The New England Journal of Medicine 384.13 (2021): 1184-1186.

providers offer person-centered care and services; and policymakers develop effective policy solutions to address disparities and assess progress on efforts to advance health equity and well-being at all ages.

II. The findings of the NASEM report

The NASEM report represents the most comprehensive review to date of methodological evidence and measurement-related research for the constructs of sex, sexual orientation, gender identity, and variations in sex characteristics.[17] This consensus report, which was commissioned by 19 entities across the National Institutes of Health (NIH), was compiled by a committee of experts in data collection methodology and practice and comprehensively reviewed by 15 peer reviewers. It provides evidence to support adding measures of these constructs to surveys and research studies, administrative data systems, and clinical systems, accounting for differences related to the uses of data, identifiability of respondents, and the risk of data disclosure in each context. The report specifically recommends formats for a question about sexual orientation identity, a two-step measure of current gender and sex assigned at birth to identify transgender and cisgender respondents, and a standalone measure of intersex status. The report also issues important recommendations for areas of ongoing research, testing, and development to continue to improve these measures.

III. Recommended actions

We respectfully urge HHS to seize the unique opportunity presented by this consensus report on evidence-based best practices by taking quick and decisive action to implement the recommendations issued by the NASEM panel. As the NASEM report makes clear, the recommended questions perform well in a variety of contexts, and there are substantial harms of continuing to exclude LGBTQI+ communities from agency efforts to enhance equitable data collection. Below we outline priority data collection mechanisms where we urge HHS to add these questions, as well as priority areas for future research.

Priority 1: Support the addition of recommended measures of sexual orientation, gender identity, and variations in sex characteristics to key HHS data collection mechanisms.

Adding measures of sexual orientation, gender identity, and variations in sex characteristics to the following HHS-supported data collection mechanisms is a top priority for our organizations. These data collection instruments can collect valuable information on LGBTQI+ communities to shape policy interventions and inform the provision of services that promote more equitable outcomes. Their size will also allow for data disaggregation, which will facilitate analysis on populations that are living at the intersection of multiple marginalized identities, such as LGBTQI+ people with disabilities and LGBTQI+ Black, Indigenous, and other communities of color. Importantly, we also support

[17] National Academies of Sciences, Engineering, and Medicine, "Measuring Sex, Gender Identity, and Sexual Orientation" (Washington: The National Academies Press, 2022), available at https://www.nap.edu/catalog/26424/measuring-sex-gender-identity-and-sexual-orientation

broad data collection on race, ethnicity, primary language, and disabilities in order to identify and address disparities that we know exist across our intersectional communities. We respectfully urge HHS to:

- Add sexual orientation, gender identity, and sex characteristics questions to the standardized demographic core questionnaire of the **Behavioral Risk Factor Surveillance System (BRFSS).** In 2020, 32 states and Guam used the sexual orientation and gender identity optional question modules.[18] Including questions on sexual orientation, gender identity, and sex characteristics in the BRFSS core is crucial to collecting valuable population-based data on the health of LGBTQI+ adults across all 50 states and the U.S. territories.

- Add gender identity and variations in sex characteristics questions to the core measures of the **Youth Risk Behavior Surveillance System (YRBSS)**, which monitors health-related behaviors among youth and young adults. Including questions on gender identity and sex characteristics is especially critical to measuring the health and wellbeing of LGBTQI+ youth given the recent wave of legislative attacks on LGBTQI+ youth, especially transgender and nonbinary youth.

- Make permanent gender identity measures and add a measure of variations in sex characteristics to the **National Health Interview Survey**, which collects valuable information to monitor trends in health status, determine barriers to accessing care, and evaluate progress toward achieving national health objectives.

- Ensure the finalized **United States Core Data for Interoperability (USCDI) version 3** includes improved sex, sexual orientation, and gender identity data elements and adds a standalone intersex status data element. Specifically, we strongly support the Office of the National Coordinator adopting data elements designed in alignment with recommendations submitted by the Health Level Seven International (HL7) Gender Harmony Project.[19] Doing so is critical to better standardize the sharing of electronic health data classes and constituent data elements to foster interoperability in health information exchange, support care for LGBTQI+ patients in clinical contexts, and facilitate monitoring of LGBTQI+ population disparities in public health surveillance.

- Implement collection of information on sexual orientation, gender identity, and variations in sex characteristics in **every HHS program where demographic information of participants is collected**. These programs include CMS programs such as Medicare, Medicaid, and the Health Insurance Marketplace, as well as programs overseen by HHS operating divisions such as the Administration for Community Living, the Administration for Children and Families, the Health Resources and Services Administration, and others that

[18] Centers for Disease Control and Prevention, "Behavioral Risk Factor Surveillance System – Questionnaires 2020 Modules by State by Data Set & Weight" available at https://www.cdc.gov/brfss/questionnaires/modules/state2020.htm (last accessed March 2022).
[19] See HL7 Gender Harmony Project, "Official Response to USCDI v3," available at https://www.healthit.gov/isa/sites/isa/files/2022-04/HL7_GH_uscdi_response_03142022.pdf (last accessed May 2022).

directly serve the public. While the existence of health disparities for LGBTQI+ people has been well-documented, their origins are not well understood. This is due in part to the fact that few high-quality, large-scale data sets exist in the very systems where those disparities occur. For example, CMS recently proposed a new information collection on the Model Medicare Advantage and Prescription Drug Plan application that did not include sexual orientation, gender identity, and variations in sex characteristics.[20] CMS did propose to add race and ethnicity questions to the Application and conduct cognitive testing of nonresponses to improve data collection. This information collection demonstrates that HHS can simultaneously require collection of demographic information and continue to test methods to improve data quality.[21] We encourage HHS to adopt the same approach with respect to data collection on sexual orientation, gender identity, and variations in sex characteristics in all of its programs. These data are essential for understanding whether and how LGBTQI+ people are equally served by HHS programs, projects, and activities and for ensuring that HHS upholds the civil rights of LGBTQI+ people.

- Ensure that **quality reporting** in all HHS-administered and -monitored programs includes information about and, where possible, stratification on participants' sexual orientation, gender identity, and variations in sex characteristics.

Priority 2: Invest in ongoing research to continue to develop, test, and improve measures of sexual orientation, gender identity, and sex characteristics.

- Engage in testing to continue to **improve measurement of gender**. We specifically encourage HHS to fast-track research to increase the face validity of the second component of the recommended two-step gender identity question to ensure it optimally reflects the identities of transgender people. Potential enhancements include the opportunity for participants to select all responses that apply (e.g., "male" and "transgender") and/or the addition of "nonbinary" as a response option. We note that the current evidence base finds a two-step format is critical to fully capture the complexity of gender, which incorporates both gender identity (i.e., identity as a man, a woman, or another gender) and gender modality (i.e., whether a person is transgender or cisgender).[22]
- Continue to invest in improving **administrative data collection** on gender identity, sex characteristics, and sexual orientation. For example, the Administration for Children and Families should rescind the 2019 policy that reversed the decision to collect information on

[20] Model Medicare Advantage and Prescription Drug Plan Individual Enrollment Request (CMS-10718), Regulations.gov (May 5, 2022), https://www.regulations.gov/document/CMS-2022-0013-0011.
[21] As another example, see the recommendations made by the State Health Access Data Assistance Center (SHADAC) in response to the recent RFI on Medicaid and CHIP Access: State Health Access Data Assistance Center (SHADAC), "SHADAC Advocates a Data-based Approach to Advancing Medicaid and CHIP Access Monitoring Plan (Response to CMS Request for Information)" (April 29, 2022), https://www.shadac.org/news/shadac-response-CMS-RFI-advancing-access.
[22] Florence Ashley, "'Trans' is My Gender Modality," in *Trans Bodies, Trans Selves*, 2nd edition (Oxford University Press, 2022): 22.

the sexual orientation, gender identity, and gender expression of children both in out-of-home care and of foster parents, adoptive parents, and legal guardians on the Adoption and Foster Care Analysis and Reporting System (AFCARS). Without transparent data, collected in a culturally competent manner, it is impossible to know whether we are meeting our responsibility to LGBTQI+ youth in state care, and we leave those youth at substantially greater risk for negative outcomes. A top priority in administrative data collection is the testing of alternative two-step gender measures that can identify transgender people in administrative data settings for aggregate statistical purposes without relying on sex assigned at birth, as collecting this information may be considered intrusive in situations where personally identifiable data are being maintained in employee or beneficiary files.[23]

- Test standalone measures that allow for **data collection on people with intersex traits**. This includes research to evaluate the comparative performance of the three measures identified in the NASEM report; the impacts of including definitions and examples in these questions; and the performance of proxy reporting, particularly among parents who report about their children.

Priority 3: Provide guidance and support to facilitate an effective cross-agency approach to advancing data collection on sexual orientation, gender identity, and variations in sex characteristics.

In order to advance this critical work in a consistent and coordinated manner across HHS, we request that HHS provide key guidance, personnel, and organizational resources required to successfully advance and organize these priorities across different departments. Specifically, we urge the following:

- HHS and individual departments must ensure these priorities are supported by **adequate staffing and requisite coordination** and ensure that departments regularly report back on progress. The Sexual and Gender Minority Research Office (SGMRO) has been an exemplary leader on LGBTQI+ equity efforts, but this has only been possible by having multiple, dedicated, permanent staff over a period of years. As such, we strongly support the recommendation in the President's budget to dedicate more resources to this important work at NIH to continue the growth of the SGMRO and for the creation of a Center for Sexual Orientation and Gender Identity Research to be led by the SGMRO. HHS has been most effective on data and other equity initiatives in the past when they have been driven by both senior political and career staff who are knowledgeable and committed to action; have dedicated portfolios that include LGBTQI+ health and data collection issues; and who coordinate closely, with political leadership regularly bringing priorities to the Secretary for decisions and working hand-in-hand with career staff to ensure effective execution.

[23] In addition to this research, agencies should consider issuing additional guidance on protecting the privacy of gender-related, medical, or other personal information for LGBTQI+ people, including under laws such as the Family Educational Rights and Privacy Act.

- HHS should revive the practice of releasing **annual LGBTQI+ reports**. When supported by adequate staffing, planning, and coordination, these reports have served as useful organizing mechanisms for making and tracking public commitments and driving implementation.

Conclusion

Our organizations are united in voicing our strong support for HHS to add measures of sexual orientation, gender identity, and sex characteristics to HHS-supported data collection instruments, while simultaneously investing in and advancing research to continue to improve these measures. We will also be requesting a meeting to learn more about how our organizations can best support HHS' efforts to standardize and advance data collection on sexual orientation, gender identity, and variations in sex characteristics.

Thank you for your time and consideration, and for your efforts to advance equity and serve LGBTQI+ people and communities. Please do not hesitate to contact Kellan Baker at KBaker@whitman-walker.org or (202) 797-4417 if you need any additional information.

In partnership,

1. Advocates for Youth
2. American Psychological Association
3. APLA Health
4. Athlete Ally
5. Callen-Lorde Community Health Center
6. Campus Pride
7. CenterLink: The Community of LGBT Centers
8. Center for American Progress
9. CrescentCare
10. Evaluation, Technical Assistance, and Data Integration Program, Northwestern University Institute for Sexual and Gender Minority Health and Wellbeing
11. Fenway Health
12. FORGE, Inc.
13. GLMA: Health Professionals Advancing LGBTQ Equality
14. GLSEN
15. Howard Brown Health
16. Human Rights Campaign
17. interACT: Advocates for Intersex Youth
18. Jacobs Institute of Women's Health
19. Lambda Legal
20. Legacy Community Health
21. LGBTQ Victory Institute
22. Los Angeles LGBT Center
23. Mazzoni Center
24. Modern Military Association of America
25. Movement Advancement Project
26. NASTAD

27. National Black Justice Coalition
28. National Center for Lesbian Rights
29. National Center for Transgender Equality
30. National Coalition for LGBTQ Health
31. National Health Law Program
32. National LGBT Cancer Network
33. NorthLakes Community Clinic
34. PFLAG National
35. Positive Women's Network-USA
36. SAGE
37. The Center for LGBTQ Health Equity – Chase Brexton Health Care
38. The Trevor Project
39. Transhealth Northampton
40. Trillium Health
41. True Colors United
42. Whitman-Walker Institute

June 21, 2022

TO: The Honorable Xavier Becerra, Secretary of Health and Human Services

CC: Admiral Rachel L. Levine, MD, Assistant Secretary for Health;
January Contreras, JD, ACF Administrator;
Alison Barkoff, JD, ACL Administrator;
Robert Otto Valdez, PhD, AHRQ Administrator;
Ellen Montz, PhD, Deputy Administrator and Director of the Center for Consumer Information and Insurance Oversight;
Rochelle P. Walensky, MD, Director of the Centers for Disease Control and Prevention;
Derrick Harkins, MDiv, Center for Faith-Based and Neighborhood Partnerships Administrator;
Chiquita Brooks-LaSure, MPP, Administrator for the Centers for Medicare and Medicaid Services;
Lisa Pino, JD, Director, Office for Civil Rights, HHS;
Robert M. Califf, MD, FDA Administrator
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Carole Johnson, MA, HRSA Administrator;
Elizabeth Fowler, BS, IHS Administrator;
LaShawn McIver, MD, Director of the Office of Minority Health;
Lawrence A. Tabak, DDS, PhD, NIH Administrator;
Micky Tripathi, PhD, ONC Administrator;
Miriam E. Delphin-Rittmon, PhD, SAMHSA Administrator;
Vice Admiral Vivek Murthy, MD, U.S. Surgeon General,

Re: Expanding and enhancing data collection on LGBTQI+ communities

Dear Secretary Becerra:

On behalf of the undersigned 42 organizations committed to advancing the health and wellbeing of lesbian, gay, bisexual, transgender, queer, intersex, and other sexual and gender minority (LGBTQI+) people in the United States, we write in response to President Biden's June 15 Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals[1] and the recent release of the National Academies of Sciences, Engineering, and Medicine's (NASEM) report *Measuring Sex, Gender Identity, and Sexual Orientation*.[2] The milestone NASEM report presents guiding principles and best practices for collecting data on sex, sexual orientation, gender identity, and variations in sex characteristics, which are essential to identify and address the specific needs of LGBTQI+ populations. We are thrilled to see sexual orientation, gender identity, and sex characteristics inclusive data collection in President Biden's Executive Order. Data collection is a

[1] Executive Office of the President, "Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals," *Federal Register* 87 (118) (2022): 37189-95, available at https://www.govinfo.gov/content/pkg/FR-2022-06-21/pdf/2022-13391.pdf

[2] National Academies of Sciences, Engineering, and Medicine, "Measuring Sex, Gender Identity, and Sexual Orientation" (Washington: 2022), available at https://www.nap.edu/catalog/26424/measuring-sex-gender-identity-and-sexual-orientation.

critical goal for this Administration as well as for us, and we are so appreciative of the opportunity to work in partnership with you.

The U.S. Department of Health and Human Services (HHS) has demonstrated a commitment to advancing the rights of LGBTQI+ communities and to adopting a data-driven approach to policymaking.[3] Since at least 2001, HHS has recognized the staggering health inequities that LGBTQI+ people face,[4] and in 2016 the Department developed a plan to advance LGBTQI+ health equity that included demographic data collection as a priority for both population-based surveys and program administration.[5] Just recently, HHS published a comprehensive list of strategies to improve demographic data collection for all projects and programs in its Strategic Plan for 2022-2026.[6] The Centers for Medicare & Medicaid Services (CMS) put expanded demographic data collection front and center in its 2022-2032 Framework for Health Equity. Priority 1 of CMS's Framework outlines a commitment to improve standardized collection of information on beneficiaries' "race, ethnicity, language, gender identity, sex, sexual orientation, disability status, and social determinants of health."[7]

We now write to encourage HHS to continue building on its historic work by adopting the NASEM report's recommendations. Specifically, we respectfully request that HHS take necessary action to 1) support the addition of recommended measures of sexual orientation, gender identity, and variations in sex characteristics to priority HHS data collection mechanisms and 2) invest in future research to continue to develop, test, and improve measures of sexual orientation, gender identity, and sex characteristics.

Implementing and continuously improving these measures is essential to capture a more comprehensive, accurate, and data-driven understanding of the disparities and challenges that LGBTQI+ communities face with regard to their health, well-being, and opportunities, and to develop evidence-based policy interventions that advance health and equity. Expanding and enhancing data collection on LGBTQI+ communities is also critical to fulfill directives set out by Executive Order 13985,[8] which directs federal agencies to promote equity for LGBTQI+ and other underserved communities through various actions, including but not limited to increasing data collection efforts.

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[3] For example, see U.S. Department of Health and Human Services, "HHS Announces Prohibition on Sex Discrimination Includes Discrimination on the Basis of Sexual Orientation and Gender Identity," Press release, May 10, 2021, available at https://www.hhs.gov/about/news/2021/05/10/hhs-announces-prohibition-sex-discrimination-includes-discrimination-basis-sexual-orientation-gender-identity.html.

[4] See Healthy People 2010: Companion Document for Lesbian, Gay, Bisexual, and Transgender (LGBT) Health, Gay and Lesbian Med. Assoc. (2001), https://www.glma.org/_data/n_0001/resources/live/HealthyCompanionDoc3.pdf.

[5] Advancing LGBT Health & Well-Being: 2016 Report, HHS LGBT Policy Coordinating Committee, U.S. Department of Health and Human Services. (2016), https://www.hhs.gov/sites/default/files/2016-report-with-cover.pdf.

[6] See Objective 4.4: Improve Data Collection, HHS Strategic Plan FY 2022-2026, U.S. Department of Health and Human Services, https://healthapiguy.substack.com/p/the-scheduling-conundrum?s=r.

[7] Centers for Medicare and Medicaid Services, CMS Framework for Health Equity 2022-2032, https://www.cms.gov/files/document/cms-framework-health-equity.pdf.

[8] Executive Office of the President, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," *Federal Register* 86 (14) (2021): 7009-7013, available at https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf

As such, we urge HHS to take swift and meaningful action to adopt the NASEM report's recommendations and to begin collecting these important data as soon as possible.

I. The need to collect quality data on LGBTQI+ populations

Existing research reveals that LGBTQI+ people encounter significant barriers to accessing affordable, quality health care and insurance, as well as disparate outcomes related to physical, mental, and behavioral health.[9] Importantly, the health of LGTBQI+ communities is severely impacted by discrimination, stigma, prejudice, as well as other social determinants of health.[10] For transgender individuals,[11] LGBTQI+ people of color,[12] and LGBTQI+ people with disabilities,[13] obstacles to care and disparate health outcomes are even more pronounced. Health and social disparities affect LGBTQI+ children, youth, families, and older adults, including in the child welfare system and in accessing necessary services and supports across the lifespan.[14]

Lack of routine data collection on sexual orientation, gender identity, and variations in sex characteristics remains a significant barrier for policymakers, researchers, service providers, and advocates who want to more deeply understand these disparities and improve the wellbeing of LGBTQI+ communities. Currently, only a limited number of HHS-supported surveys collect data on sexual orientation and gender identity, and none ask questions that allow for the identification of people with intersex traits. HHS operating divisions that provide direct services to beneficiaries, such as CMS, also often do not require collection of information on the sexual orientation, gender identity, or variations in sex characteristics of their program participants even where other demographic data are collected. These gaps significantly restrict our ability to better understand and address the health and social challenges that LGBTQI+ people and their families face.[15, 16] Improving data collection on sexual orientation, gender identity, and variations in sex characteristics will help researchers characterize the experiences and outcomes of LGBTQI+ people; health care and human services

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[9] National Academies of Sciences, Engineering, and Medicine, "Understanding the Wellbeing of LGBTQI+ Populations" (Washington: 2020), available at https://www.nap.edu/read/25877/chapter/1

[10] Ibid.

[11] Caroline Medina, Thee Santos, Lindsay Mahowald, and Sharita Gruberg, "Protecting and Advancing Health Care for Transgender Adult Communities" (Washington: Center for American Progress, 2021), available at https://www.americanprogress.org/article/protecting-advancing-health-care-transgender-adult-communities/

[12] Lindsay Mahowald, "LGBTQ People of Color Encounter Heightened Discrimination" (Washington: Center for American Progress, 2021), available at https://www.americanprogress.org/issues/lgbtq-rights/news/2021/06/24/500918/lgbtq-people-color-encounter-heightened-discrimination/

[13] Caroline Medina, Lindsay Mahowald, Thee Santos, and Mia Ives-Rublee, "The United States Must Advance Economic Security for Disabled LGBTQI+ Workers" (Washington: Center for American Progress, 2021), available at https://www.americanprogress.org/article/united-states-must-advance-economic-security-disabled-lgbtqi-workers/

[14] National Academies of Sciences, Engineering, and Medicine, "Understanding the Wellbeing of LGBTQI+ Populations" (Washington: 2020), available at https://www.nap.edu/read/25877/chapter/1

[15] Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys, "Measurements of Sexual Orientation and Gender Identity in Federal Surveys," available at https://nces.ed.gov/FCSM/pdf/buda5.pdf (last accessed March 2021).

[16] Baker, Kellan E., Carl G. Streed Jr, and Laura E. Durso. "Ensuring That LGBTQI+ People Count-Collecting Data on Sexual Orientation, Gender Identity, and Intersex Status." The New England Journal of Medicine 384.13 (2021): 1184-1186.

providers offer person-centered care and services; and policymakers develop effective policy solutions to address disparities and assess progress on efforts to advance health equity and well-being at all ages.

II. The findings of the NASEM report

The NASEM report represents the most comprehensive review to date of methodological evidence and measurement-related research for the constructs of sex, sexual orientation, gender identity, and variations in sex characteristics.[17] This consensus report, which was commissioned by 19 entities across the National Institutes of Health (NIH), was compiled by a committee of experts in data collection methodology and practice and comprehensively reviewed by 15 peer reviewers. It provides evidence to support adding measures of these constructs to surveys and research studies, administrative data systems, and clinical systems, accounting for differences related to the uses of data, identifiability of respondents, and the risk of data disclosure in each context. The report specifically recommends formats for a question about sexual orientation identity, a two-step measure of current gender and sex assigned at birth to identify transgender and cisgender respondents, and a standalone measure of intersex status. The report also issues important recommendations for areas of ongoing research, testing, and development to continue to improve these measures.

III. Recommended actions

We respectfully urge HHS to seize the unique opportunity presented by this consensus report on evidence-based best practices by taking quick and decisive action to implement the recommendations issued by the NASEM panel. As the NASEM report makes clear, the recommended questions perform well in a variety of contexts, and there are substantial harms of continuing to exclude LGBTQI+ communities from agency efforts to enhance equitable data collection. Below we outline priority data collection mechanisms where we urge HHS to add these questions, as well as priority areas for future research.

Priority 1: Support the addition of recommended measures of sexual orientation, gender identity, and variations in sex characteristics to key HHS data collection mechanisms.

Adding measures of sexual orientation, gender identity, and variations in sex characteristics to the following HHS-supported data collection mechanisms is a top priority for our organizations. These data collection instruments can collect valuable information on LGBTQI+ communities to shape policy interventions and inform the provision of services that promote more equitable outcomes. Their size will also allow for data disaggregation, which will facilitate analysis on populations that are living at the intersection of multiple marginalized identities, such as LGBTQI+ people with disabilities and LGBTQI+ Black, Indigenous, and other communities of color. Importantly, we also support

[17] National Academies of Sciences, Engineering, and Medicine, "Measuring Sex, Gender Identity, and Sexual Orientation" (Washington: The National Academies Press, 2022), available at https://www.nap.edu/catalog/26424/measuring-sex-gender-identity-and-sexual-orientation

broad data collection on race, ethnicity, primary language, and disabilities in order to identify and address disparities that we know exist across our intersectional communities. We respectfully urge HHS to:

- Add sexual orientation, gender identity, and sex characteristics questions to the standardized demographic core questionnaire of the **Behavioral Risk Factor Surveillance System (BRFSS).** In 2020, 32 states and Guam used the sexual orientation and gender identity optional question modules.[18] Including questions on sexual orientation, gender identity, and sex characteristics in the BRFSS core is crucial to collecting valuable population-based data on the health of LGBTQI+ adults across all 50 states and the U.S. territories.

- Add gender identity and variations in sex characteristics questions to the core measures of the **Youth Risk Behavior Surveillance System (YRBSS)**, which monitors health-related behaviors among youth and young adults. Including questions on gender identity and sex characteristics is especially critical to measuring the health and wellbeing of LGBTQI+ youth given the recent wave of legislative attacks on LGBTQI+ youth, especially transgender and nonbinary youth.

- Make permanent gender identity measures and add a measure of variations in sex characteristics to the **National Health Interview Survey**, which collects valuable information to monitor trends in health status, determine barriers to accessing care, and evaluate progress toward achieving national health objectives.

- Ensure the finalized **United States Core Data for Interoperability (USCDI) version 3** includes improved sex, sexual orientation, and gender identity data elements and adds a standalone intersex status data element. Specifically, we strongly support the Office of the National Coordinator adopting data elements designed in alignment with recommendations submitted by the Health Level Seven International (HL7) Gender Harmony Project.[19] Doing so is critical to better standardize the sharing of electronic health data classes and constituent data elements to foster interoperability in health information exchange, support care for LGBTQI+ patients in clinical contexts, and facilitate monitoring of LGBTQI+ population disparities in public health surveillance.

- Implement collection of information on sexual orientation, gender identity, and variations in sex characteristics in **every HHS program where demographic information of participants is collected**. These programs include CMS programs such as Medicare, Medicaid, and the Health Insurance Marketplace, as well as programs overseen by HHS operating divisions such as the Administration for Community Living, the Administration for Children and Families, the Health Resources and Services Administration, and others that

[18] Centers for Disease Control and Prevention, "Behavioral Risk Factor Surveillance System – Questionnaires 2020 Modules by State by Data Set & Weight" available at https://www.cdc.gov/brfss/questionnaires/modules/state2020.htm (last accessed March 2022).
[19] See HL7 Gender Harmony Project, "Official Response to USCDI v3," available at https://www.healthit.gov/isa/sites/isa/files/2022-04/HL7_GH_uscdi_response_03142022.pdf (last accessed May 2022).

directly serve the public. While the existence of health disparities for LGBTQI+ people has been well-documented, their origins are not well understood. This is due in part to the fact that few high-quality, large-scale data sets exist in the very systems where those disparities occur. For example, CMS recently proposed a new information collection on the Model Medicare Advantage and Prescription Drug Plan application that did not include sexual orientation, gender identity, and variations in sex characteristics.[20] CMS did propose to add race and ethnicity questions to the Application and conduct cognitive testing of nonresponses to improve data collection. This information collection demonstrates that HHS can simultaneously require collection of demographic information and continue to test methods to improve data quality.[21] We encourage HHS to adopt the same approach with respect to data collection on sexual orientation, gender identity, and variations in sex characteristics in all of its programs. These data are essential for understanding whether and how LGBTQI+ people are equally served by HHS programs, projects, and activities and for ensuring that HHS upholds the civil rights of LGBTQI+ people.

- Ensure that **quality reporting** in all HHS-administered and -monitored programs includes information about and, where possible, stratification on participants' sexual orientation, gender identity, and variations in sex characteristics.

Priority 2: Invest in ongoing research to continue to develop, test, and improve measures of sexual orientation, gender identity, and sex characteristics.

- Engage in testing to continue to **improve measurement of gender**. We specifically encourage HHS to fast-track research to increase the face validity of the second component of the recommended two-step gender identity question to ensure it optimally reflects the identities of transgender people. Potential enhancements include the opportunity for participants to select all responses that apply (e.g., "male" and "transgender") and/or the addition of "nonbinary" as a response option. We note that the current evidence base finds a two-step format is critical to fully capture the complexity of gender, which incorporates both gender identity (i.e., identity as a man, a woman, or another gender) and gender modality (i.e., whether a person is transgender or cisgender).[22]
- Continue to invest in improving **administrative data collection** on gender identity, sex characteristics, and sexual orientation. For example, the Administration for Children and Families should rescind the 2019 policy that reversed the decision to collect information on

[20] Model Medicare Advantage and Prescription Drug Plan Individual Enrollment Request (CMS-10718), Regulations.gov (May 5, 2022), https://www.regulations.gov/document/CMS-2022-0013-0011.
[21] As another example, see the recommendations made by the State Health Access Data Assistance Center (SHADAC) in response to the recent RFI on Medicaid and CHIP Access: State Health Access Data Assistance Center (SHADAC), "SHADAC Advocates a Data-based Approach to Advancing Medicaid and CHIP Access Monitoring Plan (Response to CMS Request for Information)" (April 29, 2022), https://www.shadac.org/news/shadac-response-CMS-RFI-advancing-access.
[22] Florence Ashley, "'Trans' is My Gender Modality," in *Trans Bodies, Trans Selves*, 2nd edition (Oxford University Press, 2022): 22.

the sexual orientation, gender identity, and gender expression of children both in out-of-home care and of foster parents, adoptive parents, and legal guardians on the Adoption and Foster Care Analysis and Reporting System (AFCARS). Without transparent data, collected in a culturally competent manner, it is impossible to know whether we are meeting our responsibility to LGBTQI+ youth in state care, and we leave those youth at substantially greater risk for negative outcomes. A top priority in administrative data collection is the testing of alternative two-step gender measures that can identify transgender people in administrative data settings for aggregate statistical purposes without relying on sex assigned at birth, as collecting this information may be considered intrusive in situations where personally identifiable data are being maintained in employee or beneficiary files.[23]

- Test standalone measures that allow for **data collection on people with intersex traits**. This includes research to evaluate the comparative performance of the three measures identified in the NASEM report; the impacts of including definitions and examples in these questions; and the performance of proxy reporting, particularly among parents who report about their children.

Priority 3: Provide guidance and support to facilitate an effective cross-agency approach to advancing data collection on sexual orientation, gender identity, and variations in sex characteristics.

In order to advance this critical work in a consistent and coordinated manner across HHS, we request that HHS provide key guidance, personnel, and organizational resources required to successfully advance and organize these priorities across different departments. Specifically, we urge the following:

- HHS and individual departments must ensure these priorities are supported by **adequate staffing and requisite coordination** and ensure that departments regularly report back on progress. The Sexual and Gender Minority Research Office (SGMRO) has been an exemplary leader on LGBTQI+ equity efforts, but this has only been possible by having multiple, dedicated, permanent staff over a period of years. As such, we strongly support the recommendation in the President's budget to dedicate more resources to this important work at NIH to continue the growth of the SGMRO and for the creation of a Center for Sexual Orientation and Gender Identity Research to be led by the SGMRO. HHS has been most effective on data and other equity initiatives in the past when they have been driven by both senior political and career staff who are knowledgeable and committed to action; have dedicated portfolios that include LGBTQI+ health and data collection issues; and who coordinate closely, with political leadership regularly bringing priorities to the Secretary for decisions and working hand-in-hand with career staff to ensure effective execution.

[23] In addition to this research, agencies should consider issuing additional guidance on protecting the privacy of gender-related, medical, or other personal information for LGBTQI+ people, including under laws such as the Family Educational Rights and Privacy Act.

- HHS should revive the practice of releasing **annual LGBTQI+ reports**. When supported by adequate staffing, planning, and coordination, these reports have served as useful organizing mechanisms for making and tracking public commitments and driving implementation.

Conclusion

Our organizations are united in voicing our strong support for HHS to add measures of sexual orientation, gender identity, and sex characteristics to HHS-supported data collection instruments, while simultaneously investing in and advancing research to continue to improve these measures. We will also be requesting a meeting to learn more about how our organizations can best support HHS' efforts to standardize and advance data collection on sexual orientation, gender identity, and variations in sex characteristics.

Thank you for your time and consideration, and for your efforts to advance equity and serve LGBTQI+ people and communities. Please do not hesitate to contact Kellan Baker at KBaker@whitman-walker.org or (202) 797-4417 if you need any additional information.

In partnership,

1. Advocates for Youth
2. American Psychological Association
3. APLA Health
4. Athlete Ally
5. Callen-Lorde Community Health Center
6. Campus Pride
7. CenterLink: The Community of LGBT Centers
8. Center for American Progress
9. CrescentCare
10. Evaluation, Technical Assistance, and Data Integration Program, Northwestern University Institute for Sexual and Gender Minority Health and Wellbeing
11. Fenway Health
12. FORGE, Inc.
13. GLMA: Health Professionals Advancing LGBTQ Equality
14. GLSEN
15. Howard Brown Health
16. Human Rights Campaign
17. interACT: Advocates for Intersex Youth
18. Jacobs Institute of Women's Health
19. Lambda Legal
20. Legacy Community Health
21. LGBTQ Victory Institute
22. Los Angeles LGBT Center
23. Mazzoni Center
24. Modern Military Association of America
25. Movement Advancement Project
26. NASTAD

27. National Black Justice Coalition
28. National Center for Lesbian Rights
29. National Center for Transgender Equality
30. National Coalition for LGBTQ Health
31. National Health Law Program
32. National LGBT Cancer Network
33. NorthLakes Community Clinic
34. PFLAG National
35. Positive Women's Network-USA
36. SAGE
37. The Center for LGBTQ Health Equity – Chase Brexton Health Care
38. The Trevor Project
39. Transhealth Northampton
40. Trillium Health
41. True Colors United
42. Whitman-Walker Institute

From: Levine, Rachel (HHS/OASH)
Sent: Mon, 21 Nov 2022 20:34:46 +0000
To: Calsyn, Maura (HHS/OASH); Shanker, Adrian (HHS/OASH); Oh, Kathy (OS/OASH)
Cc: 'Sarah Boateng'
Subject: FW: SOGI Data Inclusion Letter from LGBTQI+ service providers and advocacy organizations
Attachments: HHS Data Collection Letter FINAL.pdf

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Brooks, Benjamin (He/Him/His) <BBrooks@whitman-walker.org>
Sent: Tuesday, June 21, 2022 4:08 PM
To: Becerra, Xavier (OS/IOS) <Xavier.Becerra@hhs.gov>
Cc: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Contreras, January (ACF) <January.Contreras@acf.hhs.gov>; Barkoff, Alison (ACL) <Alison.Barkoff@acl.hhs.gov>; Valdez, Robert (AHRQ/IOD) <Robert.Valdez@ahrq.hhs.gov>; Montz, Ellen (CMS/CCIIO) <ellen.montz@cms.hhs.gov>; director@cdc.gov; Derrick.harkins@hud.gov; Brooks-LaSure, Chiquita (CMS/OA) <Chiquita.Brooks-Lasure@cms.hhs.gov>; Pino, Lisa (HHS/OCR) <Lisa.Pino@hhs.gov>; Califf, Robert (FDA/OC) <Robert.Califf@fda.hhs.gov>; Sommers, Benjamin (HHS/ASPE) <Benjamin.Sommers@hhs.gov>; Carole.johnson@hrsa.gov; Fowler, Elizabeth (IHS/HQ) <Elizabeth.Fowler@ihs.gov>; McIver, LaShawn (CMS/OMH) <lashawn.mciver@cms.hhs.gov>; Tabak, Lawrence (NIH/OD) [E] <Lawrence.Tabak@nih.gov>; Tripathi, Micky (OS/ONC) <Micky.Tripathi@hhs.gov>; Delphin-Rittmon, Miriam (SAMHSA/OAS) <Miriam.Delphin-rittmon@samhsa.hhs.gov>; Murthy, Vivek (HHS/OASH) <Vivek.Murthy@hhs.gov>
Subject: SOGI Data Inclusion Letter from LGBTQI+ service providers and advocacy organizations

Dear Secretary Becerra:

Attached please find a letter from 42 national, state and local health care and advocacy organizations serving LGBTQI+ communities throughout the United States, urging the Health and Human Services Administration (HHS) to effectuate the policy recommendations of President Biden's June 15 Executive Order, Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI) Individuals and the recommendations from the National Academies of Sciences, Engineering, and Medicine's report Measuring Sex, Gender Identity, and Sexual Orientation (SOGI).

We are thankful for the leadership of HHS and your demonstrated commitment to a data-driven approach to addressing health equity among LGBTQI+ people. We are appreciative of the opportunity to be in partnership with you to continue building on your historic investments for SOGI data inclusion.

Respectfully,

Benjamin Brooks,
on behalf of the Federal LGBTQI Health Policy Roundtable
(a coalition of 22 national advocacy organizations and community health centers, and a number of individual health care experts)

Benjamin Brooks, J.D., M.P.H.
Associate Director of Policy and Education
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RECIPIENT, PLEASE DESTROY ALL COPIES AND CONTACT BENJAMIN BROOKS AT BBROOKS@WHITMAN-WALKER.ORG. THANK YOU.

June 21, 2022

TO: The Honorable Xavier Becerra, Secretary of Health and Human Services

CC: Admiral Rachel L. Levine, MD, Assistant Secretary for Health;
January Contreras, JD, ACF Administrator;
Alison Barkoff, JD, ACL Administrator;
Robert Otto Valdez, PhD, AHRQ Administrator;
Ellen Montz, PhD, Deputy Administrator and Director of the Center for Consumer Information and Insurance Oversight;
Rochelle P. Walensky, MD, Director of the Centers for Disease Control and Prevention;
Derrick Harkins, MDiv, Center for Faith-Based and Neighborhood Partnerships Administrator;
Chiquita Brooks-LaSure, MPP, Administrator for the Centers for Medicare and Medicaid Services;
Lisa Pino, JD, Director, Office for Civil Rights, HHS;
Robert M. Califf, MD, FDA Administrator
Benjamin Sommers, MD, PhD, Senior Official Performing the Duties of the Assistant Secretary for Planning and Evaluation, Deputy Assistant Secretary, Office of Health Policy;
Carole Johnson, MA, HRSA Administrator;
Elizabeth Fowler, BS, IHS Administrator;
LaShawn McIver, MD, Director of the Office of Minority Health;
Lawrence A. Tabak, DDS, PhD, NIH Administrator;
Micky Tripathi, PhD, ONC Administrator;
Miriam E. Delphin-Rittmon, PhD, SAMHSA Administrator;
Vice Admiral Vivek Murthy, MD, U.S. Surgeon General,

Re: Expanding and enhancing data collection on LGBTQI+ communities

Dear Secretary Becerra:

On behalf of the undersigned 42 organizations committed to advancing the health and wellbeing of lesbian, gay, bisexual, transgender, queer, intersex, and other sexual and gender minority (LGBTQI+) people in the United States, we write in response to President Biden's June 15 Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals[1] and the recent release of the National Academies of Sciences, Engineering, and Medicine's (NASEM) report *Measuring Sex, Gender Identity, and Sexual Orientation*.[2] The milestone NASEM report presents guiding principles and best practices for collecting data on sex, sexual orientation, gender identity, and variations in sex characteristics, which are essential to identify and address the specific needs of LGBTQI+ populations. We are thrilled to see sexual orientation, gender identity, and sex characteristics inclusive data collection in President Biden's Executive Order. Data collection is a

[1] Executive Office of the President, "Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals," *Federal Register* 87 (118) (2022): 37189-95, available at https://www.govinfo.gov/content/pkg/FR-2022-06-21/pdf/2022-13391.pdf

[2] National Academies of Sciences, Engineering, and Medicine, "Measuring Sex, Gender Identity, and Sexual Orientation" (Washington: 2022), available at https://www.nap.edu/catalog/26424/measuring-sex-gender-identity-and-sexual-orientation.

critical goal for this Administration as well as for us, and we are so appreciative of the opportunity to work in partnership with you.

The U.S. Department of Health and Human Services (HHS) has demonstrated a commitment to advancing the rights of LGBTQI+ communities and to adopting a data-driven approach to policymaking.[3] Since at least 2001, HHS has recognized the staggering health inequities that LGBTQI+ people face,[4] and in 2016 the Department developed a plan to advance LGBTQI+ health equity that included demographic data collection as a priority for both population-based surveys and program administration.[5] Just recently, HHS published a comprehensive list of strategies to improve demographic data collection for all projects and programs in its Strategic Plan for 2022-2026.[6] The Centers for Medicare & Medicaid Services (CMS) put expanded demographic data collection front and center in its 2022-2032 Framework for Health Equity. Priority 1 of CMS's Framework outlines a commitment to improve standardized collection of information on beneficiaries' "race, ethnicity, language, gender identity, sex, sexual orientation, disability status, and social determinants of health."[7]

We now write to encourage HHS to continue building on its historic work by adopting the NASEM report's recommendations. Specifically, we respectfully request that HHS take necessary action to 1) support the addition of recommended measures of sexual orientation, gender identity, and variations in sex characteristics to priority HHS data collection mechanisms and 2) invest in future research to continue to develop, test, and improve measures of sexual orientation, gender identity, and sex characteristics.

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[4] See Healthy People 2010: Companion Document for Lesbian, Gay, Bisexual, and Transgender (LGBT) Health, Gay and Lesbian Med. Assoc. (2001), https://www.glma.org/_data/n_0001/resources/live/HealthyCompanionDoc3.pdf.

[5] Advancing LGBT Health & Well-Being: 2016 Report, HHS LGBT Policy Coordinating Committee, U.S. Department of Health and Human Services. (2016), https://www.hhs.gov/sites/default/files/2016-report-with-cover.pdf.

[6] See Objective 4.4: Improve Data Collection, HHS Strategic Plan FY 2022-2026, U.S. Department of Health and Human Services, https://healthapiguy.substack.com/p/the-scheduling-conundrum?s=r.

[7] Centers for Medicare and Medicaid Services, CMS Framework for Health Equity 2022-2032, https://www.cms.gov/files/document/cms-framework-health-equity.pdf.

[8] Executive Office of the President, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," *Federal Register* 86 (14) (2021): 7009-7013, available at https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf

As such, we urge HHS to take swift and meaningful action to adopt the NASEM report's recommendations and to begin collecting these important data as soon as possible.

I. The need to collect quality data on LGBTQI+ populations

Existing research reveals that LGBTQI+ people encounter significant barriers to accessing affordable, quality health care and insurance, as well as disparate outcomes related to physical, mental, and behavioral health.[9] Importantly, the health of LGTBQI+ communities is severely impacted by discrimination, stigma, prejudice, as well as other social determinants of health.[10] For transgender individuals,[11] LGBTQI+ people of color,[12] and LGBTQI+ people with disabilities,[13] obstacles to care and disparate health outcomes are even more pronounced. Health and social disparities affect LGBTQI+ children, youth, families, and older adults, including in the child welfare system and in accessing necessary services and supports across the lifespan.[14]

Lack of routine data collection on sexual orientation, gender identity, and variations in sex characteristics remains a significant barrier for policymakers, researchers, service providers, and advocates who want to more deeply understand these disparities and improve the wellbeing of LGBTQI+ communities. Currently, only a limited number of HHS-supported surveys collect data on sexual orientation and gender identity, and none ask questions that allow for the identification of people with intersex traits. HHS operating divisions that provide direct services to beneficiaries, such as CMS, also often do not require collection of information on the sexual orientation, gender identity, or variations in sex characteristics of their program participants even where other demographic data are collected. These gaps significantly restrict our ability to better understand and address the health and social challenges that LGBTQI+ people and their families face.[15, 16] Improving data collection on sexual orientation, gender identity, and variations in sex characteristics will help researchers characterize the experiences and outcomes of LGBTQI+ people; health care and human services

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[9] National Academies of Sciences, Engineering, and Medicine, "Understanding the Wellbeing of LGBTQI+ Populations" (Washington: 2020), available at https://www.nap.edu/read/25877/chapter/1

[10] Ibid.

[11] Caroline Medina, Thee Santos, Lindsay Mahowald, and Sharita Gruberg, "Protecting and Advancing Health Care for Transgender Adult Communities" (Washington: Center for American Progress, 2021), available at https://www.americanprogress.org/article/protecting-advancing-health-care-transgender-adult-communities/

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[15] Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys, "Measurements of Sexual Orientation and Gender Identity in Federal Surveys," available at https://nces.ed.gov/FCSM/pdf/buda5.pdf (last accessed March 2021).

[16] Baker, Kellan E., Carl G. Streed Jr, and Laura E. Durso. "Ensuring That LGBTQI+ People Count-Collecting Data on Sexual Orientation, Gender Identity, and Intersex Status." The New England Journal of Medicine 384.13 (2021): 1184-1186.

providers offer person-centered care and services; and policymakers develop effective policy solutions to address disparities and assess progress on efforts to advance health equity and well-being at all ages.

II. The findings of the NASEM report

The NASEM report represents the most comprehensive review to date of methodological evidence and measurement-related research for the constructs of sex, sexual orientation, gender identity, and variations in sex characteristics.[17] This consensus report, which was commissioned by 19 entities across the National Institutes of Health (NIH), was compiled by a committee of experts in data collection methodology and practice and comprehensively reviewed by 15 peer reviewers. It provides evidence to support adding measures of these constructs to surveys and research studies, administrative data systems, and clinical systems, accounting for differences related to the uses of data, identifiability of respondents, and the risk of data disclosure in each context. The report specifically recommends formats for a question about sexual orientation identity, a two-step measure of current gender and sex assigned at birth to identify transgender and cisgender respondents, and a standalone measure of intersex status. The report also issues important recommendations for areas of ongoing research, testing, and development to continue to improve these measures.

III. Recommended actions

We respectfully urge HHS to seize the unique opportunity presented by this consensus report on evidence-based best practices by taking quick and decisive action to implement the recommendations issued by the NASEM panel. As the NASEM report makes clear, the recommended questions perform well in a variety of contexts, and there are substantial harms of continuing to exclude LGBTQI+ communities from agency efforts to enhance equitable data collection. Below we outline priority data collection mechanisms where we urge HHS to add these questions, as well as priority areas for future research.

Priority 1: Support the addition of recommended measures of sexual orientation, gender identity, and variations in sex characteristics to key HHS data collection mechanisms.

Adding measures of sexual orientation, gender identity, and variations in sex characteristics to the following HHS-supported data collection mechanisms is a top priority for our organizations. These data collection instruments can collect valuable information on LGBTQI+ communities to shape policy interventions and inform the provision of services that promote more equitable outcomes. Their size will also allow for data disaggregation, which will facilitate analysis on populations that are living at the intersection of multiple marginalized identities, such as LGBTQI+ people with disabilities and LGBTQI+ Black, Indigenous, and other communities of color. Importantly, we also support

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broad data collection on race, ethnicity, primary language, and disabilities in order to identify and address disparities that we know exist across our intersectional communities. We respectfully urge HHS to:

- Add sexual orientation, gender identity, and sex characteristics questions to the standardized demographic core questionnaire of the **Behavioral Risk Factor Surveillance System (BRFSS).** In 2020, 32 states and Guam used the sexual orientation and gender identity optional question modules.[18] Including questions on sexual orientation, gender identity, and sex characteristics in the BRFSS core is crucial to collecting valuable population-based data on the health of LGBTQI+ adults across all 50 states and the U.S. territories.

- Add gender identity and variations in sex characteristics questions to the core measures of the **Youth Risk Behavior Surveillance System (YRBSS)**, which monitors health-related behaviors among youth and young adults. Including questions on gender identity and sex characteristics is especially critical to measuring the health and wellbeing of LGBTQI+ youth given the recent wave of legislative attacks on LGBTQI+ youth, especially transgender and nonbinary youth.

- Make permanent gender identity measures and add a measure of variations in sex characteristics to the **National Health Interview Survey**, which collects valuable information to monitor trends in health status, determine barriers to accessing care, and evaluate progress toward achieving national health objectives.

- Ensure the finalized **United States Core Data for Interoperability (USCDI) version 3** includes improved sex, sexual orientation, and gender identity data elements and adds a standalone intersex status data element. Specifically, we strongly support the Office of the National Coordinator adopting data elements designed in alignment with recommendations submitted by the Health Level Seven International (HL7) Gender Harmony Project.[19] Doing so is critical to better standardize the sharing of electronic health data classes and constituent data elements to foster interoperability in health information exchange, support care for LGBTQI+ patients in clinical contexts, and facilitate monitoring of LGBTQI+ population disparities in public health surveillance.

- Implement collection of information on sexual orientation, gender identity, and variations in sex characteristics in **every HHS program where demographic information of participants is collected**. These programs include CMS programs such as Medicare, Medicaid, and the Health Insurance Marketplace, as well as programs overseen by HHS operating divisions such as the Administration for Community Living, the Administration for Children and Families, the Health Resources and Services Administration, and others that

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directly serve the public. While the existence of health disparities for LGBTQI+ people has been well-documented, their origins are not well understood. This is due in part to the fact that few high-quality, large-scale data sets exist in the very systems where those disparities occur. For example, CMS recently proposed a new information collection on the Model Medicare Advantage and Prescription Drug Plan application that did not include sexual orientation, gender identity, and variations in sex characteristics.[20] CMS did propose to add race and ethnicity questions to the Application and conduct cognitive testing of nonresponses to improve data collection. This information collection demonstrates that HHS can simultaneously require collection of demographic information and continue to test methods to improve data quality.[21] We encourage HHS to adopt the same approach with respect to data collection on sexual orientation, gender identity, and variations in sex characteristics in all of its programs. These data are essential for understanding whether and how LGBTQI+ people are equally served by HHS programs, projects, and activities and for ensuring that HHS upholds the civil rights of LGBTQI+ people.

- Ensure that **quality reporting** in all HHS-administered and -monitored programs includes information about and, where possible, stratification on participants' sexual orientation, gender identity, and variations in sex characteristics.

Priority 2: Invest in ongoing research to continue to develop, test, and improve measures of sexual orientation, gender identity, and sex characteristics.

- Engage in testing to continue to **improve measurement of gender**. We specifically encourage HHS to fast-track research to increase the face validity of the second component of the recommended two-step gender identity question to ensure it optimally reflects the identities of transgender people. Potential enhancements include the opportunity for participants to select all responses that apply (e.g., "male" and "transgender") and/or the addition of "nonbinary" as a response option. We note that the current evidence base finds a two-step format is critical to fully capture the complexity of gender, which incorporates both gender identity (i.e., identity as a man, a woman, or another gender) and gender modality (i.e., whether a person is transgender or cisgender).[22]
- Continue to invest in improving **administrative data collection** on gender identity, sex characteristics, and sexual orientation. For example, the Administration for Children and Families should rescind the 2019 policy that reversed the decision to collect information on

[20] Model Medicare Advantage and Prescription Drug Plan Individual Enrollment Request (CMS-10718), Regulations.gov (May 5, 2022), https://www.regulations.gov/document/CMS-2022-0013-0011.
[21] As another example, see the recommendations made by the State Health Access Data Assistance Center (SHADAC) in response to the recent RFI on Medicaid and CHIP Access: State Health Access Data Assistance Center (SHADAC), "SHADAC Advocates a Data-based Approach to Advancing Medicaid and CHIP Access Monitoring Plan (Response to CMS Request for Information)" (April 29, 2022), https://www.shadac.org/news/shadac-response-CMS-RFI-advancing-access.
[22] Florence Ashley, "'Trans' is My Gender Modality," in *Trans Bodies, Trans Selves*, 2nd edition (Oxford University Press, 2022): 22.

the sexual orientation, gender identity, and gender expression of children both in out-of-home care and of foster parents, adoptive parents, and legal guardians on the Adoption and Foster Care Analysis and Reporting System (AFCARS). Without transparent data, collected in a culturally competent manner, it is impossible to know whether we are meeting our responsibility to LGBTQI+ youth in state care, and we leave those youth at substantially greater risk for negative outcomes. A top priority in administrative data collection is the testing of alternative two-step gender measures that can identify transgender people in administrative data settings for aggregate statistical purposes without relying on sex assigned at birth, as collecting this information may be considered intrusive in situations where personally identifiable data are being maintained in employee or beneficiary files.[23]

- Test standalone measures that allow for **data collection on people with intersex traits**. This includes research to evaluate the comparative performance of the three measures identified in the NASEM report; the impacts of including definitions and examples in these questions; and the performance of proxy reporting, particularly among parents who report about their children.

Priority 3: Provide guidance and support to facilitate an effective cross-agency approach to advancing data collection on sexual orientation, gender identity, and variations in sex characteristics.

In order to advance this critical work in a consistent and coordinated manner across HHS, we request that HHS provide key guidance, personnel, and organizational resources required to successfully advance and organize these priorities across different departments. Specifically, we urge the following:

- HHS and individual departments must ensure these priorities are supported by **adequate staffing and requisite coordination** and ensure that departments regularly report back on progress. The Sexual and Gender Minority Research Office (SGMRO) has been an exemplary leader on LGBTQI+ equity efforts, but this has only been possible by having multiple, dedicated, permanent staff over a period of years. As such, we strongly support the recommendation in the President's budget to dedicate more resources to this important work at NIH to continue the growth of the SGMRO and for the creation of a Center for Sexual Orientation and Gender Identity Research to be led by the SGMRO. HHS has been most effective on data and other equity initiatives in the past when they have been driven by both senior political and career staff who are knowledgeable and committed to action; have dedicated portfolios that include LGBTQI+ health and data collection issues; and who coordinate closely, with political leadership regularly bringing priorities to the Secretary for decisions and working hand-in-hand with career staff to ensure effective execution.

[23] In addition to this research, agencies should consider issuing additional guidance on protecting the privacy of gender-related, medical, or other personal information for LGBTQI+ people, including under laws such as the Family Educational Rights and Privacy Act.

- HHS should revive the practice of releasing **annual LGBTQI+ reports**. When supported by adequate staffing, planning, and coordination, these reports have served as useful organizing mechanisms for making and tracking public commitments and driving implementation.

Conclusion

Our organizations are united in voicing our strong support for HHS to add measures of sexual orientation, gender identity, and sex characteristics to HHS-supported data collection instruments, while simultaneously investing in and advancing research to continue to improve these measures. We will also be requesting a meeting to learn more about how our organizations can best support HHS' efforts to standardize and advance data collection on sexual orientation, gender identity, and variations in sex characteristics.

Thank you for your time and consideration, and for your efforts to advance equity and serve LGBTQI+ people and communities. Please do not hesitate to contact Kellan Baker at KBaker@whitman-walker.org or (202) 797-4417 if you need any additional information.

In partnership,

1. Advocates for Youth
2. American Psychological Association
3. APLA Health
4. Athlete Ally
5. Callen-Lorde Community Health Center
6. Campus Pride
7. CenterLink: The Community of LGBT Centers
8. Center for American Progress
9. CrescentCare
10. Evaluation, Technical Assistance, and Data Integration Program, Northwestern University Institute for Sexual and Gender Minority Health and Wellbeing
11. Fenway Health
12. FORGE, Inc.
13. GLMA: Health Professionals Advancing LGBTQ Equality
14. GLSEN
15. Howard Brown Health
16. Human Rights Campaign
17. interACT: Advocates for Intersex Youth
18. Jacobs Institute of Women's Health
19. Lambda Legal
20. Legacy Community Health
21. LGBTQ Victory Institute
22. Los Angeles LGBT Center
23. Mazzoni Center
24. Modern Military Association of America
25. Movement Advancement Project
26. NASTAD

27. National Black Justice Coalition
28. National Center for Lesbian Rights
29. National Center for Transgender Equality
30. National Coalition for LGBTQ Health
31. National Health Law Program
32. National LGBT Cancer Network
33. NorthLakes Community Clinic
34. PFLAG National
35. Positive Women's Network-USA
36. SAGE
37. The Center for LGBTQ Health Equity – Chase Brexton Health Care
38. The Trevor Project
39. Transhealth Northampton
40. Trillium Health
41. True Colors United
42. Whitman-Walker Institute

June 21, 2022

TO: The Honorable Xavier Becerra, Secretary of Health and Human Services

CC: Admiral Rachel L. Levine, MD, Assistant Secretary for Health;
January Contreras, JD, ACF Administrator;
Alison Barkoff, JD, ACL Administrator;
Robert Otto Valdez, PhD, AHRQ Administrator;
Ellen Montz, PhD, Deputy Administrator and Director of the Center for Consumer Information and Insurance Oversight;
Rochelle P. Walensky, MD, Director of the Centers for Disease Control and Prevention;
Derrick Harkins, MDiv, Center for Faith-Based and Neighborhood Partnerships Administrator;
Chiquita Brooks-LaSure, MPP, Administrator for the Centers for Medicare and Medicaid Services;
Lisa Pino, JD, Director, Office for Civil Rights, HHS;
Robert M. Califf, MD, FDA Administrator
Benjamin Sommers, MD, PhD, Senior Official Performing the Duties of the Assistant Secretary for Planning and Evaluation, Deputy Assistant Secretary, Office of Health Policy;
Carole Johnson, MA, HRSA Administrator;
Elizabeth Fowler, BS, IHS Administrator;
LaShawn McIver, MD, Director of the Office of Minority Health;
Lawrence A. Tabak, DDS, PhD, NIH Administrator;
Micky Tripathi, PhD, ONC Administrator;
Miriam E. Delphin-Rittmon, PhD, SAMHSA Administrator;
Vice Admiral Vivek Murthy, MD, U.S. Surgeon General,

Re: Expanding and enhancing data collection on LGBTQI+ communities

Dear Secretary Becerra:

On behalf of the undersigned 42 organizations committed to advancing the health and wellbeing of lesbian, gay, bisexual, transgender, queer, intersex, and other sexual and gender minority (LGBTQI+) people in the United States, we write in response to President Biden's June 15 Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals[1] and the recent release of the National Academies of Sciences, Engineering, and Medicine's (NASEM) report *Measuring Sex, Gender Identity, and Sexual Orientation*.[2] The milestone NASEM report presents guiding principles and best practices for collecting data on sex, sexual orientation, gender identity, and variations in sex characteristics, which are essential to identify and address the specific needs of LGBTQI+ populations. We are thrilled to see sexual orientation, gender identity, and sex characteristics inclusive data collection in President Biden's Executive Order. Data collection is a

[1] Executive Office of the President, "Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals," *Federal Register* 87 (118) (2022): 37189-95, available at https://www.govinfo.gov/content/pkg/FR-2022-06-21/pdf/2022-13391.pdf

[2] National Academies of Sciences, Engineering, and Medicine, "Measuring Sex, Gender Identity, and Sexual Orientation" (Washington: 2022), available at https://www.nap.edu/catalog/26424/measuring-sex-gender-identity-and-sexual-orientation.

critical goal for this Administration as well as for us, and we are so appreciative of the opportunity to work in partnership with you.

The U.S. Department of Health and Human Services (HHS) has demonstrated a commitment to advancing the rights of LGBTQI+ communities and to adopting a data-driven approach to policymaking.[3] Since at least 2001, HHS has recognized the staggering health inequities that LGBTQI+ people face,[4] and in 2016 the Department developed a plan to advance LGBTQI+ health equity that included demographic data collection as a priority for both population-based surveys and program administration.[5] Just recently, HHS published a comprehensive list of strategies to improve demographic data collection for all projects and programs in its Strategic Plan for 2022-2026.[6] The Centers for Medicare & Medicaid Services (CMS) put expanded demographic data collection front and center in its 2022-2032 Framework for Health Equity. Priority 1 of CMS's Framework outlines a commitment to improve standardized collection of information on beneficiaries' "race, ethnicity, language, gender identity, sex, sexual orientation, disability status, and social determinants of health."[7]

We now write to encourage HHS to continue building on its historic work by adopting the NASEM report's recommendations. Specifically, we respectfully request that HHS take necessary action to 1) support the addition of recommended measures of sexual orientation, gender identity, and variations in sex characteristics to priority HHS data collection mechanisms and 2) invest in future research to continue to develop, test, and improve measures of sexual orientation, gender identity, and sex characteristics.

Implementing and continuously improving these measures is essential to capture a more comprehensive, accurate, and data-driven understanding of the disparities and challenges that LGBTQI+ communities face with regard to their health, well-being, and opportunities, and to develop evidence-based policy interventions that advance health and equity. Expanding and enhancing data collection on LGBTQI+ communities is also critical to fulfill directives set out by Executive Order 13985,[8] which directs federal agencies to promote equity for LGBTQI+ and other underserved communities through various actions, including but not limited to increasing data collection efforts.

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[3] For example, see U.S. Department of Health and Human Services, "HHS Announces Prohibition on Sex Discrimination Includes Discrimination on the Basis of Sexual Orientation and Gender Identity," Press release, May 10, 2021, available at https://www.hhs.gov/about/news/2021/05/10/hhs-announces-prohibition-sex-discrimination-includes-discrimination-basis-sexual-orientation-gender-identity.html.

[4] See Healthy People 2010: Companion Document for Lesbian, Gay, Bisexual, and Transgender (LGBT) Health, Gay and Lesbian Med. Assoc. (2001), https://www.glma.org/_data/n_0001/resources/live/HealthyCompanionDoc3.pdf.

[5] Advancing LGBT Health & Well-Being: 2016 Report, HHS LGBT Policy Coordinating Committee, U.S. Department of Health and Human Services. (2016), https://www.hhs.gov/sites/default/files/2016-report-with-cover.pdf.

[6] See Objective 4.4: Improve Data Collection, HHS Strategic Plan FY 2022-2026, U.S. Department of Health and Human Services, https://healthapiguy.substack.com/p/the-scheduling-conundrum?s=r.

[7] Centers for Medicare and Medicaid Services, CMS Framework for Health Equity 2022-2032, https://www.cms.gov/files/document/cms-framework-health-equity.pdf.

[8] Executive Office of the President, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," *Federal Register* 86 (14) (2021): 7009-7013, available at https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf

As such, we urge HHS to take swift and meaningful action to adopt the NASEM report's recommendations and to begin collecting these important data as soon as possible.

I. The need to collect quality data on LGBTQI+ populations

Existing research reveals that LGBTQI+ people encounter significant barriers to accessing affordable, quality health care and insurance, as well as disparate outcomes related to physical, mental, and behavioral health.[9] Importantly, the health of LGTBQI+ communities is severely impacted by discrimination, stigma, prejudice, as well as other social determinants of health.[10] For transgender individuals,[11] LGBTQI+ people of color,[12] and LGBTQI+ people with disabilities,[13] obstacles to care and disparate health outcomes are even more pronounced. Health and social disparities affect LGBTQI+ children, youth, families, and older adults, including in the child welfare system and in accessing necessary services and supports across the lifespan.[14]

Lack of routine data collection on sexual orientation, gender identity, and variations in sex characteristics remains a significant barrier for policymakers, researchers, service providers, and advocates who want to more deeply understand these disparities and improve the wellbeing of LGBTQI+ communities. Currently, only a limited number of HHS-supported surveys collect data on sexual orientation and gender identity, and none ask questions that allow for the identification of people with intersex traits. HHS operating divisions that provide direct services to beneficiaries, such as CMS, also often do not require collection of information on the sexual orientation, gender identity, or variations in sex characteristics of their program participants even where other demographic data are collected. These gaps significantly restrict our ability to better understand and address the health and social challenges that LGBTQI+ people and their families face.[15, 16] Improving data collection on sexual orientation, gender identity, and variations in sex characteristics will help researchers characterize the experiences and outcomes of LGBTQI+ people; health care and human services

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[21] As another example, see the recommendations made by the State Health Access Data Assistance Center (SHADAC) in response to the recent RFI on Medicaid and CHIP Access: State Health Access Data Assistance Center (SHADAC), "SHADAC Advocates a Data-based Approach to Advancing Medicaid and CHIP Access Monitoring Plan (Response to CMS Request for Information)" (April 29, 2022), https://www.shadac.org/news/shadac-response-CMS-RFI-advancing-access.
[22] Florence Ashley, "'Trans' is My Gender Modality," in *Trans Bodies, Trans Selves*, 2nd edition (Oxford University Press, 2022): 22.

the sexual orientation, gender identity, and gender expression of children both in out-of-home care and of foster parents, adoptive parents, and legal guardians on the Adoption and Foster Care Analysis and Reporting System (AFCARS). Without transparent data, collected in a culturally competent manner, it is impossible to know whether we are meeting our responsibility to LGBTQI+ youth in state care, and we leave those youth at substantially greater risk for negative outcomes. A top priority in administrative data collection is the testing of alternative two-step gender measures that can identify transgender people in administrative data settings for aggregate statistical purposes without relying on sex assigned at birth, as collecting this information may be considered intrusive in situations where personally identifiable data are being maintained in employee or beneficiary files.[23]

- Test standalone measures that allow for **data collection on people with intersex traits**. This includes research to evaluate the comparative performance of the three measures identified in the NASEM report; the impacts of including definitions and examples in these questions; and the performance of proxy reporting, particularly among parents who report about their children.

Priority 3: Provide guidance and support to facilitate an effective cross-agency approach to advancing data collection on sexual orientation, gender identity, and variations in sex characteristics.

In order to advance this critical work in a consistent and coordinated manner across HHS, we request that HHS provide key guidance, personnel, and organizational resources required to successfully advance and organize these priorities across different departments. Specifically, we urge the following:

- HHS and individual departments must ensure these priorities are supported by **adequate staffing and requisite coordination** and ensure that departments regularly report back on progress. The Sexual and Gender Minority Research Office (SGMRO) has been an exemplary leader on LGBTQI+ equity efforts, but this has only been possible by having multiple, dedicated, permanent staff over a period of years. As such, we strongly support the recommendation in the President's budget to dedicate more resources to this important work at NIH to continue the growth of the SGMRO and for the creation of a Center for Sexual Orientation and Gender Identity Research to be led by the SGMRO. HHS has been most effective on data and other equity initiatives in the past when they have been driven by both senior political and career staff who are knowledgeable and committed to action; have dedicated portfolios that include LGBTQI+ health and data collection issues; and who coordinate closely, with political leadership regularly bringing priorities to the Secretary for decisions and working hand-in-hand with career staff to ensure effective execution.

[23] In addition to this research, agencies should consider issuing additional guidance on protecting the privacy of gender-related, medical, or other personal information for LGBTQI+ people, including under laws such as the Family Educational Rights and Privacy Act.

- HHS should revive the practice of releasing **annual LGBTQI+ reports**. When supported by adequate staffing, planning, and coordination, these reports have served as useful organizing mechanisms for making and tracking public commitments and driving implementation.

Conclusion

Our organizations are united in voicing our strong support for HHS to add measures of sexual orientation, gender identity, and sex characteristics to HHS-supported data collection instruments, while simultaneously investing in and advancing research to continue to improve these measures. We will also be requesting a meeting to learn more about how our organizations can best support HHS' efforts to standardize and advance data collection on sexual orientation, gender identity, and variations in sex characteristics.

Thank you for your time and consideration, and for your efforts to advance equity and serve LGBTQI+ people and communities. Please do not hesitate to contact Kellan Baker at KBaker@whitman-walker.org or (202) 797-4417 if you need any additional information.

In partnership,

1. Advocates for Youth
2. American Psychological Association
3. APLA Health
4. Athlete Ally
5. Callen-Lorde Community Health Center
6. Campus Pride
7. CenterLink: The Community of LGBT Centers
8. Center for American Progress
9. CrescentCare
10. Evaluation, Technical Assistance, and Data Integration Program, Northwestern University Institute for Sexual and Gender Minority Health and Wellbeing
11. Fenway Health
12. FORGE, Inc.
13. GLMA: Health Professionals Advancing LGBTQ Equality
14. GLSEN
15. Howard Brown Health
16. Human Rights Campaign
17. interACT: Advocates for Intersex Youth
18. Jacobs Institute of Women's Health
19. Lambda Legal
20. Legacy Community Health
21. LGBTQ Victory Institute
22. Los Angeles LGBT Center
23. Mazzoni Center
24. Modern Military Association of America
25. Movement Advancement Project
26. NASTAD

27. National Black Justice Coalition
28. National Center for Lesbian Rights
29. National Center for Transgender Equality
30. National Coalition for LGBTQ Health
31. National Health Law Program
32. National LGBT Cancer Network
33. NorthLakes Community Clinic
34. PFLAG National
35. Positive Women's Network-USA
36. SAGE
37. The Center for LGBTQ Health Equity – Chase Brexton Health Care
38. The Trevor Project
39. Transhealth Northampton
40. Trillium Health
41. True Colors United
42. Whitman-Walker Institute

From: Boateng, Sarah (HHS/OASH)
Sent: Sun, 20 Nov 2022 22:39:27 +0000
To: danamd@danabeyer.com; Oh, Kathy (OS/OASH)
Cc: Levine, Rachel (HHS/OASH)
Subject: RE: Follow-up on WPATH chat

Good Afternoon Dana

Thank you so much for your outreach. I will be OOO this week but have added ADM Levine's Chief of Staff CAPT Kathy Oh to follow up.

Sarah

Sarah Newman Boateng (She/Her)
Principal Deputy Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: sarah.boateng@hhs.gov
Mobile: (202) 740-7328
Desk: (202) 401-7003

-----Original Message-----
From: danamd@danabeyer.com <danamd@danabeyer.com>
Sent: Saturday, November 19, 2022 10:46 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Dana Beyer <danamd@danabeyer.com>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Subject: Follow-up on WPATH chat

Hi, Admiral,

I'm Dana Beyer—we chatted at the gate as we awaited boarding our flight to Montreal two months ago.

We agreed to get together when I returned from Indonesia, which I did recently, and I'd like to schedule some time for a discussion at your convenience.

Please let me know what works for you.

Thank you,

Dana

From: Levine, Rachel (HHS/OASH)
Sent: Fri, 28 Oct 2022 12:17:56 +0000
To: Mitra, Jenny (HHS/OASH)
Cc: Boateng, Sarah (HHS/OASH); Oh, Kathy (OS/OASH)
Subject: RE: Transgender Eagle Scout

Thank you. Please send on my behalf, thanks, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

OASH

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Mitra, Jenny (HHS/OASH) <Jenny.Mitra@hhs.gov>
Sent: Thursday, October 27, 2022 11:07 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Subject: Transgender Eagle Scout

Hi Admiral Levine,

Please find a draft response from you to (b)(6), the first Transgender Boy Scout to attain the rank of Eagle Scout. Her mother emailed below, and I have pasted this email for your reference.

Happy to edit or send on your behalf, as needed.

Best,
Jenny

Dear (b)(6)

I want to congratulate you on your recent accomplishment of being awarded the Eagle Scout. I understand that the Eagle Scout is the highest achievement or rank attainable in the Scouts BSA program of the Boy Scouts of America, and I am very happy to extend my congratulations to you during this exciting time.
I am particularly impressed by the Eagle Scout ethics including the Scout Spirit. These skills based upon the Scout Oath and Law, service, and leadership are traits that I admire greatly. I also acknowledge that you worked very hard on your service project, and I hope this experience will inspire you to continue to do great acts of service.

Additionally, being the first transgender Eagle Scout awardee is an even greater accomplishment, and I commend your bravery and commitment. I am offering you my most Spirited congratulations and wishing you good luck in all your future endeavors.

Sincerely,
Admiral Rachel Levine

From: (b)(6) <>
Sent: Monday, October 17, 2022 9:23 PM
To: HHS ASH (HHS/OASH) <ASH@hhs.gov>
Subject: Transgender Eagle Scout

Hello Admiral Levine

I am writing on behalf of my Transgender Daughter (b)(6) who just recently earned the rank of Eagle Scout. I know your time is valuable, so I will try to keep this short.

(b)(6) has been part of (b)(6) since she was in kindergarten. When she came out as transgender a year ago, we were concerned how that would impact her work toward her eagle reward. BSA in general and the (b)(6) leadership specifically were remarkably supportive and if anything were more determined that they do anything they could to help (b)(6) reach her goal. (b)(6) is I believe the first Transgender woman to be award the Eagle Scout award in (b)(6)

(b)(6) Eagle project was creating an online resource guide for transgender youth in (b)(6) She was able to introduce this guide in a state-wide zoom meeting LGTBQ clubs throughout the state. The project reflects how much she cares about fellow LGBTQ youth and understands the challenges they face.

The Eagle Court of honor will be held at (b)(6) (b)(6) While we understand that it is highly unlikely

you would be there in person, I know (b)(6) would greatly appreciate any type of congratulatory letter or message you may be able to provide. Here email is (b)(6) and her phone number is (b)(6)

Thank you so much for your time and your efforts to support our LGTBQ youth!

(b)(6)

(b)(6)

(b)(6)

From: Levine, Rachel (HHS/OASH)
Sent: Tue, 11 Oct 2022 12:07:54 +0000
To: Verghese, Priya; Gordon, Catherine
Cc: Boateng, Sarah (HHS/OASH); Lee, Kinbo (HHS/OASH); Fisher, Megan (HHS/OASH); Cure, Kelly (OS/OASH) (CTR)
Subject: RE: E-introduction

Priya, Good morning. Thank you foryour email. I am so glad that the lecture was a success. Please take care and keep in touch, Rachel

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Verghese, Priya <pverghese@luriechildrens.org>
Sent: Monday, October 10, 2022 5:56 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Gordon, Catherine
(b)(6)
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Fisher, Megan (HHS/OASH) <Megan.Fisher@hhs.gov>; Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>
Subject: RE: E-introduction

Dear ADM Levine,

Your keynote lecture at the PNRC this weekend was appreciated by all who attended. Feedback was uniformly positive, and the Q&A session following was engaged and supportive. I am truly grateful that you took the time and effort to be a part of the change we need to see more of.

I look forward to your visit to Chicago and do hope we can coordinate Grand Rounds here at our hospital when you are in town.

Take care and keep in touch and know that you are truly an inspiration!

Warm wishes,
Priya

Priya Verghese, MBBS(MD), MPH
(she/hers/her)
Division Head of Nephrology, *Ann & Robert H. Lurie Children's Hospital of Chicago*
Isaac A. Abt, MD Professor in Nephrology
Professor of Pediatrics, *Northwestern University Feinberg School of Medicine*
T 312-227-6167 I F 312-227-9405 I 225 E. Chicago Ave, Box 37, Chicago, IL 60611-2605

From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Tuesday, July 5, 2022 7:52 AM
To: Verghese, Priya <pverghese@luriechildrens.org>; Gordon, Catherine (b)(6)
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Fisher, Megan (HHS/OASH) <Megan.Fisher@hhs.gov>; Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>
Subject: RE: E-introduction

Catherine, Thanks for the email introduction.
Priya, wonderful to meet you.
Yes, lets set up a zoom.
I will cc my staff to schedule the call. Take care, Rachel

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Verghese, Priya <pverghese@luriechildrens.org>
Sent: Friday, July 1, 2022 1:47 PM
To: Gordon, Catherine (b)(6) Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: RE: E-introduction

Thank you for the introduction Catherine. I am grateful. Rachel, it would be a delight to meet with you or talk to you. My cell phone number is 312-804-9781 or perhaps we can set up a zoom? I am happy to coordinate that separately so Catherine does not get inundated with emails. Just let me know.
Warm wishes to you both,
Priya

Priya Verghese, MD, MPH
(she/hers/her)
Division Head of Nephrology, *Ann & Robert H. Lurie Children's Hospital of Chicago*
Isaac A. Abt, MD Professor in Nephrology
Professor of Pediatrics, *Northwestern University Feinberg School of Medicine*
T 312.227.6167 | F 312.227.9405 | 225 East Chicago Avenue, Box 37, Chicago, Illinois 60611-2605

From: Gordon, Catherine (b)(6)
Sent: Friday, July 1, 2022 11:33 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Verghese, Priya <pverghese@luriechildrens.org>
Subject: E-introduction

Dear Rachel,

I hope you are keeping well. I am writing to e-introduce you to Dr. Priya Verghese, who is Division Chief of Nephrology at Lurie Children's
Hospital and Northwestern in Chicago. She is an advocate for transgender youth and is planning a conference for the fall.
I wanted you to have the chance to meet her and most importantly, to know about her advocacy.
I will let you two connect when convenient.

Hope you both have a relaxing and enjoyable July 4th weekend!

All the best,
Catherine

Catherine M. Gordon, MD, MS
Professor and Senior Faculty
USDA/ARS Children's Nutrition Research Center
Department of Pediatrics
Baylor College of Medicine
Office 2034
1100 Bates Avenue

Houston, TX 77030

Phone: (713) 798-8334
Email: (b)(6)

From: Levine, Rachel (HHS/OASH)
Sent: Thu, 22 Sep 2022 10:45:32 +0000
To: 'Sarah Boateng'; Oh, Kathy (OS/OASH); Mitra, Jenny (HHS/OASH)
Subject: FW: WPATH

Good morning, Please send a response for me, thanks, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Jerrica Kirkley <jerrica@getplume.co>
Sent: Wednesday, September 21, 2022 2:06 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: Re: WPATH

Hi Admiral,

No worries at all. The presentations went well. We presented an abstract looking at the fertility desires of over 10,000 trans folks starting hormone therapy. We are excited to explore further research opportunities with our large and fast growing data set.

Have you been able to meet with the DEA regarding the continued virtual prescribing of testosterone for gender-affirming care after expiration of the PHE?

Best,
Jerrica

On Mon, Sep 19, 2022 at 6:37 AM Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov> wrote:

Jerrica, good morning. Thank you for your email. I am sorry tht we did not touch base. Good luck with your presentations. Take care, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Jerrica Kirkley <jerrica@getplume.co>
Sent: Saturday, September 17, 2022 3:23 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: WPATH

Hi Admiral Levine,

I see you are speaking at the opening WPATH session in Montreal - I am here for the conference this weekend presenting some research findings. Looking forward to seeing you speak tonight.

Best,
Jerrica

--

Jerrica Kirkley (she/her)
Co-Founder, Chief Medical Officer

c: (b)(6)
jerrica@getplume.co
https://getplume.co

--

Jerrica Kirkley (she/her)
Co-Founder, Chief Medical Officer

c: (b)(6)
jerrica@getplume.co
https://getplume.co

From: Boateng, Sarah (HHS/OASH)
Sent: Mon, 19 Sep 2022 11:55:28 +0000
To: Levine, Rachel (HHS/OASH)
Subject: Morning Notes

WPATH remarks
HH - 11:30am
MPX Daily
Thursday

Sarah Newman Boateng (She/Her)
Principal Deputy Assistant Secretary for Health (acting)
Office of the Assistant Secretary for Health

Email: sarah.boateng@hhs.gov
Mobile (b)(6)
Desk: (202) 401-7003

From: Levine, Rachel (HHS/OASH)
Sent: Tue, 13 Sep 2022 12:20:35 +0000
To: Calsyn, Maura (HHS/OASH); Boateng, Sarah (HHS/OASH); Schall, Theodore (HHS/OASH)
Subject: RE: KHN on coding and GAC

Maura, thank you, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

OASH

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Sent: Tuesday, September 13, 2022 8:20 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Schall, Theodore (HHS/OASH) <Theodore.Schall@hhs.gov>
Subject: KHN on coding and GAC

Last year, Tim Chevalier received the first of many coverage denials from his insurance company for the hair removal procedure he needed as part of a phalloplasty, the creation of a penis. Electrolysis is a common procedure among transgender people like Chevalier, a software developer in Oakland, California. In some cases, it's used to remove unwanted hair from the face or body. But it's also required for a phalloplasty or a vaginoplasty, the creation of a vagina, because all hair must be removed from the tissue that will be relocated during surgery. (Santoro, 9/13)

Maura Calsyn (she/her)

Deputy Assistant Secretary, Health Policy
Office of the Assistant Secretary for Health

Email: maura.calsyn@hhs.gov
Mobile: (b)(6)
Desk: (202) 260-6883

<< OLE Object: Picture (Device Independent Bitmap) >>

From: Sarvana, Adam (HHS/OASH)
Sent: Mon, 12 Sep 2022 15:05:14 +0000
To: Broido, Tara (HHS/OASH); Levine, Rachel (HHS/OASH)
Cc: Seigfreid, Kimberly (HHS/OASH); Boateng, Sarah (HHS/OASH); Schall, Theodore (HHS/OASH); Channer, Amber (OS/OASH); Migliaccio-Grabill, Kate (HHS/OASH)
Subject: RE: Recent Remarks/Speeches/OpEds

Text of the two linked articles is below.

Miami Herald op-ed (still available online here).

Trans youth in Florida under attack, despite public support | Miami Herald

OPINION

OP-ED

Most Florida residents support gender-affirming care for trans youth. For them, facts matter | Opinion

BY RACHEL L. LEVINE
UPDATED JULY 13, 2022 3:57 PM

A new poll finds that 54% of Floridians support access to gender-affirming healthcare for minors when it's recommended by their doctors or supported by their parents. Coming after so many political attacks and caricatures of what gender-affirming care really is and who receives it, this is a welcome sign that science and human compassion still have real power to shape our lives for the better.

My travels over the past several months, from Texas to New Mexico to Florida, have given me the chance to hear what it's like to be a young LGBTQI+ person growing up in America. The experiences I've heard about — college students volunteering to train people on inclusivity, middle-school students supporting trans peers when teachers misgender them in the classroom — have demonstrated genuine resilience and emotional generosity. They have been an inspiration to me.

Many of these conversations with youth and their families have included honest discussions about mental health, and what I've heard is concerning. If the experiences of teenagers I've met are any indication, the actions of some state leaders are hurting young Americans, likely with long-term consequences.

In almost every respect, LGBTQI+ kids are the same as other people their age. They listen to music, have friends, and want to grow up to live fulfilling lives. They just want the chance to have the same adolescence as everyone else their age.

Unfortunately, too often they're being denied that opportunity. I recently met a trans girl in Florida who was told not to hold hands with boys as early as elementary school. I heard from a Florida trans woman in college who described repeated failures by counselors, staff, deans and other adults to protect students regardless of gender, ethnicity or socioeconomic class. Many trans youth describe struggles as simple as not knowing which counselors and psychiatrists will be friendly toward them and as complex as lacking access to job offers and affordable housing because of who they are.

The stories I've heard are borne out by data. According to the 2015 U.S. Transgender Survey, the largest survey of trans people in the United States to date, 82% of transgender individuals have seriously considered killing themselves at least once. Two in five have attempted suicide. A 2020 study found that these figures are highest among transgender youth, 56% of whom reported a previous suicide attempt and 86% of whom reported suicidal thoughts within the past six months.

These tragic statistics are, in part, reflect the fact that many politicians and their supporters continually describe the LGBTQI+ community as a blight on our culture. In one widely publicized case, a 16-year-old transgender boy in Texas attempted suicide soon after state officials announced they would investigate the families of transgender youth for child abuse simply for facilitating their gender-affirming medical care.

The American Psychiatric Association notes that transgender people are not inherently prone to negative mental-health outcomes. These conditions are brought on by harassment, bullying and discrimination and made worse when supportive medical care is unavailable.

The good news is that it doesn't take much to save the life of a young trans person. In 2019, The Trevor Project published research showing that youth with at least one accepting adult in their lives were 40% less likely to report a suicide attempt. This person doesn't even have to be a family member to significantly reduce the risk of youth LGBTQI+ suicide.

In a study published in May in the journal Pediatrics, 94% of binary transgender youth continued to identify that way five years after their initial social transition. Anyone looking to understand trans experiences will find many more stories of happiness after a successful transition than they will of second thoughts or ongoing regret. In a collection of 16 studies highlighted this year by the Stanford University School of Medicine, where I spoke on this issue in June, trans youth who received gender-affirming care reported lower depression, higher quality of mental health and fewer instances of suicide thoughts and attempts than peers without care.

The American Medical Association, the American Academy of Pediatrics, the American Psychiatric Association, the Academy of Child and Adolescent Psychiatry, the Endocrine Society, the Pediatric Endocrine Society, the Society for Adolescent Health and Medicine, and the World Professional Association for Transgender Health, among other professional groups, all

agree that gender-affirming care is medically necessary, safe and effective for transgender and non-binary children and adolescents. The process is tailored to individuals with parental input.

These facts shouldn't be lost in the political rhetoric, and it shouldn't be hard to translate this knowledge into more compassionate policies that protect, rather than undermine, youth mental health. All of us, especially those in positions of governmental responsibility, should work against intolerance until everyone living in America can live their life openly and freely.

As the assistant secretary for health, I urge everyone — especially those who see trans people like the youth I've met as easy political targets — to base medical decisions and public pronouncements on real data and human compassion rather than slander and stigmatization. The mental health of a generation of young trans Americans depends on it.

Adm. Rachel L. Levine is assistant secretary for health for the U.S. Department of Health and Human Services.

^^^

Confirmation Statement

"I am honored that the U.S. Senate has voted in favor of my nomination to be Assistant Secretary for Health at the Department of Health and Human Services. I am grateful to President Biden and Vice President Harris for nominating me to this important post. I look forward to working under the leadership of Secretary Becerra and ensuring that we promote policies that advance the health and wellbeing of all Americans.

"As I prepare to take my oath of office and begin serving as Assistant Secretary for Health, I would like to take this opportunity to address members of the LGBTQ community. First, thank you. Only through your work and advocacy over many decades is my story possible. I am humbled to be the first transgender individual to serve in a Senate-confirmed position. As Vice President Harris has said, I recognize that I may be the first, but am heartened by the knowledge that I will not be the last. When I assume this position, I will stand on the shoulders of those who came before- people we know throughout history and those whose names we will never know because they were forced to live and work in the shadows.

"In particular, I want to address transgender youth. I know that each and every day you confront many difficult challenges. Sadly, some of the challenges you face are from people who would seek to use your identity and circumstance as a weapon. It hurts. I know. I cannot promise you that these attacks will immediately cease, but I will do everything I can to support you and advocate for you. President Obama often reminded us that not all progress goes in a straight line. What I can tell you is that there is a place for you in America and in our government. Our 'more perfect union' includes you, too."

Adam Sarvana
Director of Communications
Office of the Assistant Secretary for Health

Email: adam.sarvana@hhs.gov
Mobile: (202) 893-4425
Desk: (202) 795-7619
hhs.gov/ash
OASH | Office of the Assistant Secretary for Health

From: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Sent: Friday, September 9, 2022 11:55 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Seigfreid, Kimberly (HHS/OASH) <Kimberly.Seigfreid@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Schall, Theodore (HHS/OASH) <Theodore.Schall@hhs.gov>; Channer, Amber (OS/OASH) <Amber.Channer@hhs.gov>; Migliaccio-Grabill, Kate (HHS/OASH) <Kate.Migliaccio-Grabill@hhs.gov>
Subject: Recent Remarks/Speeches/OpEds

Dear ADM Levine,

Here are all the items we discussed:

- NIH Pride Remarks
- Standing Speech for Trans Health (Florida)
- Stanford Remarks
- Mt Sinai Commencement
- Out for Health (Texas)
- Event with Second Gentleman TDOV
- Op-Ed

Most Florida residents support gender-affirming care for trans youth. For them, facts matter | Opinion

- Confirmation Statement

Dr. Rachel Levine's statement - The New York Times (nytimes.com)

Let us know if you need anything else!

Cheers,
Tara

Tara Broido, MPH
Deputy Director of Communications
Office of Communications

Email: tara.broido@hhs.gov
Mobile: (b)(6)
Desk: (202) 205-1842
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OASH | Office of the Assistant Secretary for Health

From: Levine, Rachel (HHS/OASH)
Sent: Mon, 12 Sep 2022 12:11:10 +0000
To: Pallack, Cindy (OS/OASH)
Cc: Lee, Kinbo (HHS/OASH)
Subject: RE: You're Invited to the WPATH 2022 President's Dinner - RSVP by September 12

LT. I will decline. Thanks, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Pallack, Cindy (OS/OASH) <Cindy.Pallack@hhs.gov>
Sent: Sunday, September 11, 2022 12:36 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>
Subject: RE: You're Invited to the WPATH 2022 President's Dinner - RSVP by September 12

Good Afternoon ADM Levine,

You received an invitation to the WPATH 2022 President's Dinner on 17 September.
I reached out to the POC. She just got back to me. This dinner is only for invited guests, such as board members, award winners, and last presidents. They expect 70 people. It starts at 2000 and ends at 2200. Dress code is business casual, so SDBs would be fine. The event location is 7 minutes from the hotel. RSVP is due tomorrow (12 SEPT).
Please let me know if you are interested in attending this dinner next Saturday. I will rsvp tomorrow unless you already know what you would like to do then I will act immediately.
Thank you.

Please enjoy the rest of your weekend.

Very Respectfully,

Cindy H. Pallack, MS, MPS, RDH
Lieutenant, United States Public Health Service Commissioned Corps
Aide-de-Camp to ADM Levine (on Detail)
Office of the Assistant Secretary for Health

Email: Cindy.Pallack@hhs.gov
Mobile: (b)(6)
OASH Office of the Assistant Secretary for Health

From: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Sent: Thursday, September 8, 2022 11:52 AM
To: Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Pallack, Cindy (OS/OASH) <Cindy.Pallack@hhs.gov>; Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>; Gray, Oneika (HHS/OASH) <Oneika.Gray@hhs.gov>
Subject: RE: You're Invited to the WPATH 2022 President's Dinner - RSVP by September 12

This is a closed event, so from a Comms perspective this is ADM Levine's choice.

From: Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>
Sent: Thursday, September 8, 2022 11:28 AM
To: Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Pallack, Cindy (OS/OASH) <Cindy.Pallack@hhs.gov>; Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>; Gray, Oneika (HHS/OASH) <Oneika.Gray@hhs.gov>
Subject: FW: You're Invited to the WPATH 2022 President's Dinner - RSVP by September 12
Importance: High

Any thoughts on whether ADM Levine should attend? Do we need to ask for more details before recommending an option to ADM Levine?

From: Blaine Vella <blaine@wpath.org>
Sent: Wednesday, September 7, 2022 6:36 PM
To: walterbouman <walterbouman@doctors.org.uk>
Subject: You're Invited to the WPATH 2022 President's Dinner - RSVP by September 12
Importance: High

Dr. Walter Bouman cordially invites you to attend the

2022 President's Dinner

at Fiorella Montreal
980, boul. de Maisonneuve Ouest

Montreal, Quebec

on Saturday, September 17, 2022, at 8:00 pm

Please reply now by clicking here.

RSVP before September 12, 2022

From: Levine, Rachel (HHS/OASH)
Sent: Fri, 9 Sep 2022 15:56:51 +0000
To: Sarvana, Adam (HHS/OASH); Boateng, Sarah (HHS/OASH); Broido, Tara (HHS/OASH); Schall, Theodore (HHS/OASH)
Subject: RE: WaPo Column on Texas Lawsuit

Thank you

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>
Sent: Friday, September 9, 2022 11:51 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Schall, Theodore (HHS/OASH) <Theodore.Schall@hhs.gov>
Subject: RE: WaPo Column on Texas Lawsuit

Mom says trans eighth-grader was questioned by Texas officials at school

A declaration recounting the incident was filed as part of an ongoing lawsuit by LGBTQ legal advocates

By María Luisa Paúl
September 9, 2022 at 9:26 a.m. EDT

On the morning of Aug. 30, a 13-year-old transgender boy was pulled out of class by his school's administrators, his mother says. While his classmates continued their studies, he sat in a

conference room at a Texas middle school where a Department of Family and Protective Services investigator began asking personal questions, court records state.

The reason: The state agency was probing his family following a February directive from Gov. Greg Abbott (R) to investigate the use of gender-affirming care in minors as child abuse, according to court documents.
The nearly hour-long interview touched on a range of personal topics — from the teen's medical history to his gender dysphoria diagnosis to his suicide attempt years back, court records state. The interrogation left the boy — identified under the pseudonym Steve Koe — shaking and distressed, according to a signed declaration from his mother, named as Carol Koe.

The document, obtained by The Washington Post, is part of a cache of supplemental evidence filed late Wednesday as part of anongoing lawsuit by LGBTQ advocates seeking to block investigations into families providing gender-affirming care to their transgender children.

The suit was filed in June by advocacy groups Lambda Legal and the American Civil Liberties Union, as well as the Texas-based law firm Baker Botts. Though three families are named as plaintiffs, it seeks protections for current and future members of the LGBTQ advocacy group PFLAG in Texas.

Abbott's office did not immediately respond to a request for comment on the newly filed documents, but the state has defended its investigations in court. In a briefing filed in May, it said that a judge's ruling to temporarily suspend the probes "prevents a state agency from carrying out its statutory duty to investigate reported child abuse."

The Texas Department of Family and Protective Services and the state's attorney general's office also did not immediately respond to requests for comment from The Post late Thursday.

In July, Judge Amy Clark Meachum granted an order halting probes into two of the three listed plaintiffs listed in the June lawsuit. However, she didn't rule on a request to stop investigations for the third family or additional PFLAG members — instead asking attorneys to submit more evidence on how state agencies are handling the alleged child abuse cases.

That's why the advocacy groups submitted Carol Koe's declaration this week, along with another by a woman identified as Samantha Poe, whose 14-year-old child is "in midst of exploring what a social transition feels like." Though Poe hasn't provided her child with gender-affirming medical care, an ongoing abuse investigation against her was opened in February and has left her child with "suicidal ideations," according to court documents.

On Aug. 25, the Texas Department of Family and Protective Services requested either Poe's consent for an interview with her child or proof that the child is "well-adjusted," court documents state. Five days later, the agency launched its probe into Carol Koe. Both are signs that the agency is still complying with Abbott's directive — even after state officials said in court that they would close the probes, Lambda Legal senior attorney Shelly Skeen told The Post.

"Instead of stopping the investigation or closing it, which is what DFPS was stating on the stand during our hearing that they were going to do, they're in essence doing the opposite: laying eyes on one family and opening an investigation into another one," she said.

Abbott's directive has been widely criticized by advocacy groups, public officials and health associations.

The decision to investigate the parents of transgender minors stems from an opinion issued in February by Texas Attorney General Ken Paxton (R). In it, he said that providing certain gender-affirming medical treatments — such as puberty blockers and hormone therapy — could "legally constitute child abuse" under state law. Abbott then ordered state agencies to conduct probes in a directive that relies on ordinary Texans to report suspected cases.

But, Skeen argues that Abbott's order "holds no legal weight" since an attorney general's opinion "is not the law, is not binding in court and is not binding on state agents," she said. "So part of our claim is that the governor was outside the bounds of his authority to tell agencies to act," Skeen added.

The state, however, disagrees. In an Augustcourt briefing, it argued that Abbott couldn't be sued because he "is not responsible for enforcing Texas's prohibitions on child abuse." Additionally, the state posited, opening an investigation didn't inflict harm on families if there wasn't "some resulting official action."

The disputes have led to two separate lawsuits and court battles that have dragged on for most of the year — and will probably extend even longer, Skeen said.

In the meantime, some families in Texas are reeling from a combination of fear, panic and anguish.
Carol Koe said she has seen her 13-year-old go from depressed before transitioning to thriving afterward — only to become anxiety-ridden when he was questioned by state officials. Steve, she wrote, was once again his joyful self after the "remarkable" effects of gender-affirming treatment. He was finally laughing again and enjoying school — but the Aug. 30 interview with the investigator changed everything, she said.
He had a "meltdown" after the meeting and asked his mother to pick him up, his mom said. He's missed more classes and has frequent anxiety attacks, Carol Koe wrote. School for him is no longer the safe space it used to be, she claims.

Watching her son suffer, she said, she worries other families will endure the same fate.
"I don't want other Texas families to go through a traumatic experience like ours," she wrote. "I worry that other parents will hesitate to seek out the care and support that their transgender children may need out of fear that someone will report them to DFPS if the threat for baseless investigations remains."

From: Sarvana, Adam (HHS/OASH)
Sent: Friday, September 9, 2022 11:49 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Schall, Theodore (HHS/OASH) <Theodore.Schall@hhs.gov>
Subject: WaPo Column on Texas Lawsuit

https://www.washingtonpost.com/nation/2022/09/09/texas-transgender-student-school-lawsuit/

Get Outlook for iOS

From: Boateng, Sarah (HHS/OASH)
Sent: Sun, 11 Sep 2022 13:16:44 +0000
To: Sarvana, Adam (HHS/OASH); Calsyn, Maura (HHS/OASH); Levine, Rachel (HHS/OASH)
Subject: FW: Planned Parenthood Weekly Update: Voter Registration and Support for Abortion is on the Rise in Post-Roe Reality
Attachments: 9.9.22 Memo.pdf

FYSA

HOW ABORTION BANS IMPACT ACCESS TO GENDER-AFFIRMING CARE. A recent NPR article outlined the long-ranging repercussions that follow when clinics that provide abortion have to close due to abortion bans. In the piece, patients and providers at Planned Parenthood health centers illustrated a dire situation for patients seeking gender-affirming care. Because queer and trans patients often see substantial barriers to care within the broader health care system, they often rely on Planned Parenthood health centers to receive compassionate gender-affirming care without stigma or bias.

Ashley Coffield, the chief executive officer of the Planned Parenthood of Tennessee and North Mississippi told NPR:

"We were flooded with calls more from our gender-affirming hormone patients than from any other type of patient because we are a continuing source of care for gender-affirming patients…It was very upsetting and scary to them when we were suddenly gone."

Over 35,000 of Planned Parenthood's patients nationwide sought gender-affirming hormone replacement therapy in 2021, and that number doesn't include trans and nonbinary people who relied on other services.

From: Stone, Karen <karen.stone@ppfa.org>
Sent: Friday, September 9, 2022 7:46 PM
To: Karen Stone <karen.stone@ppfa.org>
Subject: Planned Parenthood Weekly Update: Voter Registration and Support for Abortion is on the Rise in Post-Roe Reality

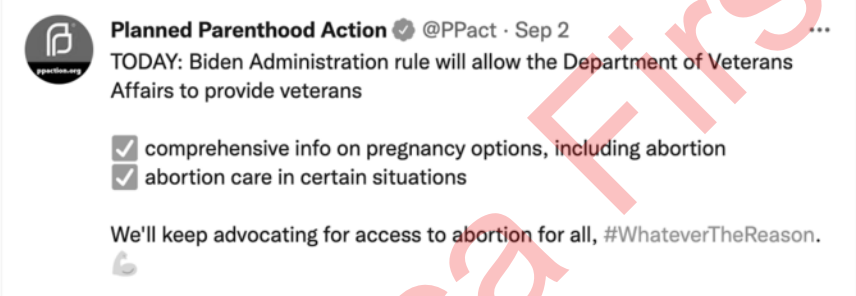
TO: Key Administration Officials
FROM: Planned Parenthood Action Fund
RE: Voter Registration and Support for Abortion is on the Rise in Post-Roe Reality
DATE: 9/9/22

(Note: This memo is a compilation of publicly available social media posts, media clips, press releases, etc. PDF version, in order to view embedded images, is attached).

Continued thanks to all who are helping with the administration's whole of government response to protect access to reproductive health care. We continue to amplify and highlight the administration's response, including the Department of Veterans Affairs (VA) interim final rule that—for the first time—will allow VA to offer abortion counseling and provide veterans and their eligible dependents abortion care in cases of rape or incest or in cases where the pregnancy would threaten the life or health of the pregnant person, as well as elevate the urgency of the abortion access crisis, and define who is responsible.

Statement from **Alexis McGill Johnson**:

"The abortion access crisis is here and it is real. Our veterans have put their lives on the line for this country and should at the very least be able to make decisions about their own bodies. This is an important step towards treating our veterans with the respect and dignity they deserve. We applaud President Biden and Secretary McDonough for taking this crucial step and the Biden administration's continued effort to respond with a whole-of-government approach to this crisis. We all know the fight does not end here. Planned Parenthood remains committed to advocating for policies that help everyone access the full scope of reproductive health care that they deserve."



We also issued a statement applauding the roll back of the 2019 Trump-era rule that served to limit people's access to public benefits and forced immigrants and their families to choose between their immigration status and sometimes lifesaving resources.

****

STATE DASHBOARD (as of Sept 9, 2022, 12PM)

BANS in EFFECT (16 states):
Alabama: Total ban
Arkansas: Total ban
Florida 15 week ban
Georgia: 6 week ban
Idaho: Total ban
Kentucky: Total ban
Louisiana: Total ban

Missouri: Total ban
Mississippi: Total ban
North Carolina: 20 week ban
Ohio: 6 week ban
Oklahoma: Total ban
South Dakota: Total ban
Tennessee: 6 week ban
Texas: Total ban
Utah: 18 week ban

Reminder: This represents a snapshot in time as the situation continues to change in states and we monitor as state legislative sessions are called back.

LITIGATION ACTIVITY (17 states in active litigation about bans post JWHO)
Arizona: Filed
Florida: State's appeal triggered an automatic stay of the injunction that originally blocked FL 15-week abortion ban; two courts have declined to reinstate the injunction.
Georgia: 6 week ban in effect
Idaho: Total ban in effect. Judge did rule that ban violates EMTALA
Kentucky: Full abortion ban in effect while case proceeds in the Supreme Court.
Louisiana: Supreme Court denies writ seeking reinstatement of lower court injunction
Michigan: 9/7: Michigan Court of Claims Judge declared Michigan's 1931 criminal abortion ban unconstitutional and issued a permanent injunction barring enforcement of the ban
North Carolina: 20 week ban in effect
North Dakota: Preliminary injunction granted
Ohio: Awaiting ruling from Ohio Supreme Court on whether it will accept jurisdiction on challenge.
Oklahoma: Filed and Emergency stay denied.
South Carolina: Preliminary injunction granted
Texas: Texas Supreme Court overturned a lower court ruling that had blocked the pre-Roe abortion ban
Utah: Preliminary injunction of total ban granted
Wisconsin: Filed
West Virginia: Preliminary injunction granted
Wyoming: Preliminary injunction granted

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TOPLINES:

1) Poll After Poll Shows Abortion Rights Shaking Up Midterms

2) Voter Registration On the Rise in Post-Roe Reality

3) Washington Post Spotlights PP's Sex Education Programs

4) SOCIAL MEDIA REACH: PPFA and Action Fund also drove narrative on social media, with noteworthy posts having 1.05 million reach and 69.1K engagement.

5) Click to see a dashboard of top performing posts.

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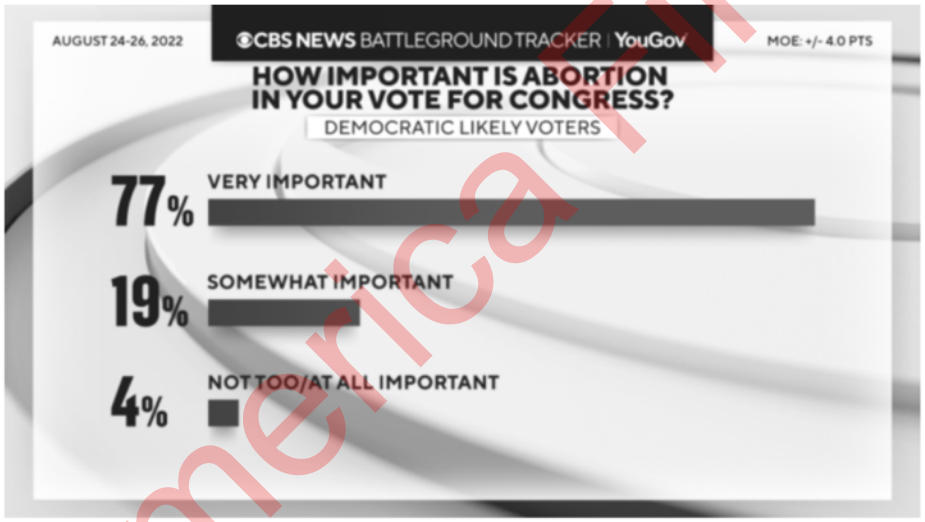
HIGHLIGHTS

POLL AFTER POLL SHOWS ABORTION RIGHTS SHAKING UP THE MIDTERMS. New polling released from CBS reiterated what abortion rights advocates, voters, and candidates have been saying for months: abortion is a central issue in the midterm elections that will drive voters to the polls. CBS found that "more Democrats (77%) say abortion is "very important" than describe any other issue." Nationally, by "more than two to one, likely voters say their vote for Congress will be to support abortion rights rather than to oppose them." This is also playing out in key battlegrounds including Georgia and North Carolina where candidates are putting their support for reproductive freedom at the forefront of their campaigns.

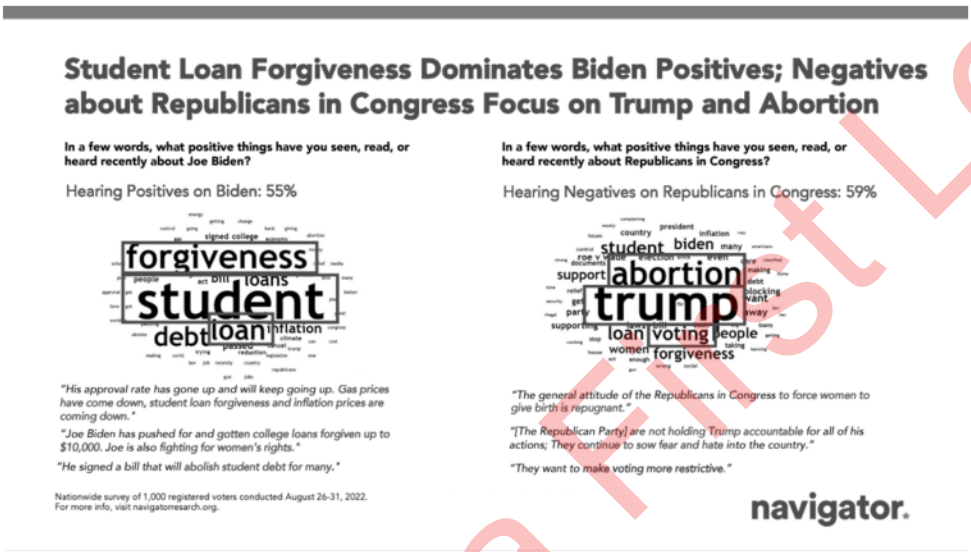


A new Wall Street Journal poll showed "voters have grown more supportive of legalizing abortion following the Supreme Court overturning Roe v. Wade, with a clear majority opposing restrictions… 60% of voters said abortion should be legal in all or most cases, up from 55% in March…. More than half of voters said the ruling made them more motivated to vote in the midterm elections."

A new NPR poll shows that six in 10 Texas voters believe that abortion should be "available in all or most cases" and that it will be a motivating issue for them in the November midterm elections.

A new Navigator poll shows the idea of a GOP Congress passing a nationwide abortion ban is both deeply concerning and believable to the American public.

"While vast majorities have a variety of concerns about what a Republican-led Congress may do, some are considered more likely to happen than others: among the top concerns Americans have, majorities believe it is likely Republicans will give more tax cuts for the richest Americans and wealthiest corporations (55 percent), institute nationwide ban on abortions (55 percent), and a plurality believe they will work to make it easier to overturn election results (47 percent likely – 39 percent not likely)."



VOTER REGISTRATION IS ON THE RISE IN A POST-ROE REALITY. The Washington Post and The New York Times dive into the shifting landscape of the midterm elections following the overturning of Roe v. Wade, highlighting that registration is on the rise among women in key states ahead of November.

The Washington Post notes:

"While other factors such as slowing inflation have eroded the Republican advantage, according to strategists in both parties, no issue has upended the battle for Congress and statehouses as abruptly as abortion. An enthusiasm gap between Democratic and Republican voters has narrowed since the Supreme Court's ruling, polling shows, while women voters who drifted away from Democratic Party after the 2020 election are shifting back. Democrats have overperformed in special elections and voters showed up in droves to reject an ballot measure in ruby red Kansas aimed at restricting abortion.

As one voter told the Post: 'They will ban abortions if the wrong people are elected,' said Preston, 22, a small-town amusement park supervisor about to head back to school. 'Before it was a threat. Now it's actually happening.'"

The NYT opinion by **Tom Bonier**, C.E.O. of TargetSmart, states:
Women Are So Fired Up to Vote, I've Never Seen Anything Like It

"In my 28 years of analyzing elections, I had never seen anything like what's happened in the past two months in American politics: Women are registering to vote in numbers I never witnessed before. I've run out of superlatives to describe how different this moment is, especially in light of the cycles of tragedy and eventual resignation of recent years. This is a moment to throw old political assumptions out the window and to consider that Democrats could buck historic trends this cycle…. The pattern was clearest in states where abortion access was most at risk and where the electoral stakes for abortion rights this November were the highest. The states with the biggest surges in women registering post-Dobbs were deep red Kansas and Idaho, with Louisiana emerging among the top five states. Key battleground states also showed large increases, including Pennsylvania, Michigan, Wisconsin and Ohio, which all have statewide races in which the fate of abortion access could be decided in November."

As **Jennifer Rubin** puts it in the Washington Post: Dobbs makes all the difference. Both sides know it.

"If you deny women's autonomy as adult decision-makers and subject them to increased risk of trauma, grave health complications and death, they get mad. Very mad."

REPUBLICANS ARE TRYING TO BACKPEDAL ON ABORTION. A recent CNN article discussed a new troubling trend–Republican candidates across the country are attempting to hide or soften their-anti abortion stances, as they are quickly realizing that abortion rights is a winning issue. From Kansans' overwhelming vote to preserve abortion rights to Democrats' recent victory in the NY-19 special election, voters have loudly and clearly shown up for reproductive freedom, putting Republicans on the defensive.

The latest example of this comes from Arizona senate candidate Blake Masters, who has scrubbed his website's policy page of tough abortion restrictions, including his support of a "federal personhood law," and the declaration that he is "100% pro-life." Masters is far from alone, though. Michigan congressional candidate Tom Barrett, another "100% pro-life, no exceptions" Republican, has deleted all anti-abortion rhetoric from the "issues" section on his campaign website. Minnesota gubernatorial candidate Scott Jensen recently backtracked on public comments he made earlier in the year, including his goal to "try and ban abortion" in the state and that he didn't support exceptions for rape or incest.

High performing post with 86.1K reach

NEW MEXICO GOV. PLEDGES $10 MILLION TO BUILD NEW ABORTION CLINIC. Gov. Michelle Lujan Grisham signed an executive order that will allot $10 million to build a new clinic that will provide abortion care and other pregnancy-related services. Since the overturn of Roe v. Wade, New Mexico has seen an influx of patients seeking care from neighboring states with trigger laws and other newly-effective abortion bans. The new clinic will help ensure that abortion care is available for these out-of-state patients, as well as "expand access to reproductive health care in a part of the state where such services had been lacking," said **Kayla Herring** of Planned Parenthood of the Rocky Mountains in a conversation with The Washington Post.

CALIFORNIA LAWMAKERS PASS SUITE OF BILLS TO PROTECT ABORTION ACCESS. The California Legislature recently passed 15 bills that strengthen abortion rights. Some have already been signed into law, and Gov. Gavin Newsom is expected to approve the rest before the end of the month. Among the proposed policies is a $200 million budget increase for reproductive health care to cover abortion costs for people with low incomes, people without insurance coverage for reproductive health, and undocumented people. The state would also appropriate up to $20 million to support people seeking abortion care in California from out of state, including the cost of the procedure, travel and accommodations, and child care. Another bill in the package seeks to protect patients and providers in California from other states' abortion bans by prohibiting law enforcement and corporations — including tech and social media companies — from complying with subpoenas or requests for information regarding legal abortion care provided in California. Lawmakers say these critical efforts are only the beginning of California's response to the end of Roe v. Wade, with more proactive measures to be proposed in the future. The bills were developed in collaboration with the California Future of Abortion Access Council, which consists of reproductive health, rights, and justice organizations in the state, including Planned Parenthood Affiliates of California. "None of it was a knee-jerk reaction that was trying to do legislation in any kind of performative way," PPAC President and CEO **Jodi Hicks** told the AP. "All of it was very well thought out ahead of time with a group of experts." Read more at AP, Reuters, and CNN.

HISTORIC VICTORY FOR ABORTION ACCESS IN MICHIGAN AS COURT PERMANENTLY BLOCKS PRE-ROE BAN. This week, Michigan Court of Claims **Judge Elizabeth Gleicher** declared Michigan's 1931 criminal abortion ban unconstitutional and issued a permanent injunction barring enforcement of the ban by the Attorney General and county prosecutors. The historic court ruling — which took effect immediately — means that the law is permanently blocked and abortion care remains legally protected throughout Michigan.

Judge Gleicher wrote in a 39-page decision striking down the law: *"A law denying safe, routine medical care not only denies women of their ability to control their bodies and their lives — it denies them of their dignity… Michigan's Constitution forbids this violation of due process."*

Dr. Sarah Wallett, Chief Medical Operating Officer at PPMI said:*"We are proud to have won this victory on behalf of Michigan abortion providers and the patients who depend on us for care. The Court of Claims ruling will ensure that Michiganders can continue to make deeply personal decisions about their health, lives, and futures without interference from state officials. I am grateful to every Michigander who has joined in this fight and to every provider who has continued to serve patients during this period of chaos and uncertainty."*

TEXAS MARKS ONE YEAR WITHOUT MEANINGFUL ABORTION ACCESS; NEW DATA SHOWS SWEEPING IMPACT OF S.B. 8. Sept. 1 marked one full year since Texans first lost meaningful abortion access with the implementation of S.B. 8, a six-week "sue-thy-neighbor" abortion ban. For the past year, Texas has offered a devastating preview of the far-reaching effects of banning abortion, and a clear indication of what we can expect across the country in the coming weeks and months as more states impose bans and more people are cut off from care. Since the U.S. Supreme Court overturned Roe v. Wade in June, two additional total bans have cut off all remaining access in Texas, and 15 other states have begun enforcing their own abortion bans. New data released from Planned Parenthood highlight the extreme toll S.B. 8 has taken on Texans and on neighboring states — including Oklahoma, New Mexico, Colorado, and Kansas – even before Roe was overturned. From September 2021 to June 2022, when S.B. 8 barred abortion after six weeks of pregnancy but total bans had not yet taken effect in Texas:

- Planned Parenthood health centers in these surrounding states saw a 550% increase in patients obtaining abortion with a Texas ZIP code.
- More than 400 abortion patients with a Texas ZIP code visited Planned Parenthood health centers in Kansas, compared to fewer than 10 abortion patients from September 2020 to June 2021.
- Abortion patients with a Texas ZIP code at Planned Parenthood health centers in Colorado increased 10-fold compared to the previous year.
- Abortion patients with a Texas ZIP code more than doubled from 19% to 41% of the total number of abortion patients at Planned Parenthood health centers in New Mexico compared to the previous year.
- Oklahoma's abortion ban, which took effect in May 2022, cut off a critical access point for Texans: From September 2021 to May 2022, more than half (56%) of the total number of abortion patients at Planned Parenthood health centers in Oklahoma had a Texas ZIP code, compared to 15% from September 2020 to June 2021.
- On average in June 2022, Texas patients traveled more than 400 miles to access abortion care, more than four times farther than they traveled on average in June 2021.

Reach: 17.4K

Alexis McGill Johnson joined Mitchell Reports on MSNBC to highlight the new data illustrating the devastating impact Texas's six week abortion ban had on patients in one year.

PPNCS ANNOUNCES NEW CEO. Planned Parenthood North Central States announced state Rep. Ruth Richardson as their next CEO. Ruth Richardson is a lawyer, a health equity champion, and a trailblazer. She has worked as CEO of Wayside Recovery Center, a non-profit health care organization that provides mental health and substance abuse support, throughout skyrocketing demand for services during the pandemic. She has served in the Minnesota House for four years, where she passed several bipartisan reproductive justice bills. Ruth will oversee the health care operations of PPNCS, and she will not oversee political work or lobbying while she holds her legislative seat.

WASHINGTON POST SPOTLIGHTS PP'S SEX EDUCATION PROGRAMS. The Washington Post recently interviewed several high school students from different states about the sex education they are — or aren't — receiving. In a post-Roe world, students are creating their own sex education groups outside of a school setting. In many of their experiences, the information they get in school tends to exclusively prioritize 'family life education' or abstinence-based education, neither of which is the honest sex education young people need and deserve. As students seek sex education, many are turning to Planned Parenthood's Teen Council Program, a youth leadership peer education program at various affiliates. This program focuses on sex education, advocacy, and social justice. Despite the rapidly changing sexual and reproductive health landscape, the Planned Parenthood Teen Council has seen an increase in the size of groups for the year ahead, with increasing interest from students in rural areas.

Nadya Santiago Schober, Peer Education Institute Manager at Planned Parenthood Great Northwest, Hawai'i, Alaska, Indiana, Kentucky emphasizes the impact of this program: *"The initiative, begun in 1989 in Washington state, trains teens to teach other school children sex education, then partners with willing private schools, school districts or community groups to host peer-led lessons on topics ranging from consent to contraception, depending on state law and school policy. Since its founding, it has expanded to 15 states, and last year 300 teens volunteered on 31 councils."*

HOW ABORTION BANS IMPACT ACCESS TO GENDER-AFFIRMING CARE. A recent NPR article outlined the long-ranging repercussions that follow when clinics that provide abortion have to close due to abortion bans. In the piece, patients and providers at Planned Parenthood health centers illustrated a dire situation for patients seeking gender-affirming care. Because queer and trans patients often see substantial barriers to care within the broader health care system, they often rely on Planned Parenthood health centers to receive compassionate gender-affirming care without stigma or bias.

Ashley Coffield, the chief executive officer of the Planned Parenthood of Tennessee and North Mississippi told NPR:

"We were flooded with calls more from our gender-affirming hormone patients than from any other type of patient because we are a continuing source of care for gender-affirming patients…It was very upsetting and scary to them when we were suddenly gone."

Over 35,000 of Planned Parenthood's patients nationwide sought gender-affirming hormone replacement therapy in 2021, and that number doesn't include trans and nonbinary people who relied on other services.

MATERNAL HEALTH AT THE CENTER OF THE CONVERSATION IN THE RAIZADO FESTIVAL. During the Raizado Festival in Aspen, CO, a groundbreaking event that convened Latinx leaders from all over the country, **Adrienne Mansanares**, Planned Parenthood of the Rocky Mountain's president and CEO, held a panel about maternal health and inequalities in health care with Netflix Gentefied's **Annie Gonzalez** and COLOR's political director, **Christina Soliz**. During the panel, they spoke about overlapping between states with abortion bans and states with the least investments in maternal health, as well as the impact these have on Latino communities accross the nation. Mansanares also stressed the importance of having Latinos and Black and Indigenous people in decision-making spaces and in care-providing spaces to ameliorate the outcomes of maternal health markers for non-white communities. Planned Parenthood Federation of America's Raíz and Latinx Campaigns Specialist, **Joe Colón-Uvalles**, was also present as his drag persona, Kween Beatrix, to highlight the fact that everyone, no matter who they are and where they come from, are a part of the fight for reproductive rights and justice. Read more about the Raizado Festival in The Nation.

Adrienne Mansanares (center) and Kween Beatrix (right), with Raíz organizer Gabriela Estala-López (left) at the Raizado Festival in Aspen, CO.

Annie Gonzalez (left), Adrienne Mansanares (center), and Christina Soliz (right).

HIP-HOP ARTIST LATTO JOINS PLANNED PARENTHOOD TO FIGHT FOR ABORTION RIGHTS. In a new PSA video, hip-hop artist Latto teamed up with Planned

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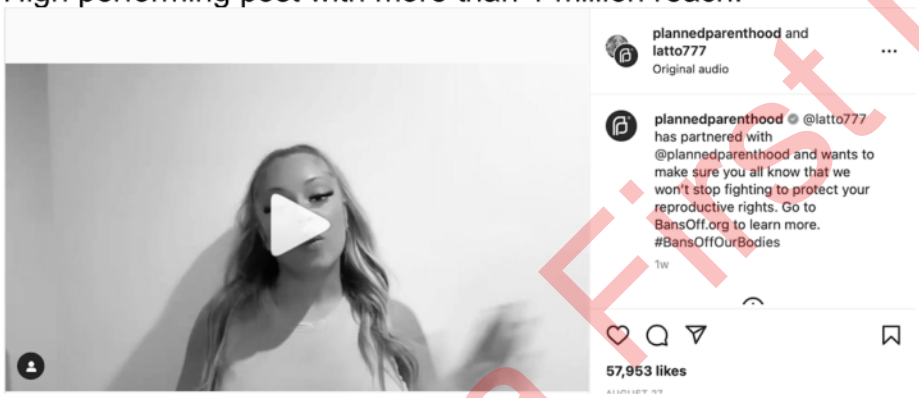

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Karen Agostisi Stone
Vice President, Public Policy & Government Relations
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Planned Parenthood Action Fund
C: 631.786.7212

FROM: Planned Parenthood Action Fund
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DATE: 9/9/22

(Note: This memo is a compilation of publicly available social media posts, media clips, press releases, etc. PDF version, in order to view embedded images, is attached).

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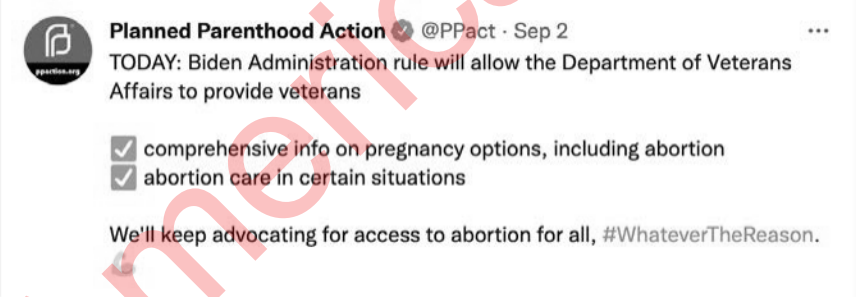

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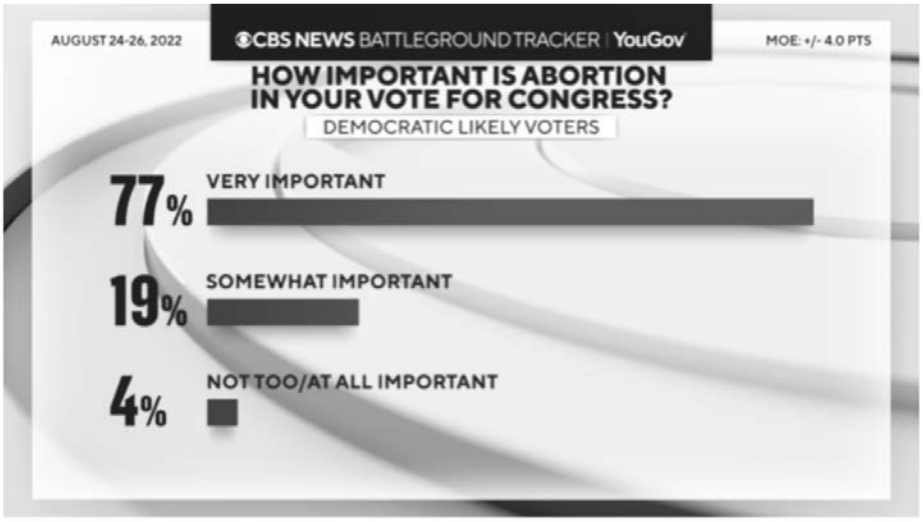
HIGHLIGHTS

POLL AFTER POLL SHOWS ABORTION RIGHTS SHAKING UP THE MIDTERMS. New polling released from CBS reiterated what abortion rights advocates, voters, and candidates have been saying for months: abortion is a central issue in the midterm elections that will drive voters to the polls. CBS found that "more Democrats (77%) say abortion is "very important" than describe any other issue." Nationally, by "more than two to one, likely voters say their vote for Congress will be to support abortion rights rather than to oppose them." This is also playing out in key battlegrounds including Georgia and North Carolina where candidates are putting their support for reproductive freedom at the forefront of their campaigns.



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VOTER REGISTRATION IS ON THE RISE IN A POST-ROE REALITY. The Washington Post and The New York Times dive into the shifting landscape of the midterm elections following the overturning of Roe v. Wade, highlighting that registration is on the rise among women in key states ahead of November.

The Washington Post notes:

"While other factors such as slowing inflation have eroded the Republican advantage, according to strategists in both parties, no issue has upended the battle for Congress and statehouses as abruptly as abortion. An enthusiasm gap between Democratic and Republican voters has narrowed since the Supreme Court's ruling, polling shows, while women voters who drifted away from Democratic Party after the 2020 election are shifting back. Democrats have overperformed in special elections and voters showed up in droves to reject an ballot measure in ruby red Kansas aimed at restricting abortion.

As one voter told the Post: 'They will ban abortions if the wrong people are elected,' said Preston, 22, a small-town amusement park supervisor about to head back to school. 'Before it was a threat. Now it's actually happening.'"

The NYT opinion by **Tom Bonier**, C.E.O. of TargetSmart, states:
Women Are So Fired Up to Vote, I've Never Seen Anything Like It

"In my 28 years of analyzing elections, I had never seen anything like what's happened in the past two months in American politics: Women are registering to vote in numbers I never witnessed before. I've run out of superlatives to describe how different this moment is, especially in light of the cycles of tragedy and eventual resignation of recent years. This is a moment to throw old political assumptions out the window and to consider that Democrats could buck historic trends this cycle…. The pattern was clearest in states where abortion access was

most at risk and where the electoral stakes for abortion rights this November were the highest. The states with the biggest surges in women registering post-Dobbs were deep red Kansas and Idaho, with Louisiana emerging among the top five states. Key battleground states also showed large increases, including Pennsylvania, Michigan, Wisconsin and Ohio, which all have statewide races in which the fate of abortion access could be decided in November."

As **Jennifer Rubin** puts it in the Washington Post: Dobbs makes all the difference. Both sides know it.

"If you deny women's autonomy as adult decision-makers and subject them to increased risk of trauma, grave health complications and death, they get mad. Very mad."

REPUBLICANS ARE TRYING TO BACKPEDAL ON ABORTION. A recent CNN article discussed a new troubling trend–Republican candidates across the country are attempting to hide or soften their-anti abortion stances, as they are quickly realizing that abortion rights is a winning issue. From Kansans' overwhelming vote to preserve abortion rights to Democrats' recent victory in the NY-19 special election, voters have loudly and clearly shown up for reproductive freedom, putting Republicans on the defensive.

The latest example of this comes from Arizona senate candidate Blake Masters, who has scrubbed his website's policy page of tough abortion restrictions, including his support of a "federal personhood law," and the declaration that he is "100% pro-life." Masters is far from alone, though. Michigan congressional candidate Tom Barrett, another "100% pro-life, no exceptions" Republican, has deleted all anti-abortion rhetoric from the "issues" section on his campaign website. Minnesota gubernatorial candidate Scott Jensen recently backtracked on public comments he made earlier in the year, including his goal to "try and ban abortion" in the state and that he didn't support exceptions for rape or incest.

High performing post with 86.1K reach

NEW MEXICO GOV. PLEDGES $10 MILLION TO BUILD NEW ABORTION CLINIC. Gov. Michelle Lujan Grisham signed an executive order that will allot $10 million to build a new clinic that will provide abortion care and other pregnancy-related services. Since the overturn of Roe v. Wade, New Mexico has seen an influx of patients seeking care from neighboring states with trigger laws and other newly-effective abortion bans. The new clinic will help ensure that abortion care is available for these out-of-state patients, as well as "expand access to reproductive health care in a part of the state where such services had been lacking," said

Kayla Herring of Planned Parenthood of the Rocky Mountains in a conversation with The Washington Post.

CALIFORNIA LAWMAKERS PASS SUITE OF BILLS TO PROTECT ABORTION ACCESS. The California Legislature recently passed 15 bills that strengthen abortion rights. Some have already been signed into law, and Gov. Gavin Newsom is expected to approve the rest before the end of the month. Among the proposed policies is a $200 million budget increase for reproductive health care to cover abortion costs for people with low incomes, people without insurance coverage for reproductive health, and undocumented people. The state would also appropriate up to $20 million to support people seeking abortion care in California from out of state, including the cost of the procedure, travel and accommodations, and child care. Another bill in the package seeks to protect patients and providers in California from other states' abortion bans by prohibiting law enforcement and corporations — including tech and social media companies — from complying with subpoenas or requests for information regarding legal abortion care provided in California. Lawmakers say these critical efforts are only the beginning of California's response to the end of Roe v. Wade, with more proactive measures to be proposed in the future. The bills were developed in collaboration with the California Future of Abortion Access Council, which consists of reproductive health, rights, and justice organizations in the state, including Planned Parenthood Affiliates of California. "None of it was a knee-jerk reaction that was trying to do legislation in any kind of performative way," PPAC President and CEO **Jodi Hicks** told the AP. "All of it was very well thought out ahead of time with a group of experts." Read more at AP, Reuters, and CNN.

HISTORIC VICTORY FOR ABORTION ACCESS IN MICHIGAN AS COURT PERMANENTLY BLOCKS PRE-ROE BAN. This week, Michigan Court of Claims **Judge Elizabeth Gleicher** declared Michigan's 1931 criminal abortion ban unconstitutional and issued a permanent injunction barring enforcement of the ban by the Attorney General and county prosecutors. The historic court ruling — which took effect immediately — means that the law is permanently blocked and abortion care remains legally protected throughout Michigan.

Judge Gleicher wrote in a 39-page decision striking down the law: *"A law denying safe, routine medical care not only denies women of their ability to control their bodies and their lives — it denies them of their dignity… Michigan's Constitution forbids this violation of due process."*

Dr. Sarah Wallett, Chief Medical Operating Officer at PPMI said:*"We are proud to have won this victory on behalf of Michigan abortion providers and the patients who depend on us for care. The Court of Claims ruling will ensure that Michiganders can continue to make deeply personal decisions about their health, lives, and futures without interference from state officials. I am grateful to every Michigander who has joined in this fight and to every provider who has continued to serve patients during this period of chaos and uncertainty."*

TEXAS MARKS ONE YEAR WITHOUT MEANINGFUL ABORTION ACCESS; NEW DATA SHOWS SWEEPING IMPACT OF S.B. 8. Sept. 1 marked one full year since Texans first lost meaningful abortion access with the implementation of S.B. 8, a six-week "sue-thy-neighbor" abortion ban. For the past year, Texas has offered a devastating preview of the far-reaching effects of banning abortion, and a clear indication of what we can expect across the country in the coming weeks and months as more states impose bans and more people are cut off from care. Since the U.S. Supreme Court overturned Roe v. Wade in June, two additional total bans have cut off all remaining access in Texas, and 15 other states have begun enforcing their own abortion bans. New data released from Planned Parenthood highlight the extreme toll S.B. 8 has taken on Texans and on neighboring states — including Oklahoma, New Mexico, Colorado, and Kansas – even before Roe was overturned. From September 2021 to June 2022, when S.B. 8 barred abortion after six weeks of pregnancy but total bans had not yet taken effect in Texas:

- Planned Parenthood health centers in these surrounding states saw a 550% increase in patients obtaining abortion with a Texas ZIP code.
- More than 400 abortion patients with a Texas ZIP code visited Planned Parenthood health centers in Kansas, compared to fewer than 10 abortion patients from September 2020 to June 2021.
- Abortion patients with a Texas ZIP code at Planned Parenthood health centers in Colorado increased 10-fold compared to the previous year.
- Abortion patients with a Texas ZIP code more than doubled from 19% to 41% of the total number of abortion patients at Planned Parenthood health centers in New Mexico compared to the previous year.
- Oklahoma's abortion ban, which took effect in May 2022, cut off a critical access point for Texans: From September 2021 to May 2022, more than half (56%) of the total number of abortion patients at Planned Parenthood health centers in Oklahoma had a Texas ZIP code, compared to 15% from September 2020 to June 2021.
- On average in June 2022, Texas patients traveled more than 400 miles to access abortion care, more than four times farther than they traveled on average in June 2021.

Reach: 17.4K

Alexis McGill Johnson joined Mitchell Reports on MSNBC to highlight the new data illustrating the devastating impact Texas's six week abortion ban had on patients in one year.

PPNCS ANNOUNCES NEW CEO. Planned Parenthood North Central States announced state Rep. Ruth Richardson as their next CEO. Ruth Richardson is a lawyer, a health equity champion, and a trailblazer. She has worked as CEO of Wayside Recovery Center, a non-profit health care organization that provides mental health and substance abuse support, throughout skyrocketing demand for services during the pandemic. She has served in the Minnesota House for four years, where she passed several bipartisan reproductive justice bills. Ruth will oversee the health care operations of PPNCS, and she will not oversee political work or lobbying while she holds her legislative seat.

WASHINGTON POST SPOTLIGHTS PP'S SEX EDUCATION PROGRAMS. The Washington Post recently interviewed several high school students from different states about the sex education they are — or aren't — receiving. In a post-Roe world, students are creating their own sex education groups outside of a school setting. In many of their experiences, the information they get in school tends to exclusively prioritize 'family life education' or abstinence-based education, neither of which is the honest sex education young people need and deserve. As students seek sex education, many are turning to Planned Parenthood's Teen Council Program, a youth leadership peer education program at various affiliates. This program focuses on sex education, advocacy, and social justice. Despite the rapidly changing sexual and reproductive health landscape, the Planned Parenthood Teen Council has seen an increase in the size of groups for the year ahead, with increasing interest from students in rural areas.

Nadya Santiago Schober, Peer Education Institute Manager at Planned Parenthood Great Northwest, Hawai'i, Alaska, Indiana, Kentucky emphasizes the impact of this program: *"The initiative, begun in 1989 in Washington state, trains teens to teach other school children sex education, then partners with willing private schools, school districts or community groups to host peer-led lessons on topics ranging from consent to contraception, depending on state law and school policy. Since its founding, it has expanded to 15 states, and last year 300 teens volunteered on 31 councils."*

HOW ABORTION BANS IMPACT ACCESS TO GENDER-AFFIRMING CARE. A recent NPR article outlined the long-ranging repercussions that follow when clinics that provide abortion have to close due to abortion bans. In the piece, patients and providers at Planned Parenthood health centers illustrated a dire situation for patients seeking gender-affirming care. Because queer and trans patients often see substantial barriers to care within the broader health care system, they often rely on Planned Parenthood health centers to receive compassionate gender-affirming care without stigma or bias.

Ashley Coffield, the chief executive officer of the Planned Parenthood of Tennessee and North Mississippi told NPR:

"We were flooded with calls more from our gender-affirming hormone patients than from any other type of patient because we are a continuing source of care for gender-affirming patients…It was very upsetting and scary to them when we were suddenly gone."

Over 35,000 of Planned Parenthood's patients nationwide sought gender-affirming hormone replacement therapy in 2021, and that number doesn't include trans and nonbinary people who relied on other services.

MATERNAL HEALTH AT THE CENTER OF THE CONVERSATION IN THE RAIZADO FESTIVAL. During the Raizado Festival in Aspen, CO, a groundbreaking event that convened Latinx leaders from all over the country, **Adrienne Mansanares**, Planned Parenthood of the Rocky Mountain's president and CEO, held a panel about maternal health and inequalities in health care with Netflix Gentefied's **Annie Gonzalez** and COLOR's political director, **Christina Soliz**. During the panel, they spoke about overlapping between states with abortion bans and states with the least investments in maternal health, as well as the impact these have on Latino communities accross the nation. Mansanares also stressed the importance of having Latinos and Black and Indigenous people in decision-making spaces and in care-providing spaces to ameliorate the outcomes of maternal health markers for non-white communities. Planned Parenthood Federation of America's Raíz and Latinx Campaigns Specialist, **Joe Colón-Uvalles**, was also present as his drag persona, Kween Beatrix, to highlight the fact that everyone, no matter who they are and where they come from, are a part of the fight for reproductive rights and justice. Read more about the Raizado Festival in The Nation.

Adrienne Mansanares (center) and Kween Beatrix (right), with Raíz organizer Gabriela Estala-López (left) at the Raizado Festival in Aspen, CO.

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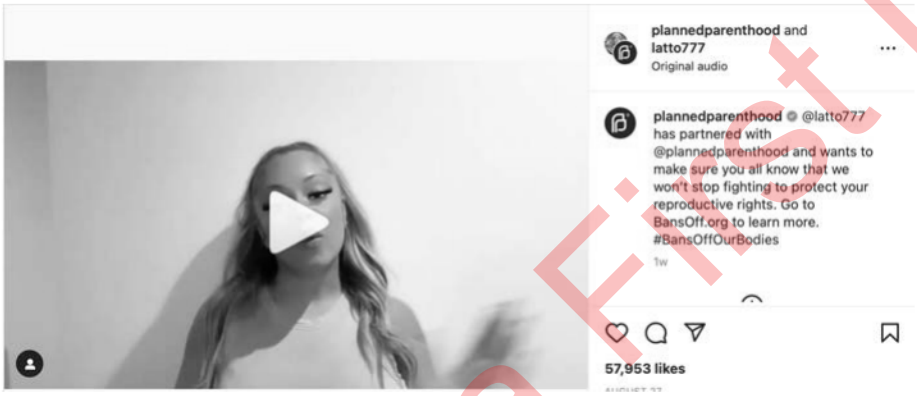

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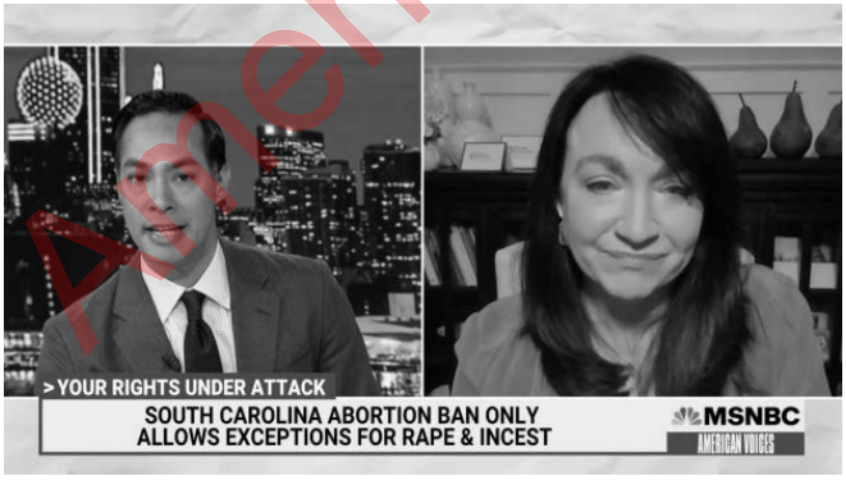

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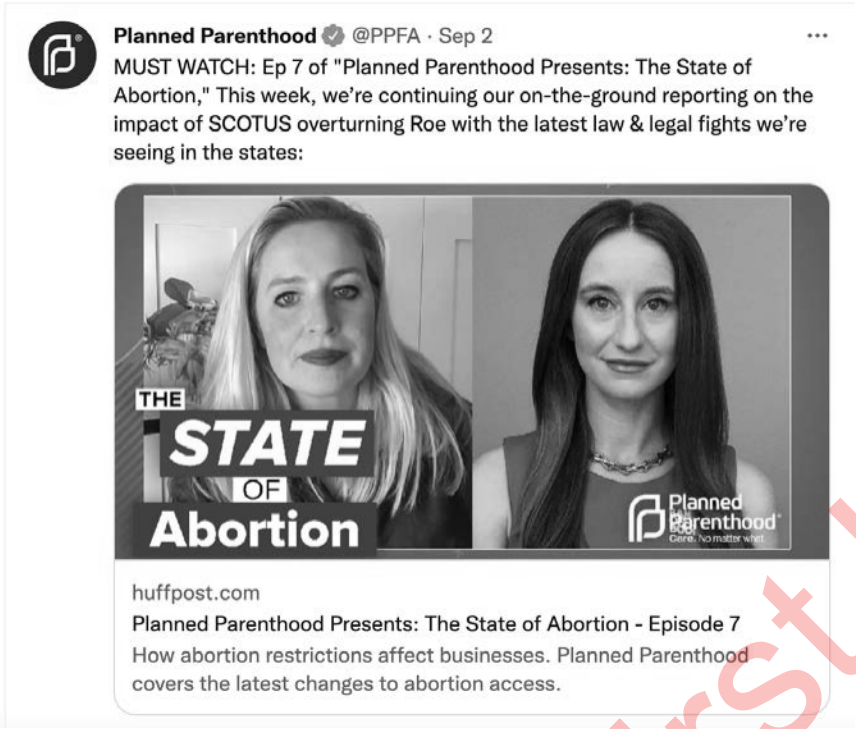

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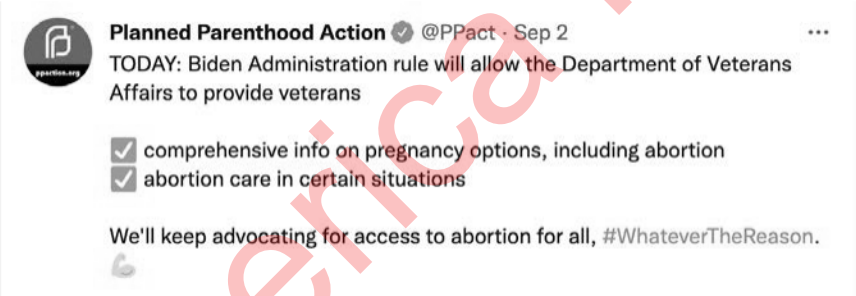

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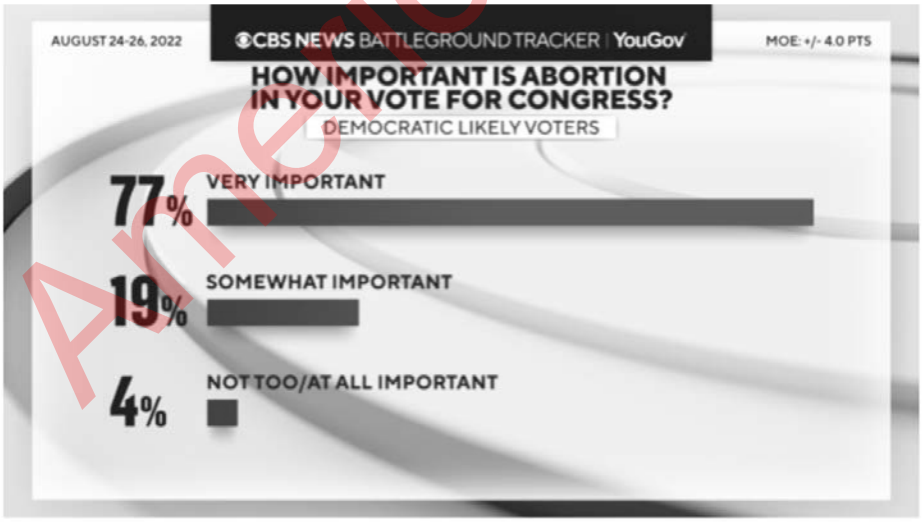

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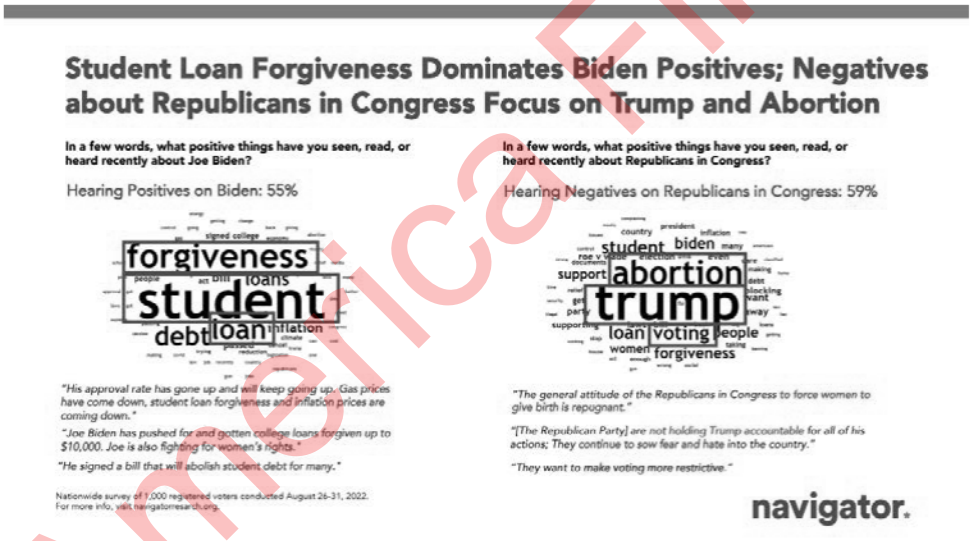

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"In my 28 years of analyzing elections, I had never seen anything like what's happened in the past two months in American politics: Women are registering to vote in numbers I never witnessed before. I've run out of superlatives to describe how different this moment is, especially in light of the cycles of tragedy and eventual resignation of recent years. This is a moment to throw old political assumptions out the window and to consider that Democrats could buck historic trends this cycle…. The pattern was clearest in states where abortion access was most at risk and where the electoral stakes for abortion rights this November were the highest. The states with the biggest surges in women registering post-Dobbs were deep red Kansas and Idaho, with Louisiana emerging among the top five states. Key battleground states also showed large increases, including Pennsylvania, Michigan, Wisconsin and Ohio, which all have statewide races in which the fate of abortion access could be decided in November."

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The latest example of this comes from Arizona senate candidate Blake Masters, who has scrubbed his website's policy page of tough abortion restrictions, including his support of a "federal personhood law," and the declaration that he is "100% pro-life." Masters is far from

alone, though. Michigan congressional candidate Tom Barrett, another “100% pro-life, no exceptions” Republican, has deleted all anti-abortion rhetoric from the “issues” section on his campaign website. Minnesota gubernatorial candidate Scott Jensen recently backtracked on public comments he made earlier in the year, including his goal to “try and ban abortion” in the state and that he didn’t support exceptions for rape or incest.

High performing post with 86.1K reach

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Judge Gleicher wrote in a 39-page decision striking down the law: *"A law denying safe, routine medical care not only denies women of their ability to control their bodies and their lives — it denies them of their dignity… Michigan's Constitution forbids this violation of due process."*

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- Planned Parenthood health centers in these surrounding states saw a 550% increase in patients obtaining abortion with a Texas ZIP code.
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- Abortion patients with a Texas ZIP code more than doubled from 19% to 41% of the total number of abortion patients at Planned Parenthood health centers in New Mexico compared to the previous year.
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Nadya Santiago Schober, Peer Education Institute Manager at Planned Parenthood Great Northwest, Hawai'i, Alaska, Indiana, Kentucky emphasizes the impact of this program: *"The initiative, begun in 1989 in Washington state, trains teens to teach other school children sex education, then partners with willing private schools, school districts or community groups to host peer-led lessons on topics ranging from consent to contraception, depending on state law and school policy. Since its founding, it has expanded to 15 states, and last year 300 teens volunteered on 31 councils."*

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MATERNAL HEALTH AT THE CENTER OF THE CONVERSATION IN THE RAIZADO FESTIVAL. During the Raizado Festival in Aspen, CO, a groundbreaking event that convened Latinx leaders from all over the country, **Adrienne Mansanares**, Planned Parenthood of the Rocky Mountain's president and CEO, held a panel about maternal health and inequalities in health care with Netflix Gentefied's **Annie Gonzalez** and COLOR's political director, **Christina Soliz**. During the panel, they spoke about overlapping between states with abortion bans and states with the least investments in maternal health, as well as the impact these have on Latino communities accross the nation. Mansanares also stressed the importance of having Latinos and Black and Indigenous people in decision-making spaces and in care-providing spaces to ameliorate the outcomes of maternal health markers for non-white communities. Planned Parenthood Federation of America's Raíz and Latinx Campaigns Specialist, **Joe Colón-Uvalles**, was also present as his drag persona, Kween Beatrix, to highlight the fact that everyone, no matter who they are and where they come from, are a part of the fight for reproductive rights and justice. Read more about the Raizado Festival in The Nation.

Adrienne Mansanares (center) and Kween Beatrix (right), with Raíz organizer Gabriela Estala-López (left) at the Raizado Festival in Aspen, CO.

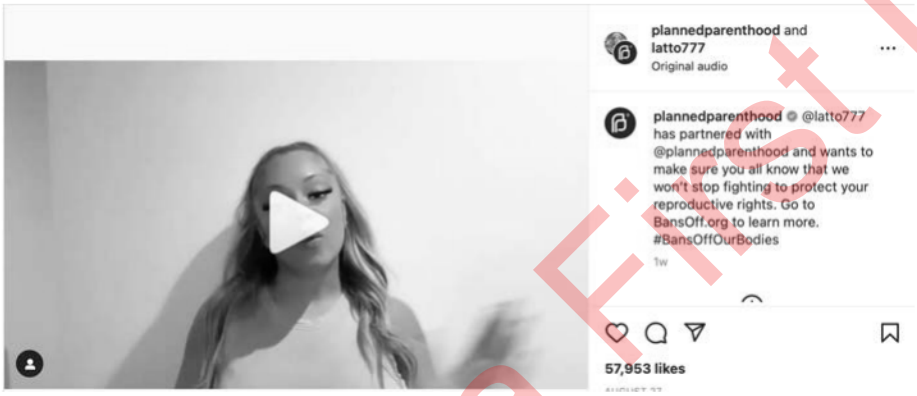
Annie Gonzalez (left), Adrienne Mansanares (center), and Christina Soliz (right).

HIP-HOP ARTIST LATTO JOINS PLANNED PARENTHOOD TO FIGHT FOR ABORTION RIGHTS. In a new PSA video, hip-hop artist Latto teamed up with Planned Parenthood, calling

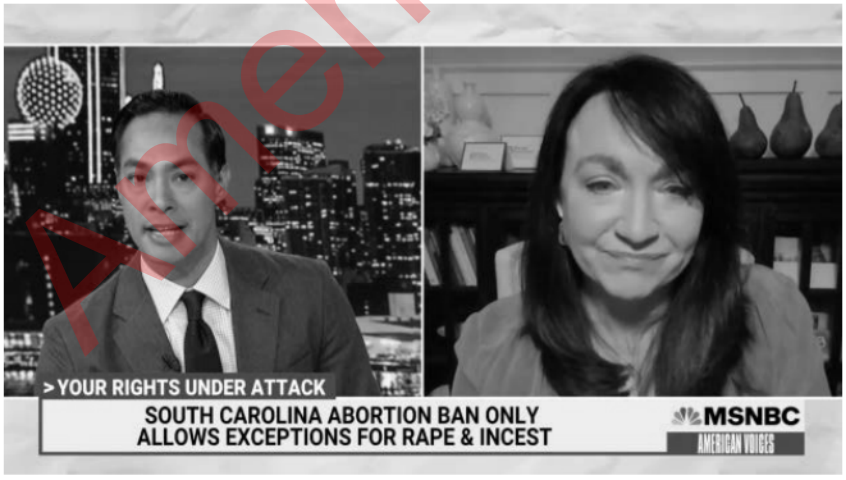
on her fans to fight for abortion rights and access. The video was released a day ahead of the MTV Video Music Awards, where Latto was nominated for three awards. In the joint PSA video, Latto directs viewers to BansOff.org, Planned Parenthood's online resource for abortion rights advocacy. Latto hails from Clayton County in Georgia, a state that recently enacted a six-week abortion ban (H.B. 481).

Latto said emphasized those who are most affected by the relentless attacks on abortion care access: *"We already know who's going to be hurt the most by these ridiculous abortion bans: Black women, Brown women, the LGBTQ+ community, and communities with low incomes. Because of this country's history of racism and discrimination, these folks already have a hard time getting the health care they need. We all deserve to be safe and it's every person's right to make decisions about their own bodies. As an artist, I want to use my platform to let these politicians know: My body is for no one to control, but me."*

High performing post with more than 1 million reach:



PPSAT President and CEO **Jenny Black** spoke to MSNBC on the fight to protect abortion in South Carolina:



Melissa Hobley, Tinder Global CMO, talked to **Kate Smith** on PPFA's The State of Abortion:

High performing post with 12K reach:

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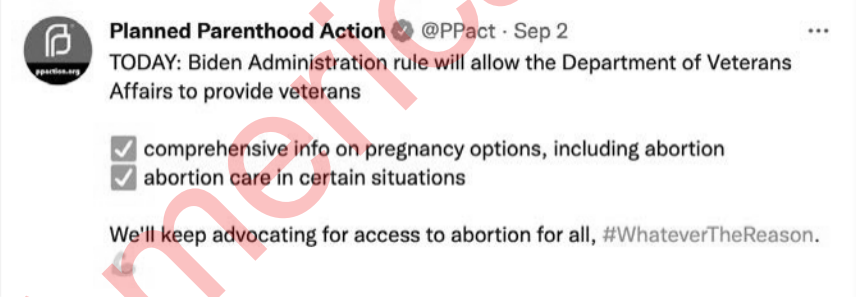
FROM: Planned Parenthood Action Fund
RE: Voter Registration and Support for Abortion is on the Rise in Post-Roe Reality
DATE: 9/9/22

(Note: This memo is a compilation of publicly available social media posts, media clips, press releases, etc. PDF version, in order to view embedded images, is attached).

Continued thanks to all who are helping with the Administration's whole of government response to protect access to reproductive health care. We continue to amplify and highlight the Administration's response, including the Department of Veterans Affairs (VA) interim final rule that—for the first time—will allow the VA to provide veterans and their eligible dependents abortion care in cases of rape or incest or in cases where the pregnancy would threaten the life or health of the pregnant person, as well as elevate the urgency of the abortion access crisis, and define who is responsible.

Statement from **Alexis McGill Johnson**:

"The abortion access crisis is here and it is real. Our veterans have put their lives on the line for this country and should at the very least be able to make decisions about their own bodies. This is an important step towards treating our veterans with the respect and dignity they deserve. We applaud President Biden and Secretary McDonough for taking this crucial step and the Biden administration's continued effort to respond with a whole-of-government approach to this crisis. We all know the fight does not end here. Planned Parenthood remains committed to advocating for policies that help everyone access the full scope of reproductive health care that they deserve."



We also issued a statement applauding the roll back of the 2019 Trump-era rule that served to limit people's access to public benefits and forced immigrants and their families to choose between their immigration status and sometimes lifesaving resources.

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STATE DASHBOARD (as of Sept 9, 2022, 12PM)

BANS in EFFECT (16 states):
Alabama: Total ban
Arkansas: Total ban
Florida 15 week ban
Georgia: 6 week ban
Idaho: Total ban
Kentucky: Total ban
Louisiana: Total ban
Missouri: Total ban
Mississippi: Total ban
North Carolina: 20 week ban
Ohio: 6 week ban
Oklahoma: Total ban
South Dakota: Total ban
Tennessee: 6 week ban
Texas: Total ban
Utah: 18 week ban

Reminder: This represents a snapshot in time as the situation continues to change in states and we monitor as state legislative sessions are called back.

LITIGATION ACTIVITY (17 states in active litigation about bans post JWHO)
Arizona: Filed
Florida: State's appeal triggered an automatic stay of the injunction that originally blocked FL 15-week abortion ban; two courts have declined to reinstate the injunction.
Georgia: 6 week ban in effect
Idaho: Total ban in effect. Judge did rule that ban violates EMTALA
Kentucky: Full abortion ban in effect while case proceeds in the Supreme Court
Louisiana: Supreme Court denies writ seeking reinstatement of lower court injunction
Michigan: 9/7: Michigan Court of Claims Judge declared Michigan's 1931 criminal abortion ban unconstitutional and issued a permanent injunction barring enforcement of the ban
North Carolina: 20 week ban in effect
North Dakota: Preliminary injunction granted
Ohio: Awaiting ruling from Ohio Supreme Court on whether it will accept jurisdiction on challenge.
Oklahoma: Filed and Emergency stay denied.
South Carolina: Preliminary injunction granted
Texas: Texas Supreme Court overturned a lower court ruling that had blocked the pre-Roe abortion ban
Utah: Preliminary injunction of total ban granted
Wisconsin: Filed
West Virginia: Preliminary injunction granted
Wyoming: Preliminary injunction granted

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TOPLINES:

1) Poll After Poll Shows Abortion Rights Shaking Up Midterms

2) Voter Registration On the Rise in Post-Roe Reality

3) Washington Post Spotlights PP's Sex Education Programs

4) SOCIAL MEDIA REACH: PPFA and Action Fund also drove narrative on social media, with noteworthy posts having 1.05 million reach and 69.1K engagement.

5) Click to see a dashboard of top performing posts.

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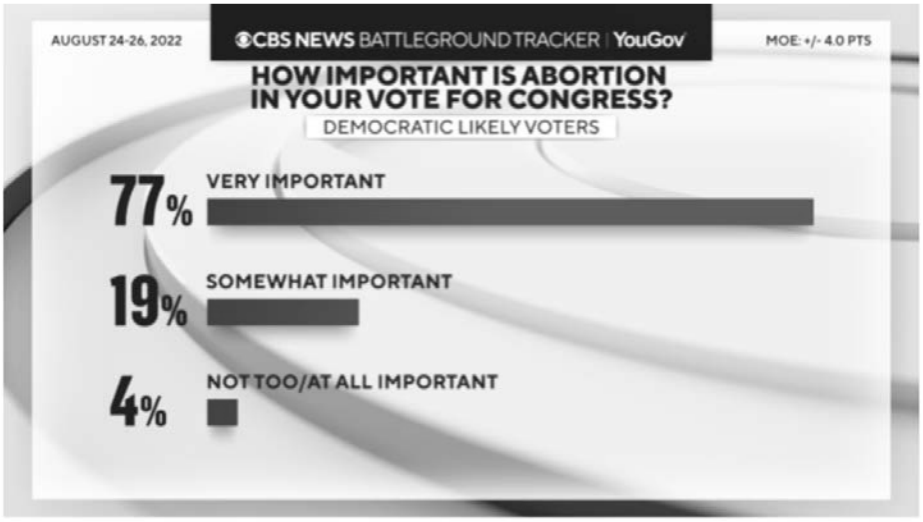
HIGHLIGHTS

POLL AFTER POLL SHOWS ABORTION RIGHTS SHAKING UP THE MIDTERMS. New polling released from CBS reiterated what abortion rights advocates, voters, and candidates have been saying for months: abortion is a central issue in the midterm elections that will drive voters to the polls. CBS found that "more Democrats (77%) say abortion is "very important" than describe any other issue." Nationally, by "more than two to one, likely voters say their vote for Congress will be to support abortion rights rather than to oppose them." This is also playing out in key battlegrounds including Georgia and North Carolina where candidates are putting their support for reproductive freedom at the forefront of their campaigns.



A new Wall Street Journal poll showed "voters have grown more supportive of legalizing abortion following the Supreme Court overturning Roe v. Wade, with a clear majority opposing restrictions… 60% of voters said abortion should be legal in all or most cases, up from 55% in March…. More than half of voters said the ruling made them more motivated to vote in the midterm elections."

A new NPR poll shows that six in 10 Texas voters believe that abortion should be "available in all or most cases" and that it will be a motivating issue for them in the November midterm elections.

A new Navigator poll shows the idea of a GOP Congress passing a nationwide abortion ban is both deeply concerning and believable to the American public.

"While vast majorities have a variety of concerns about what a Republican-led Congress may do, some are considered more likely to happen than others: among the top concerns Americans have, majorities believe it is likely Republicans will give more tax cuts for the richest Americans and wealthiest corporations (55 percent), institute nationwide ban on abortions (55 percent), and a plurality believe they will work to make it easier to overturn election results (47 percent likely – 39 percent not likely)."

VOTER REGISTRATION IS ON THE RISE IN A POST-ROE REALITY. The Washington Post and The New York Times dive into the shifting landscape of the midterm elections following the overturning of Roe v. Wade, highlighting that registration is on the rise among women in key states ahead of November.

The Washington Post notes:

"While other factors such as slowing inflation have eroded the Republican advantage, according to strategists in both parties, no issue has upended the battle for Congress and statehouses as abruptly as abortion. An enthusiasm gap between Democratic and Republican voters has narrowed since the Supreme Court's ruling, polling shows, while women voters who drifted away from Democratic Party after the 2020 election are shifting back. Democrats have overperformed in special elections and voters showed up in droves to reject an ballot measure in ruby red Kansas aimed at restricting abortion.

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MATERNAL HEALTH AT THE CENTER OF THE CONVERSATION IN THE RAIZADO FESTIVAL. During the Raizado Festival in Aspen, CO, a groundbreaking event that convened Latinx leaders from all over the country, **Adrienne Mansanares**, Planned Parenthood of the Rocky Mountain's president and CEO, held a panel about maternal health and inequalities in health care with Netflix Gentefied's **Annie Gonzalez** and COLOR's political director, **Christina Soliz**. During the panel, they spoke about overlapping between states with abortion bans and states with the least investments in maternal health, as well as the impact these have on Latino communities accross the nation. Mansanares also stressed the importance of having Latinos and Black and Indigenous people in decision-making spaces and in care-providing spaces to ameliorate the outcomes of maternal health markers for non-white communities. Planned Parenthood Federation of America's Raíz and Latinx Campaigns Specialist, **Joe Colón-Uvalles**, was also present as his drag persona, Kween Beatrix, to highlight the fact that everyone, no matter who they are and where they come from, are a part of the fight for reproductive rights and justice. Read more about the Raizado Festival in The Nation.

Adrienne Mansanares (center) and Kween Beatrix (right), with Raíz organizer Gabriela Estala-López (left) at the Raizado Festival in Aspen, CO.

Annie Gonzalez (left), Adrienne Mansanares (center), and Christina Soliz (right).

HIP-HOP ARTIST LATTO JOINS PLANNED PARENTHOOD TO FIGHT FOR ABORTION RIGHTS. In a new PSA video, hip-hop artist Latto teamed up with Planned Parenthood, calling

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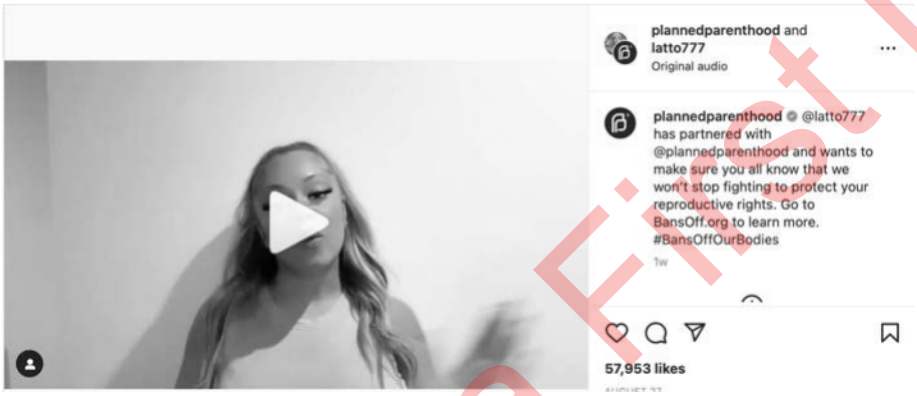
Latto said emphasized those who are most affected by the relentless attacks on abortion care access: *"We already know who's going to be hurt the most by these ridiculous abortion bans: Black women, Brown women, the LGBTQ+ community, and communities with low incomes. Because of this country's history of racism and discrimination, these folks already have a hard time getting the health care they need. We all deserve to be safe and it's every person's right to make decisions about their own bodies. As an artist, I want to use my platform to let these politicians know: My body is for no one to control, but me."*

High performing post with more than 1 million reach:



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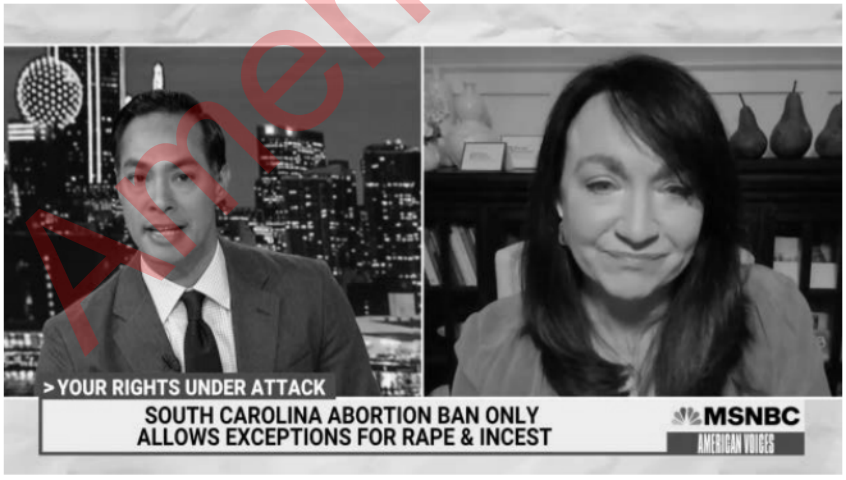

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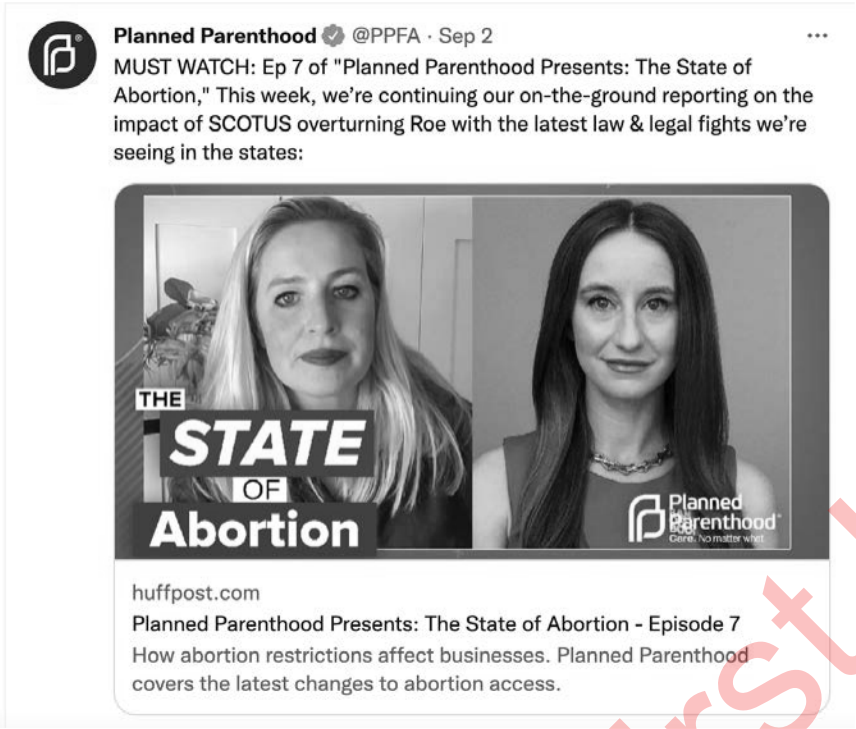


High performing post with 12K reach:

-###-

FROM: Planned Parenthood Action Fund
RE: Voter Registration and Support for Abortion is on the Rise in Post-Roe Reality

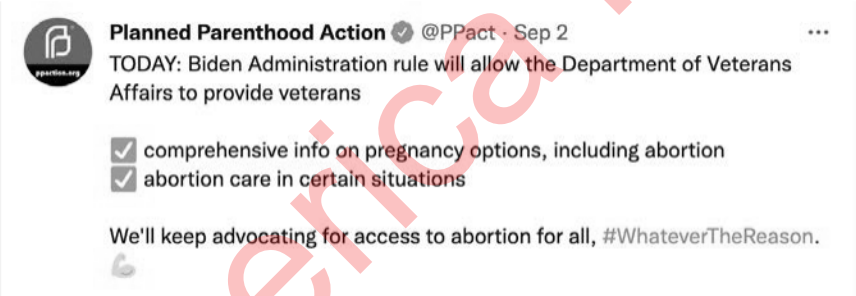
DATE: 9/9/22

(Note: This memo is a compilation of publicly available social media posts, media clips, press releases, etc. PDF version, in order to view embedded images, is attached).

Continued thanks to all who are helping with the Administration's whole of government response to protect access to reproductive health care. We continue to amplify and highlight the Administration's response, including the Department of Veterans Affairs (VA) interim final rule that—for the first time—will allow the VA to provide veterans and their eligible dependents abortion care in cases of rape or incest or in cases where the pregnancy would threaten the life or health of the pregnant person, as well as elevate the urgency of the abortion access crisis, and define who is responsible.

Statement from **Alexis McGill Johnson**:

"The abortion access crisis is here and it is real. Our veterans have put their lives on the line for this country and should at the very least be able to make decisions about their own bodies. This is an important step towards treating our veterans with the respect and dignity they deserve. We applaud President Biden and Secretary McDonough for taking this crucial step and the Biden administration's continued effort to respond with a whole-of-government approach to this crisis. We all know the fight does not end here. Planned Parenthood remains committed to advocating for policies that help everyone access the full scope of reproductive health care that they deserve."



We also issued a statement applauding the roll back of the 2019 Trump-era rule that served to limit people's access to public benefits and forced immigrants and their families to choose between their immigration status and sometimes lifesaving resources.

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STATE DASHBOARD (as of Sept 9, 2022, 12PM)

BANS in EFFECT (16 states):
Alabama: Total ban

Arkansas: Total ban
Florida 15 week ban
Georgia: 6 week ban
Idaho: Total ban
Kentucky: Total ban
Louisiana: Total ban
Missouri: Total ban
Mississippi: Total ban
North Carolina: 20 week ban
Ohio: 6 week ban
Oklahoma: Total ban
South Dakota: Total ban
Tennessee: 6 week ban
Texas: Total ban
Utah: 18 week ban

Reminder: This represents a snapshot in time as the situation continues to change in states and we monitor as state legislative sessions are called back.

LITIGATION ACTIVITY (17 states in active litigation about bans post JWHO)
Arizona: Filed
Florida: State's appeal triggered an automatic stay of the injunction that originally blocked FL 15-week abortion ban; two courts have declined to reinstate the injunction.
Georgia: 6 week ban in effect
Idaho: Total ban in effect. Judge did rule that ban violates EMTALA
Kentucky: Full abortion ban in effect while case proceeds in the Supreme Court.
Louisiana: Supreme Court denies writ seeking reinstatement of lower court injunction
Michigan: 9/7: Michigan Court of Claims Judge declared Michigan's 1931 criminal abortion ban unconstitutional and issued a permanent injunction barring enforcement of the ban
North Carolina: 20 week ban in effect
North Dakota: Preliminary injunction granted
Ohio: Awaiting ruling from Ohio Supreme Court on whether it will accept jurisdiction on challenge.
Oklahoma: Filed and Emergency stay denied.
South Carolina: Preliminary injunction granted
Texas: Texas Supreme Court overturned a lower court ruling that had blocked the pre-Roe abortion ban
Utah: Preliminary injunction of total ban granted
Wisconsin: Filed
West Virginia: Preliminary injunction granted
Wyoming: Preliminary injunction granted

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TOPLINES:

1) Poll After Poll Shows Abortion Rights Shaking Up Midterms

2) Voter Registration On the Rise in Post-Roe Reality

3) Washington Post Spotlights PP's Sex Education Programs

4) SOCIAL MEDIA REACH: PPFA and Action Fund also drove narrative on social media, with noteworthy posts having 1.05 million reach and 69.1K engagement.

5) Click to see a dashboard of top performing posts.

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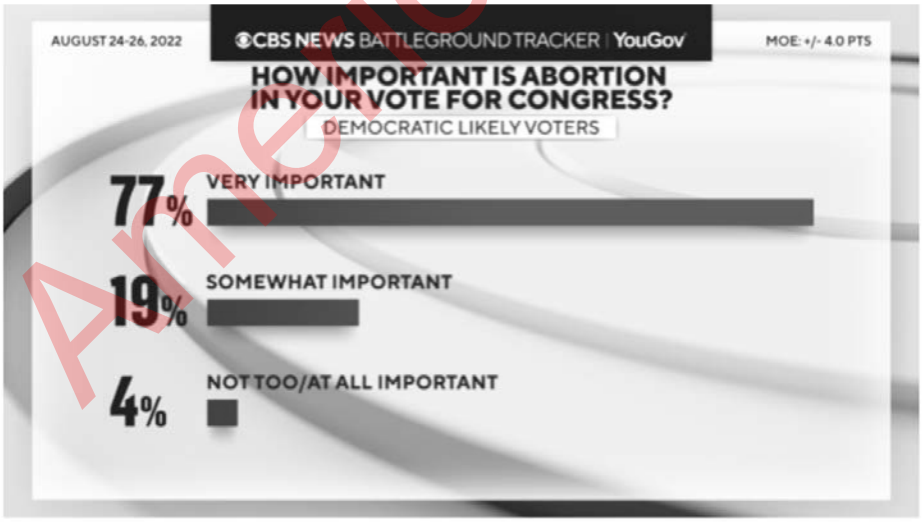
HIGHLIGHTS

POLL AFTER POLL SHOWS ABORTION RIGHTS SHAKING UP THE MIDTERMS. New polling released from CBS reiterated what abortion rights advocates, voters, and candidates have been saying for months: abortion is a central issue in the midterm elections that will drive voters to the polls. CBS found that "more Democrats (77%) say abortion is "very important" than describe any other issue." Nationally, by "more than two to one, likely voters say their vote for Congress will be to support abortion rights rather than to oppose them." This is also playing out in key battlegrounds including Georgia and North Carolina where candidates are putting their support for reproductive freedom at the forefront of their campaigns.

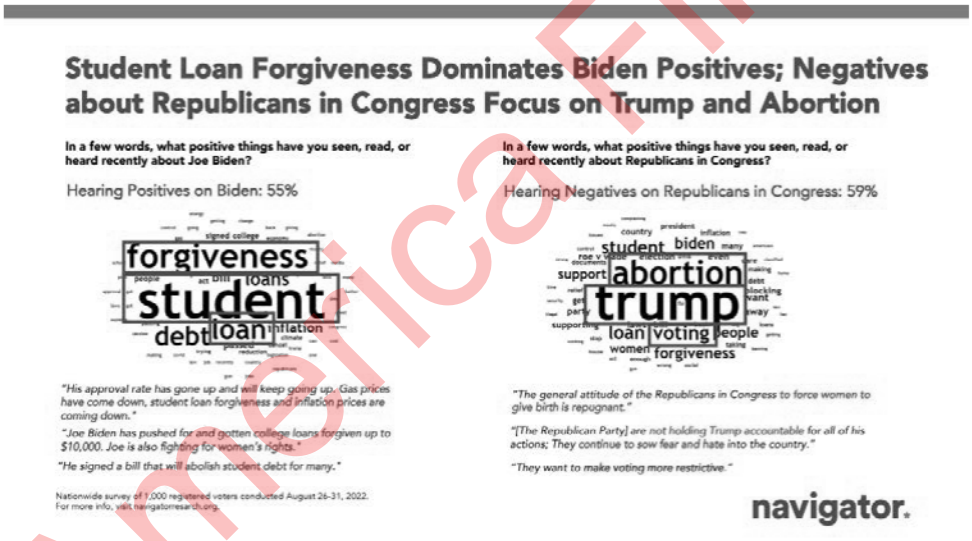


A new Wall Street Journal poll showed “voters have grown more supportive of legalizing abortion following the Supreme Court overturning Roe v. Wade, with a clear majority opposing restrictions… 60% of voters said abortion should be legal in all or most cases, up from 55% in March…. More than half of voters said the ruling made them more motivated to vote in the midterm elections.”

A new NPR poll shows that six in 10 Texas voters believe that abortion should be “available in all or most cases” and that it will be a motivating issue for them in the November midterm elections.

A new Navigator poll shows the idea of a GOP Congress passing a nationwide abortion ban is both deeply concerning and believable to the American public.

“While vast majorities have a variety of concerns about what a Republican-led Congress may do, some are considered more likely to happen than others: among the top concerns Americans have, majorities believe it is likely Republicans will give more tax cuts for the richest Americans and wealthiest corporations (55 percent), institute nationwide ban on abortions (55 percent), and a plurality believe they will work to make it easier to overturn election results (47 percent likely – 39 percent not likely).”



VOTER REGISTRATION IS ON THE RISE IN A POST-ROE REALITY. The Washington Post and The New York Times dive into the shifting landscape of the midterm elections following the overturning of Roe v. Wade, highlighting that registration is on the rise among women in key states ahead of November.

The Washington Post notes:

"While other factors such as slowing inflation have eroded the Republican advantage, according to strategists in both parties, no issue has upended the battle for Congress and statehouses as abruptly as abortion. An enthusiasm gap between Democratic and Republican voters has narrowed since the Supreme Court's ruling, polling shows, while women voters who drifted away from Democratic Party after the 2020 election are shifting back. Democrats have overperformed in special elections and voters showed up in droves to reject an ballot measure in ruby red Kansas aimed at restricting abortion.

As one voter told the Post: 'They will ban abortions if the wrong people are elected,' said Preston, 22, a small-town amusement park supervisor about to head back to school. 'Before it was a threat. Now it's actually happening.'"

The NYT opinion by **Tom Bonier**, C.E.O. of TargetSmart, states:
Women Are So Fired Up to Vote, I've Never Seen Anything Like It

"In my 28 years of analyzing elections, I had never seen anything like what's happened in the past two months in American politics: Women are registering to vote in numbers I never witnessed before. I've run out of superlatives to describe how different this moment is, especially in light of the cycles of tragedy and eventual resignation of recent years. This is a moment to throw old political assumptions out the window and to consider that Democrats could buck historic trends this cycle…. The pattern was clearest in states where abortion access was most at risk and where the electoral stakes for abortion rights this November were the highest. The states with the biggest surges in women registering post-Dobbs were deep red Kansas and Idaho, with Louisiana emerging among the top five states. Key battleground states also showed large increases, including Pennsylvania, Michigan, Wisconsin and Ohio, which all have statewide races in which the fate of abortion access could be decided in November."

As **Jennifer Rubin** puts it in the Washington Post: Dobbs makes all the difference. Both sides know it.

"If you deny women's autonomy as adult decision-makers and subject them to increased risk of trauma, grave health complications and death, they get mad. Very mad."

REPUBLICANS ARE TRYING TO BACKPEDAL ON ABORTION. A recent CNN article discussed a new troubling trend–Republican candidates across the country are attempting to hide or soften their-anti abortion stances, as they are quickly realizing that abortion rights is a winning issue. From Kansans' overwhelming vote to preserve abortion rights to Democrats' recent victory in the NY-19 special election, voters have loudly and clearly shown up for reproductive freedom, putting Republicans on the defensive.

The latest example of this comes from Arizona senate candidate Blake Masters, who has scrubbed his website's policy page of tough abortion restrictions, including his support of a "federal personhood law," and the declaration that he is "100% pro-life." Masters is far from

alone, though. Michigan congressional candidate Tom Barrett, another “100% pro-life, no exceptions” Republican, has deleted all anti-abortion rhetoric from the “issues” section on his campaign website. Minnesota gubernatorial candidate Scott Jensen recently backtracked on public comments he made earlier in the year, including his goal to “try and ban abortion” in the state and that he didn’t support exceptions for rape or incest.

High performing post with 86.1K reach

NEW MEXICO GOV. PLEDGES $10 MILLION TO BUILD NEW ABORTION CLINIC. Gov. Michelle Lujan Grisham signed an executive order that will allot $10 million to build a new clinic that will provide abortion care and other pregnancy-related services. Since the overturn of Roe v. Wade, New Mexico has seen an influx of patients seeking care from neighboring states with trigger laws and other newly-effective abortion bans. The new clinic will help ensure that abortion care is available for these out-of-state patients, as well as "expand access to reproductive health care in a part of the state where such services had been lacking," said **Kayla Herring** of Planned Parenthood of the Rocky Mountains in a conversation with The Washington Post.

CALIFORNIA LAWMAKERS PASS SUITE OF BILLS TO PROTECT ABORTION ACCESS. The California Legislature recently passed 15 bills that strengthen abortion rights. Some have already been signed into law, and Gov. Gavin Newsom is expected to approve the rest before the end of the month. Among the proposed policies is a $200 million budget increase for reproductive health care to cover abortion costs for people with low incomes, people without insurance coverage for reproductive health, and undocumented people. The state would also appropriate up to $20 million to support people seeking abortion care in California from out of state, including the cost of the procedure, travel and accommodations, and child care. Another bill in the package seeks to protect patients and providers in California from other states' abortion bans by prohibiting law enforcement and corporations — including tech and social media companies — from complying with subpoenas or requests for information regarding legal abortion care provided in California. Lawmakers say these critical efforts are only the beginning of California's response to the end of Roe v. Wade, with more proactive measures to be proposed in the future. The bills were developed in collaboration with the California Future of Abortion Access Council, which consists of reproductive health, rights, and justice organizations in the state, including Planned Parenthood Affiliates of California. "None of it was a knee-jerk reaction that was trying to do legislation in any kind of performative way," PPAC President and CEO **Jodi Hicks** told the AP. "All of it was very well thought out ahead of time with a group of experts." Read more at AP, Reuters, and CNN.

HISTORIC VICTORY FOR ABORTION ACCESS IN MICHIGAN AS COURT PERMANENTLY BLOCKS PRE-ROE BAN. This week, Michigan Court of Claims **Judge Elizabeth Gleicher** declared Michigan's 1931 criminal abortion ban unconstitutional and issued a permanent injunction barring enforcement of the ban by the Attorney General and county prosecutors. The historic court ruling — which took effect immediately — means that the law is permanently blocked and abortion care remains legally protected throughout Michigan.

Judge Gleicher wrote in a 39-page decision striking down the law: *"A law denying safe, routine medical care not only denies women of their ability to control their bodies and their lives — it denies them of their dignity… Michigan's Constitution forbids this violation of due process."*

Dr. Sarah Wallett, Chief Medical Operating Officer at PPMI said:*"We are proud to have won this victory on behalf of Michigan abortion providers and the patients who depend on us for care. The Court of Claims ruling will ensure that Michiganders can continue to make deeply personal decisions about their health, lives, and futures without interference from state officials. I am grateful to every Michigander who has joined in this fight and to every provider who has continued to serve patients during this period of chaos and uncertainty."*

TEXAS MARKS ONE YEAR WITHOUT MEANINGFUL ABORTION ACCESS; NEW DATA SHOWS SWEEPING IMPACT OF S.B. 8. Sept. 1 marked one full year since Texans first lost meaningful abortion access with the implementation of S.B. 8, a six-week "sue-thy-neighbor" abortion ban. For the past year, Texas has offered a devastating preview of the far-reaching effects of banning abortion, and a clear indication of what we can expect across the country in the coming weeks and months as more states impose bans and more people are cut off from care. Since the U.S. Supreme Court overturned Roe v. Wade in June, two additional total bans have cut off all remaining access in Texas, and 15 other states have begun enforcing their own abortion bans. New data released from Planned Parenthood highlight the extreme toll S.B. 8 has taken on Texans and on neighboring states — including Oklahoma, New Mexico, Colorado, and Kansas – even before Roe was overturned. From September 2021 to June 2022, when S.B. 8 barred abortion after six weeks of pregnancy but total bans had not yet taken effect in Texas:

- Planned Parenthood health centers in these surrounding states saw a 550% increase in patients obtaining abortion with a Texas ZIP code.
- More than 400 abortion patients with a Texas ZIP code visited Planned Parenthood health centers in Kansas, compared to fewer than 10 abortion patients from September 2020 to June 2021.
- Abortion patients with a Texas ZIP code at Planned Parenthood health centers in Colorado increased 10-fold compared to the previous year.
- Abortion patients with a Texas ZIP code more than doubled from 19% to 41% of the total number of abortion patients at Planned Parenthood health centers in New Mexico compared to the previous year.
- Oklahoma's abortion ban, which took effect in May 2022, cut off a critical access point for Texans: From September 2021 to May 2022, more than half (56%) of the total number of abortion patients at Planned Parenthood health centers in Oklahoma had a Texas ZIP code, compared to 15% from September 2020 to June 2021.
- On average in June 2022, Texas patients traveled more than 400 miles to access abortion care, more than four times farther than they traveled on average in June 2021.

Reach: 17.4K

Alexis McGill Johnson joined Mitchell Reports on MSNBC to highlight the new data illustrating the devastating impact Texas's six week abortion ban had on patients in one year.

PPNCS ANNOUNCES NEW CEO. Planned Parenthood North Central States announced state Rep. Ruth Richardson as their next CEO. Ruth Richardson is a lawyer, a health equity champion, and a trailblazer. She has worked as CEO of Wayside Recovery Center, a non-profit health care organization that provides mental health and substance abuse support, throughout skyrocketing demand for services during the pandemic. She has served in the Minnesota House for four years, where she passed several bipartisan reproductive justice bills. Ruth will oversee the health care operations of PPNCS, and she will not oversee political work or lobbying while she holds her legislative seat.

WASHINGTON POST SPOTLIGHTS PP'S SEX EDUCATION PROGRAMS. The Washington Post recently interviewed several high school students from different states about the sex education they are — or aren't — receiving. In a post-Roe world, students are creating their own sex education groups outside of a school setting. In many of their experiences, the information they get in school tends to exclusively prioritize 'family life education' or abstinence-based education, neither of which is the honest sex education young people need and deserve. As students seek sex education, many are turning to Planned Parenthood's Teen Council Program, a youth leadership peer education program at various affiliates. This program focuses on sex education, advocacy, and social justice. Despite the rapidly changing sexual and reproductive health landscape, the Planned Parenthood Teen Council has seen an increase in the size of groups for the year ahead, with increasing interest from students in rural areas.

Nadya Santiago Schober, Peer Education Institute Manager at Planned Parenthood Great Northwest, Hawai'i, Alaska, Indiana, Kentucky emphasizes the impact of this program: *"The initiative, begun in 1989 in Washington state, trains teens to teach other school children sex education, then partners with willing private schools, school districts or community groups to host peer-led lessons on topics ranging from consent to contraception, depending on state law and school policy. Since its founding, it has expanded to 15 states, and last year 300 teens volunteered on 31 councils."*

HOW ABORTION BANS IMPACT ACCESS TO GENDER-AFFIRMING CARE. A recent NPR article outlined the long-ranging repercussions that follow when clinics that provide abortion have to close due to abortion bans. In the piece, patients and providers at Planned Parenthood health centers illustrated a dire situation for patients seeking gender-affirming care. Because queer and trans patients often see substantial barriers to care within the broader health care system, they often rely on Planned Parenthood health centers to receive compassionate gender-affirming care without stigma or bias.

Ashley Coffield, the chief executive officer of the Planned Parenthood of Tennessee and North Mississippi told NPR:

"We were flooded with calls more from our gender-affirming hormone patients than from any other type of patient because we are a continuing source of care for gender-affirming patients…It was very upsetting and scary to them when we were suddenly gone."

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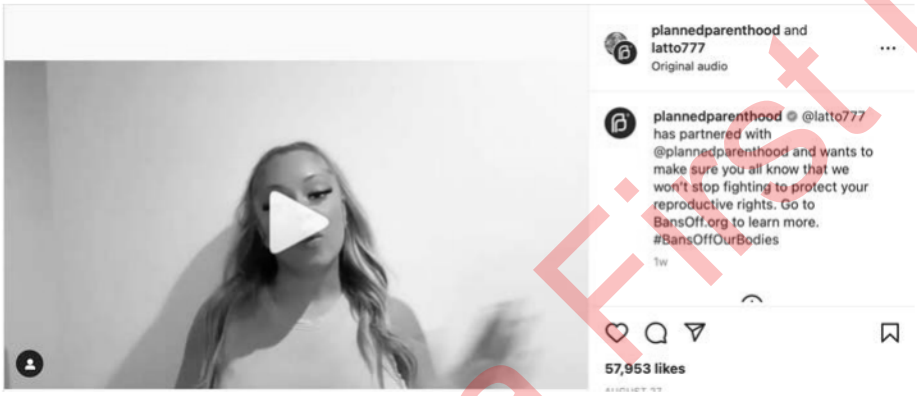

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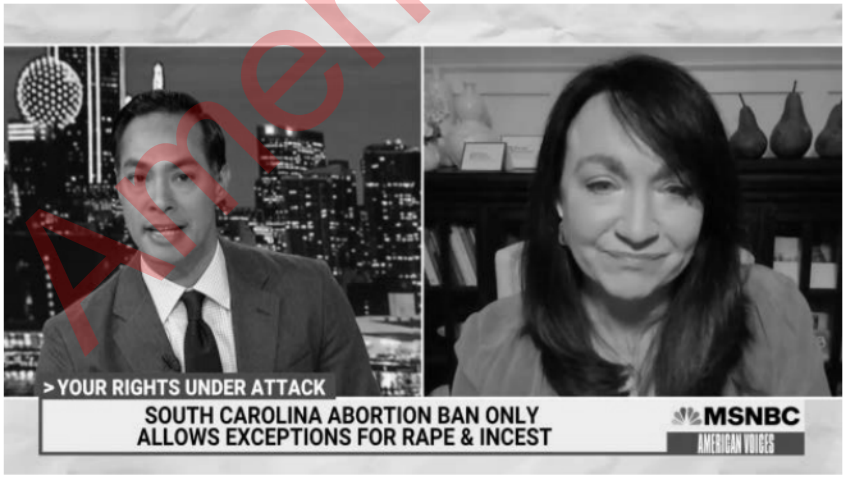

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High performing post with 12K reach:

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From: Hall, Bill (HHS/ASPA)
Sent: Tue, 30 Aug 2022 18:16:24 +0000
To: O'Connell, Dawn (OS/ASPR/IO); Disbrow, Gary (OS/ASPR/BARDA); Despres, Sarah (HHS/IOS); Berger, Sherri (CDC/OD/OCS); Tierney, Julia (FDA/OC); Knisely, Jane (NIH/NIAID) [E]; Simon, Ian (NIH/NIGMS) [C]; Boucher, David (OS/ASPR/BARDA); Adams, Steven A. (ASPR/SNS); Bousbar, Sabrina (OS/ASPR/IO); Jarman-Miller, Hannah (OS/ASPR/IO); Alvarez, Kathryn (OS/ASPR/IO); Cochran, Norris (HHS/ASFR); Cabezas, Miriam (HHS/ASFR); Gelbmann, Jane (HHS/ASFR); Lovenheim, Sarah (HHS/ASPA); Figueroa, Marvin (HHS/IEA); Smith, Jessica (HHS/IEA); McGarey, Barbara (HHS/OGC); Egorin, Melanie (HHS/ASL); Sullivan, Rose (HHS/ASL); Wulff, Kacey (OS/IOS/); Pace, Loyce (HHS/OS/OGA); Fernandez, Jose (OS/OGA); Harris, William (CMS/OA); Fleisher, Lee (CMS/CCSQ); Botticella, Angela (HHS/IOS); Imbriale, Samuel (OS/ASPR/SIIM); DeBord, Kristin (OS/ASPR/SPPR); Goldstein, Robert (CDC/OD); Bagenstos, Samuel (HHS/OGC); Palm, Andrea (OS/IOS); Damon, Inger K. (CDC/DDID/NCEZID/DHCPP); McQuiston, Jennifer H. (CDC/DDID/NCEZID/DHCPP); Sherman, Susan (HHS/OGC); Ray Gorrie, Jennifer (HHS/OGC); Parker, Ashley (OS/ASPR/IO); Boateng, Sarah (HHS/OASH); Johnson, Carole (HRSA); Nair, Suma (HRSA); Bratcher-Bowman, Nikki (OS/ASPR/IO); Zuniga, Ilse (HHS/ASPA); Sullivan, Meg (OS/ASPR/IO); Carr, Elizabeth (IHS/HQ); Bagenstos, Samuel (HHS/OGC); Carr, Elizabeth (IHS/HQ); Martins, Karen (OS/ASPR/BARDA); Zarrabian, Amanda (OS/ASPR/BARDA); Wolfe, Daniel (OS/ASPR/BARDA); Johnson, Robert (OS/ASPR/BARDA); Houchens, Christopher (OS/ASPR/BARDA); Lu, Xi (OS/ASPR/BARDA); Moss, Marcille (OS/ASPR/IO); Kozak, Marina (OS/ASPR/BARDA); Kaplun, Brian (HHS/IOS); Mair, Michael (FDA/OC); Chang, Amy (HHS/OS/IOS); Granholm, Timothy (OS/ASPR/IO); Griffis, Kevin (CDC/OD/OADC); Shockey, Caitlin E. (CDC/DDID/NCEZID/DGMQ); Martin, Dominica (OS/IEA); Roos, Jason (OS/ASPR/H-CORE); Disraelly, Deena (OS/ASPR/ICC/SPPR); Dempsey, Antigone (HRSA); Peck, Joshua (HHS/ASPA); Homer, Mary (OS/ASPR/BARDA); Patel, Nisha (HRSA); Espinosa, Kimberly (OS/ASPR/IO); Varrone, Michael (HHS/OGC); Jones, Kamara (HHS/ASPA); Zelenko, Leslie (HHS/ASL); Marston, Hilary (FDA/OC); Stevens, Lee (OS/IEA); Aleguas, Marisa (HHS/ASPA); Jenkins, Courtney (CMS/CCSQ); Tumpey, Abbigail (CDC/DDPHSS/CSELS/OD); Pennini, Meghan (OS/ASPR/BARDA); Simon, Bridgette (OS/ASPR/BARDA) (CTR); Ayres, Michael (ASPR/SNS); Moudy, Robin (OS/OGA); Oxner, Julie (OS/ASPR/OEA); Hayes, Kaye (HHS/OASH); Waters, Cicely (OS/ASPR/OEA); Levine, Rachel (HHS/OASH); Viall, Abigail (CMS/CCSQ); Viall, Abigail H. (CDC/DDID/NCEZID/DHQP); Fitzgerald, Denis (OS/ASPR/EMMO); Weinberger, Collin (OS/OGA); Patel, Nisha (HRSA); Jenkins, Courtney (CMS/CCSQ); Tumpey, Abbigail (CDC/DDPHSS/CSELS/OD); Ayres, Michael (ASPR/SNS)
Subject: FW: FACT SHEET: White House Monkeypox Response Team Announces New Plans to Support Large LGBTQI+ Events and Equity Interventions...

From: White House Press Office <info@mail.whitehouse.gov>
Sent: Tuesday, August 30, 2022 2:11 PM
To: Hall, Bill (HHS/ASPA) <bill.hall@hhs.gov>
Subject: FACT SHEET: White House Monkeypox Response Team Announces New Plans to Support Large LGBTQI+ Events and Equity Interventions...

THE WHITE HOUSE
WASHINGTON

FOR IMMEDIATE RELEASE
August 30, 2022

FACT SHEET: White House Monkeypox Response Team Announces New Plans to Support Large LGBTQI+ Events and Equity Interventions to Reach Communities at Highest Risk of Contracting the Virus

Today, the White House National Monkeypox Response team announced new actions the Biden-Harris Administration is taking to combat the monkeypox (MPV) outbreak and protect individuals most at risk of contracting the virus. The Administration is providing additional vaccines and support to states and cities holding events that convene large groups of LGBTQI+ individuals, specifically gay, bisexual, and other men who have sex with men. The White House also announced a new pilot to surge vaccine availability and other prevention resources to communities of color in light of recent CDC data showing the disproportionate reach of the virus among Black and Latino gay, bisexual, and other men who have sex with men.

Last week, the White House National Monkeypox Response team announced that as a result of recent efforts to quickly distribute vaccines, and as a result of the Food and Drug Administration's (FDA) Emergency Use Authorization (EUA) of intradermal administration of the JYNNEOS vaccine, the United States is approaching being able to provide two doses of vaccine to the 1.6 million individuals across the country most at risk of contracting the virus.

White House announces plans to provide additional vaccine and support to Louisiana, Georgia, and California in advance of events attracting large numbers of LGBTQI+ individuals.

The White House, the Department of Health and Human Services (HHS), and the Centers of Disease Control and Prevention (CDC) have been working closely with state and local governments and health leaders to prepare for upcoming events attracting large numbers of LGBTQI+ individuals, including Southern Decadence in New Orleans, Louisiana; Atlanta Black Pride in Atlanta, Georgia; and Pridefest in Oakland, California. As part of a pilot program announced earlier this month, the Biden-Harris Administration is making additional vaccines available to these jurisdictions and providing additional support on the ground, including increased access to testing and other prevention resources. Details on these plans include:

Southern Decadence, New Orleans, Louisiana: September 1-5, 2022

The Administration will supply Louisiana with up to 6,000 additional doses of vaccine by replenishing their stock of vaccine with the number of doses administered leading up to and during Southern Decadence events. These additional vaccines are supporting 12 community vaccination events being held at a variety of locations across New Orleans and the surrounding area leading up to Southern Decadence. In addition to these events, CDC is supporting the Louisiana and New Orleans health departments on a large-scale vaccination event on site during the festival. The site will provide COVID-19 and MPV vaccinations as well as HIV and STI testing.

The Louisiana Department of Health is also pre-positioning courses of TPOXX in New Orleans in anticipation of any treatment needs for individuals who have been diagnosed with MPV.

CDC and the Louisiana and New Orleans health departments are also working closely together to provide and distribute educational materials about MPV and how individuals

can protect themselves during the festival. And, the Administration is providing both on-site and remote support to New Orleans and Louisiana in preparation of the festival, including providing remote support for Louisiana's wastewater surveillance program.

Atlanta Black Pride, Atlanta, Georgia: September 2-4, 2022

The Administration will supply Georgia with up to 5,500 doses additional of vaccine by replenishing their stock of vaccine with the number of doses administered leading up to and during Black Pride events in Atlanta. In anticipation of Black Pride, Atlanta and the surrounding counties, including Fulton County, DeKalb County, Cobb County, and Gwinnett County, have been holding routine vaccination clinics over the last week. Starting this week and continuing through the weekend, the Georgia Department of Health in conjunction with the surrounding county health departments and community partners, will continue routine vaccination in clinics and support 12 additional vaccination events across Atlanta and the broader metro area.

The Georgia Department of Public Health and Fulton County, Dekalb County, and Gwinnett County Health Departments are working closely with a variety of local organizations, including Georgia CORE and A Vision 4 Hope, to ensure widespread dissemination of educational material and information to individuals most at risk of contracting the virus and to those planning on attending Black Pride events. Throughout the MPV outbreak, Fulton County has focused on reaching communities of color given the disproportionate impact of the virus on Black individuals.

Oakland Pride and Pridefest, Oakland, California: September 4 and 11, 2022

The Administration will also supply additional vaccine and support to Oakland and California as part of the Special Events vaccine pilot program.Oakland, California will receive an additional 2,400 doses of vaccine to prepare for Pride and Pridefest events on September 4th and 11th by replenishing California's stock of vaccine with the number of doses administered around Oakland Pride and Pridefest events. The Administration is also working closely with California to help disseminate educational information and messaging

to individuals planning on attending Pride and Pridefest events to make sure they know how to protect themselves from the virus and access vaccines, tests, and treatment.

White House announces new equity intervention pilot to ensure more vaccines are equitably reaching communities where the outbreak has been most severe.

Today the White House also announced a new pilot program to reach populations who are at elevated risk of contracting MPV, but may face barriers in accessing the vaccine, such as lack of access to online appointment scheduling or stigma that may be associated with attending public vaccine events that may require disclosure of sexual identity, gender identity, or level of sexual activity.

As part of the equity intervention pilot, the Biden-Harris Administration will set aside 10,000 vials of vaccine that health departments can request for use as part of smaller-scale equity interventions. Up to 100 vials per jurisdiction will be made available to be used in up to 5 equity related interventions, including distribution from community-based clinics that may not have been reached by the current vaccine supply, distribution at smaller events and in venues reaching Black and Latino LGBTQI+, and distribution to communities identified locally as a priority based on local epidemiology of MPV.

The Administration will provide a toolkit that community-based organizations and jurisdictions can use to serve as a roadmap for equity intervention strategies. To receive supply for targeted equity interventions, a jurisdiction must have already used 50% of its received vaccine and commit to match the Federal government's equity allocation if the intervention demonstrates successful.
To access these equity intervention allocations, jurisdictions can engage directly with the CDC. The toolkit will be available to jurisdictions and community-based organizations in the coming weeks.

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From: Levine, Rachel (HHS/OASH)
Sent: Tue, 2 Aug 2022 17:33:15 +0000
To: 'Sarah Boateng'; Oh, Kathy (OS/OASH); Lee, Kinbo (HHS/OASH); Schall, Theodore (HHS/OASH); 'Megan Fisher'
Subject: FW: Update on virtual gender-affirming care from Plume
Attachments: FINAL-Letter to DEA and HHS Supporting Gender-Affirming Hormone Therapy.pdf

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Jerrica Kirkley <jerrica@getplume.co>
Sent: Tuesday, August 2, 2022 10:32 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Schall, Theodore (HHS/OASH) <Theodore.Schall@hhs.gov>
Subject: Update on virtual gender-affirming care from Plume

Dear Admiral Levine, Ms. Boateng and Mr. Schall,

I hope you all are doing well and thank you for all of your work on behalf of the LGTBQ+ community. It was nice to see you again, Dr. Levine, at the virtual Trans Summit event in June. I was pleased to see the recent announcement from HHS regarding rule (RIN 0945-AA17) which would restore gender identity and sexual orientation as protections from discrimination under Section 1557 of the Affordable Care Act.

I wanted to circle back on one of the issues we discussed in our meeting in June and provide some updates. You may recall Plume provides gender-affirming hormone therapy (including testosterone, a

schedule III controlled substance) in addition to other healthcare services for the gender diverse community via telehealth in 41 states. We are able to prescribe testosterone virtually currently because the public health emergency has waived certain provisions of the Ryan Haight Act. In the omnibus budget deal earlier this year, Congress provided 151 days of certainty beyond the end of the PHE for telehealth flexibility but only for certain Medicare programs – the Ryan Haight Act – was left out. At the same time, the DEA told Congress that legislation was unnecessary because the agency was working on regulations on the matter.

Several members of the US House sent the attached letter, which we helped draft, in collaboration with NCTE, to the DEA on this issue and Senator Markey is also working on a similar letter to the DEA.

On the ground, we are unfortunately seeing an abrupt increase in pushback from pharmacies over the last month in filling testosterone prescriptions, sometimes citing not wanting to fill because it is sent via telehealth and sometimes just citing, "not feeling comfortable to fill". In the past 2 weeks, WalMart pharmacy has implemented a nationwide policy to not fill controlled substances via telehealth without an in-person visit first, including testosterone, which has forced many patients to scramble and find a different pharmacy. We are seeing this even in states such as Florida, which just enacted a law July 1, 2022 which explicitly allows the virtual prescribing of controlled substances III-V without an in-person visit (testosterone would be included in this provision).

Lastly, we have seen inconsistent enforcement of the DEA's current stance on controlled substance prescribing and DEA licensure by regional DEA agents across the country, oftentimes putting up unnecessary roadblocks to prescribing and licensure for our telehealth clinicians, which ultimately impedes access to lifesaving and lifegiving healthcare.

Now, more than ever, a strong federal stance by the DEA explicitly allowing the virtual prescribing of schedule III substances feels essential - for lifesaving care such as gender-affirming care as well as medication-assisted treatment. We greatly appreciate your support on the issue and of course, please let us know if you have any questions.

Mr. Schall, thank you for your recent email, I will connect directly to schedule a followup call this week to hear updates on your end as well, including the recent meeting with Dr. Califf.

Best,
Jerrica

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Jerrica Kirkley (she/her)
Co-Founder, Chief Medical Officer

c:(b)(6)
jerrica@getplume.co
https://getplume.co

☒ ☒ ☒ ☒

July 6, 2022

Ms. Anne Milgram
Administrator
United States Drug Enforcement Administration
800 K Street NW, Suite 500
Washington, DC 20001

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Milgram and Secretary Becerra:

We write today to urge you to quickly issue rulemaking pursuant to your authority under the Ryan Haight Act to permanently waive the face-to-face requirement for controlled substance prescribing and allow the use of telehealth services. The waiver, which was granted due to the COVID-19 pandemic, has had a tremendous impact on treatment access for many patient populations, especially transgender Americans. Permanent rules for prescribing via telehealth will ensure this community can continue to access gender-affirming hormone therapy, such as testosterone therapy, via telehealth following the conclusion of the COVID-19 Public Health Emergency (PHE).

Gender-affirming hormone therapy, including testosterone therapy, is safe, effective, and critically important for the trans community. Upwards of 80% of transgender Americans seek hormone therapy, which includes testosterone, as part of their overall health care and well-being.[1] Testosterone for gender-affirming hormone therapy is safe, effective, and endorsed as medically necessary, evidence-based care by many professional organizations including the World Professional Association of Transgender Health, the Endocrine Society, the American Academy of Family Physicians, the American Medical Association, and the American Psychological Association. However, prior to the COVID-19 PHE, access to testosterone therapy was significantly limited because of its classification as a Schedule III controlled substance, which requires a face-to-face visit with a physician to initiate a prescription. With LGBTQ+-focused clinics clustered in only a few major cities, these clinics can be difficult to access for the transgender community and often have significant, often months-long waiting periods to secure an appointment. General practitioners and clinics, while more accessible geographically, often have providers and staff that are unfamiliar with the specific care needs of the transgender community and can often result in discriminatory experiences and care from physicians unfamiliar with gender-affirming hormone therapy. Of those that see a physician, 33% of transgender patients are harassed or denied care[2] and 50% reported that they had to train their own physician on how to properly provide care.[3]

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[1] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[2] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[3] https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf
[4]https://www.liebertpub.com/doi/10.1089/trgh.2020.0161
[5] https://www.dea.gov/press-releases/2022/03/23/deas-commitment-expanding-access-medication-assisted-treatment

The waiver of the face-to-face requirement for controlled substance prescribing during the PHE has helped increase access to care for many patients, including those with substance use disorders, by allowing the prescribing of medication-assisted treatment via telehealth. Other populations have also greatly benefitted from the waiver, including the historically underserved transgender community, which has successfully been able to access testosterone therapy under the waiver. A recent study demonstrates a clear increase in new transgender patient visits specifically for gender-affirming hormone therapy with the adoption of telehealth during the pandemic,[4] highlighting the important progress made related to access to care for this often-marginalized community. While we very much appreciate the DEA's recent announcement that it is working to make permanent the temporary regulations allowing medication-assisted treatment to be prescribed by telemedicine,[5] we urge you to include the trans community in your rulemaking by ensuring that these regulations also permanently allow testosterone therapy to be prescribed by telemedicine. We must ensure the progress made on increased access to care during the PHE is not lost for this vulnerable population by making this waiver permanent through the rulemaking process.

Thank you for your attention to this important issue. We appreciate your leadership in ensuring this patient population does not lose access to vital health care services.

Sincerely,

Marie Newman
Member of Congress

Pramila Jayapal
Member of Congress

Jennifer Wexton
Member of Congress

Jan Schakowsky
Member of Congress

Adriano Espaillat
Member of Congress

[1] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[2] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[3] https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf
[4] https://www.liebertpub.com/doi/10.1089/trgh.2020.0161
[5] https://www.dea.gov/press-releases/2022/03/23/deas-commitment-expanding-access-medication-assisted-treatment

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Sara Jacobs
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Earl Blumenauer
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Dina Titus
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Rashida Tlaib
Member of Congress

[1] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[2] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[3] https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf
[4]https://www.liebertpub.com/doi/10.1089/trgh.2020.0161
[5] https://www.dea.gov/press-releases/2022/03/23/deas-commitment-expanding-access-medication-assisted-treatment

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Alan Lowenthal
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Jesús G. "Chuy" García
Member of Congress

Sean Casten
Member of Congress

Judy Chu
Member of Congress

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[2] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[3] https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf
[4]https://www.liebertpub.com/doi/10.1089/trgh.2020.0161
[5] https://www.dea.gov/press-releases/2022/03/23/deas-commitment-expanding-access-medication-assisted-treatment

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Raja Krishnamoorthi
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Ro Khanna
Member of Congress

A. Donald McEachin
Member of Congress

Jason Crow
Member of Congress

Diana DeGette
Member of Congress

[1] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[2] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[3] https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf
[4] https://www.liebertpub.com/doi/10.1089/trgh.2020.0161
[5] https://www.dea.gov/press-releases/2022/03/23/deas-commitment-expanding-access-medication-assisted-treatment

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Member of Congress

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Member of Congress

[1] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[2] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[3] https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf
[4]https://www.liebertpub.com/doi/10.1089/trgh.2020.0161
[5] https://www.dea.gov/press-releases/2022/03/23/deas-commitment-expanding-access-medication-assisted-treatment

From: Levine, Rachel (HHS/OASH)
Sent: Fri, 26 Aug 2022 20:31:44 +0000
To: Oh, Kathy (OS/OASH)
Cc: Boateng, Sarah (HHS/OASH)
Subject: RE: For your review - Invitation review/recommendations for the ASH

Captain Oh, good afternoon. I agree with all recommendations. Thank you, RLL

From: Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Sent: Friday, August 26, 2022 12:54 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Subject: For your review - Invitation review/recommendations for the ASH

Hello ADM Levine, the team has reviewed these invitations and since we didn't' have a chance to meet on these, I wanted to share by email. Sarah has also reviewed and approved these recommendations. There are a total of 5 invitation requests, two of which we are recommending declination. The first declination (but have Kaye Hayes be the surrogate) is #4 below (2022 National HPV Vaccination Roundtable National Meeting). The second declination with no surrogate is #5, the last item (Midwest Gender Identity Summit). Please let me know if you have any questions. Thank you,
Kathy

SEPTEMBER 2022

1.) **September 5th**

Event Name: Title TBD: Long Covid event
Location: Virtual
Speech Type: Panel Discussion
Speaking Topic: Other
Speech Time & Duration: 12pm; 20 min
Q&A: No Q&A
Event Type: Long COVID
Event Description: In this panel discussion, Harvard's T.H. Chan School of Public Health has invited experts to weigh in on the changes that long COVID has wrought on American society.
Expected audience size: 800-1000; Physicians, nurses, medical students, otherwise Harvard affiliated students and staff. General public is welcome but will make up a smaller percent of audience/

Fundraising Event?: No
Distinguished guests: N/A
HHS officials speaking: No
Surrogate: Yes
Requestor Info: Ms. G. Rameriz, grameriz@hsph.harvard.edu
Organization Name/Description: Today, the Harvard T.H. Chan School of Public Health brings together dedicated experts from many disciplines to educate new generations of global health leaders and produce powerful ideas that improve the lives and health of people everywhere. https://www.hsph.harvard.edu/
SC RECOMMENDS: ACCEPT *NOTE: SEPTEMBER 9TH IS LABOR DAY HOLIDAY*
ASH DECISION: ACCEPT___DECLINE ___HOLD____SURROGATE

2.) September 14th
Event Name: 2022 Sickle Cell Disease Therapeutics Conference (11th Annual)
Location: Virtual
Speech Type: Keynote
Speaking Topic: 5-15 min keynote address pre-recorded PRIOR TO the event at speakers convenience
Speech Time & Duration: 9am; 15min
Q&A: No Q&A
Event Type: Conference; The Impact of sickle cell disease on patients and caregivers. We will explore current issues facing the community including health disparities and mental health
Event Description: A FULLY VIRTUAL, global conference-all speakers are PRE-RECORDED prior to the conference at a date convenient for the speaker. This annual event brings together a diverse group of sickle cell stakeholders to discuss current topics impacting the SCD community.
Expected audience size: 500; Sickle Cell patients, caregivers, community-based organizations, healthcare providers, industry partners and investors
Fundraising Event?: No
Distinguished guests: Senator Chris Van Hollen, Maryland
HHS officials speaking: No
Surrogate: No
Requestor Info: Regina Hartfiel, President & CEO, rhartfield@sicklecelldisease.org
Organization Name/Description: The SACDAA is the national leader promoting and advancing initiatives focused on people affected by sickle cell conditions worldwide.

For more than 45 years, Sickle Cell Disease Association of America, Inc. (SCDAA) and its 48-member organizations and aff
https://www.sicklecelldisease.org
SC RECOMMENDS: ACCEPT
ASH DECISION: ACCEPT___DECLINE ___HOLD____SURROGATE

3.) September 16th

Event Name: 2022 USPHS Promotion Ceremony Invitation
Location: ATL, GA
Speech Type: Remarks
Speaking Topic: Opening Remarks
Speech Time & Duration: TBD
Q&A: No Q&A
Event Type: Ceremony
Event Description: We are excited to be holding this year's promotion ceremony in person for the first time since 2019. The ceremony will begin at 1300h with an invocation, opening remarks, and keynote address, followed by the customary board-changing ceremony for the newly promoted officers. The closing remarks will be delivered after the board-changing ceremony is completed.
Expected audience size: 800-1000; health department, public health, clinicians, ACS staff, Roundtable Member Organizations, cancer survivors, caregivers, academics, researchers.
Fundraising Event?:
Distinguished guests: No
HHS officials speaking: No
Surrogate:
Requestor Info: CDR Tegan Boehmer (TBoehmer@cdc.gov) and LCDR Valerie Albrecht (VAlbrecht@cdc.gov)
Organization Name/Description: Director, CDC/ATSDR Commissioned Corps Activity
SC RECOMMENDS: ACCEPT – SEND VIDEO
ASH DECISION: ACCEPT___DECLINE ___HOLD____SURROGATE

4.) September 28th

Event Name: 2022 National HPV Vaccination Roundtable National Meeting
Location: Virtual
Speech Type: Remarks
Speaking Topic: HPV Vaccination - This is pre-recorded and can be recorded ahead of time
Speech Time & Duration: 1pm; 15mins
Q&A: No Q&A

Event Type: Conference/Summit; HPV Vaccination
Event Description: Our National Meeting is open to the public a draws public health champions, clinicians, and those working in the field of HPV vaccination. We aim to focus on the "why" of the work we do, best practices to propel our work, and collaboration to achieve better results. The event is virtual and our ask for speaking is pre-recorded so you do not need to be available day of. Office of Infectious Disease and HPV Policy is a member of the HPV Vaccination Roundtable.
Expected audience size: 800-1000; health department, public health, clinicians, ACS staff, Roundtable Member Organizations, cancer survivors, caregivers, academics, researchers.
Fundraising Event?: No
Distinguished guests: No
HHS officials speaking: No
Surrogate: Yes
Requestor Info: Christina Turpi, Director, christina.turpin@cancer.org
Organization Name/Description: National HPV Vaccination Roundtable is a collaboration of organizations staffed under the American Cancer Society that focus on increasing HPV vaccination rates to work to eliminating HPV-related cancers as a public health issues. www.hpvroundtable.org
SC RECOMMENDS: DECLINE – RECOMMEND SURROGATE KAYE HAYES, OIDP
ASH DECISION: ACCEPT___DECLINE ___HOLD____SURROGATE

NOVEMBER 2022

5.) November 10th
Event Name: Midwest Gender Identity Summit
Location: Sanford Research Center & Virtual, Sioux Falls, South Dakota
Speech Type: Keynote
Speaking Topic: Topics including gender identity, mental health, gender affirming care
Speech Time & Duration: 3:30pm; 45min
Q&A: 15min
Event Type: Summit; Gender Identity & Caring for the Transgender Patient
Event Description: The 3rd Annual Midwest Gender Identity Summit will equip healthcare providers and support professionals in delivering culturally competent care for gender diverse patients in healthcare.
Expected audience size: 300-600; Physicians, Nurses, Medical Students, Social Workers, Therapists, Executives

Fundraising Event?: No
Distinguished guests: We expect there will be some SD State Legislators attending the event, but we have not sent invitations as of yet.
HHS officials speaking: No
Surrogate: No
Requestor Info: Susan Williams, Exec. Dir. susan@transformationprojectsd.org
Organization Name/Description: Our mission is to support and empower transgender individuals and their families while educating communities in SD and the surrounding region about gender identity and expression. www.transformationprojectsd.org
SC RECOMMENDS: DECLINE
ASH DECISION: ACCEPT___DECLINE ___HOLD___ SURROGATE

Kelly

From: Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Sent: Thursday, August 25, 2022 8:40 AM
To: Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>; Gray, Oneika (HHS/OASH) <Oneika.Gray@hhs.gov>
Cc: Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>
Subject: RE: Invitations Review

Super, thank you both.

From: Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>
Sent: Thursday, August 25, 2022 7:56 AM
To: Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Gray, Oneika (HHS/OASH) <Oneika.Gray@hhs.gov>
Cc: Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>
Subject: RE: Invitations Review

Good morning Kathy,

I compiled them and they're ready to go, just waiting on Oneika's confirmation to an email I sent her yesterday then I can send them to you.

Kelly

From: Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Sent: Wednesday, August 24, 2022 11:19 PM
To: Gray, Oneika (HHS/OASH) <Oneika.Gray@hhs.gov>; Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>
Cc: Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>
Subject: RE: Invitations Review

Oneika or Kelly, which one of you will be putting together the list of all the invitations for the last couple of weeks for the ASH to review since we didn't meet with the ASH in a couple of weeks now? Remember I asked if a list could be pulled with the who, what, when and recommendations rather than sending the invitations? Or am I misremembering? Sarah liked the idea and said she could use the list to briefly talk to the ASH Friday morning or weekend so let me know if you can pull by COB tomorrow.

Thanks, Kathy

From: Gray, Oneika (HHS/OASH) <Oneika.Gray@hhs.gov>
Sent: Wednesday, August 24, 2022 11:56 AM
To: Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>
Cc: Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>
Subject: Invitations Review

Hi all,

Sheet from this weeks' meeting.

Oneika << File: 08_24_22_NEW_.docx >>

Oneika Gray*(she/her)*
Staff Assistant
Immediate Office
<< OLE Object: Picture (Device Independent Bitmap) >>

Email: oneika.gray@hhs.gov
Desk: 202-690-7694

www.hhs.gov/ash

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From: Levine, Rachel (HHS/OASH)
Sent: Wed, 27 Jul 2022 20:33:10 +0000
To: 'Sarah Boateng'; Oh, Kathy (OS/OASH); Calsyn, Maura (HHS/OASH); 'Megan Fisher'
Subject: FW: Civil Rights Community Urges Policymakers to Include, Protect, and Celebrate Transgender Students

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Liz King (she/her) <king@civilrights.org>
Sent: Wednesday, July 27, 2022 3:39 PM
To: Liz King (she/her) <king@civilrights.org>
Cc: Steven Almazán (he/him) <almazan@civilrights.org>
Subject: Civil Rights Community Urges Policymakers to Include, Protect, and Celebrate Transgender Students

In light of ongoing attacks on the civil and human rights of LGBTQI+ young people, and the Administration's current rulemaking related to Title IX and 1557, I wanted to make sure that you saw our open letter from June of this year referenced below. Please always let me know if I can be helpful, or if there are ever any questions about the civil rights community's views and commitment to full inclusion of trans young people specifically and LGBTQI+ people more broadly.

Thanks,
Liz

Liz King (she/her)
Senior Program Director, Education Equity

The Leadership Conference on Civil and Human Rights
The Leadership Conference Education Fund
civilrights.org

Press Release

FOR IMMEDIATE RELEASE / LINK / TWEET THIS
June 22, 2022
Contact: Mattie Goldman, goldman@civilrights.org

Civil Rights Community Urges Policymakers to Include, Protect, and Celebrate Transgender Students

150 civil rights and education groups denounce hateful policies, 'an attack on transgender youth is an attack on civil rights'

WASHINGTON – The Leadership Conference on Civil and Human Rights, joined by 150 national civil and human rights organizations, condemned discriminatory legislation that would harm both cisgender and transgender girls and women. Citing the unprecedented wave of proposed and enacted laws across the country that aim to make participating in school intolerable for LGBTQI+ students, and especially transgender students, the open letter calls for policymakers to reject attacks on transgender youth and commit to the full inclusion of transgender students in educational opportunities.

"We reject the bigoted, ignorant, mean-spirited, and discriminatory policies currently being considered by far too many state legislatures that seek to exclude transgender people and make these members of our communities invisible. Targeting and excluding transgender students from participation in school programming, including athletics programs, alongside their cisgender peers is harmful to all students and undermines the learning environment for everyone," the groups wrote.

The letter adds, "We are fortunate that transgender people are present in our community, and we fully embrace them as members of our community. As organizations that care deeply about ending sex-based discrimination and ensuring equal educational opportunities, we support laws and policies that protect transgender people from discrimination, including participation in

sports, access to gender-affirming care, access to school facilities, and access to inclusive curriculum. We firmly believe that an attack on transgender youth is an attack on civil rights."

The full letter can be found here.

The Leadership Conference on Civil and Human Rights is a coalition charged by its diverse membership of more than 230 national organizations to promote and protect the rights of all persons in the United States. The Leadership Conference works toward an America as good as its ideals. For more information on The Leadership Conference and its member organizations, visit www.civilrights.org .

###

From: Levine, Rachel (HHS/OASH)
Sent: Thu, 11 Aug 2022 11:53:55 +0000
To: Gordon, Catherine
Subject: RE: E-introduction

Catherine, Good morning. Great to talk with you yesterday. Please take care and keep me up to date.
Your friend, Rachel

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Gordon, Catherine (b)(6)
Sent: Wednesday, August 10, 2022 5:29 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: RE: E-introduction

Thank you for the good conversation today, Rachel, and for your incredible support.
Was wonderful to have the opportunity to catch up with you.
I will keep you posted on next steps…

Enjoy the rest of the summer.

My very best,
Catherine

Catherine M. Gordon, MD, MS
Professor of Pediatrics
USDA/ARS Children's Nutrition Research Center
Baylor College of Medicine
1100 Bates Ave, Office 2034
Houston, TX 77030

Phone: (713) 798-8334
Email: (b)(6)

From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Tuesday, July 5, 2022 10:28 AM
To: Gordon, Catherine (b)(6)
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Subject: RE: E-introduction

Catherine, Sounds good. Sarah Boateng, our Chief of Staff, will reach out, Rachel

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Gordon, Catherine (b)(6)
Sent: Tuesday, July 5, 2022 10:31 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: RE: E-introduction

Thanks, Rachel.
I was listening out for your team (and it is not super-urgent).
Appreciate your remembering, as I know how busy you are!

Is there a team member whom I should contact to get something on the calendar?

So appreciate your time and look forward to the conversation.

All the best,
Catherine

Catherine M. Gordon, MD, MS
Professor of Pediatrics
USDA/ARS Children's Nutrition Research Center
Baylor College of Medicine
1100 Bates Ave, Office 2034
Houston, TX 77030

Phone: (713) 79-8334
Email: (b)(6)

From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Tuesday, July 5, 2022 7:55 AM
To: Gordon, Catherine (b)(6)
Subject: RE: E-introduction

Catherine, Hey. Thanks for the email introduction.
We were also going to set up a call for us to touch base.
I can either ask my staff to set up a zoom or call or we can take it offline.
Please let me know.
Take care, Rachel

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Gordon, Catherine (b)(6)
Sent: Friday, July 1, 2022 12:33 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Verghese, Priya <pverghese@luriechildrens.org>
Subject: E-introduction

Dear Rachel,

I hope you are keeping well. I am writing to e-introduce you to Dr. Priya Verghese, who is Division Chief of Nephrology at Lurie Children's
Hospital and Northwestern in Chicago. She is an advocate for transgender youth and is planning a conference for the fall.
I wanted you to have the chance to meet her and most importantly, to know about her advocacy.
I will let you two connect when convenient.

Hope you both have a relaxing and enjoyable July 4th weekend!

All the best,
Catherine

Catherine M. Gordon, MD, MS
Professor and Senior Faculty
USDA/ARS Children's Nutrition Research Center
Department of Pediatrics
Baylor College of Medicine
Office 2034
1100 Bates Avenue
Houston, TX 77030

Phone: (713) 798-8334
Email: (b)(6)

From: Levine, Rachel (HHS/OASH)
Sent: Mon, 25 Jul 2022 17:49:55 +0000
To: Cure, Kelly (OS/OASH) (CTR)
Cc: Boateng, Sarah (HHS/OASH); Oh, Kathy (OS/OASH); Richmond, Alicia (HHS/OASH); Lee, Kinbo (HHS/OASH); Fisher, Megan (HHS/OASH); Gray, Oneika (HHS/OASH)
Subject: RE: 4pm Schedule Update

Great, thanks

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

OASH

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>
Sent: Monday, July 25, 2022 1:36 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Richmond, Alicia (HHS/OASH) <Alicia.Richmond@hhs.gov>; Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Fisher, Megan (HHS/OASH) <Megan.Fisher@hhs.gov>; Gray, Oneika (HHS/OASH) <Oneika.Gray@hhs.gov>
Subject: 4pm Schedule Update
Importance: High

Good afternoon ADM Levine,

There's a slight change to your schedule at 4pm today.

The pre-brief for the meeting with Dr. Califf that was originally scheduled at 4pm, has moved to this Wednesday the 27th at 1pm.

Instead at 4pm, Melanie Rainer is scheduled to brief you on the HHS announcement on the proposed rule to strengthen nondiscrimination protections in health care.

Please let me know if you have any concerns.

FOR PLANNING PURPOSES, ONLY

Sunday, July 24, 2022

HHS to Announce Proposed Rule to Strengthen Nondiscrimination Protections in Health Care

The proposed rule would strengthen Section 1557 of the Affordable Care Act, which prohibits discrimination on the basis of race, color, national origin, sex, age, and disability.

On Monday, July 25, 2022, the U.S. Department of Health and Human Services will announce a proposed rule to strengthen Section 1557 of the Affordable Care Act (ACA), which prohibits discrimination on the basis of race, color, national origin, sex, age, and disability in certain health programs and activities.

In regard to sex, which includes sexual orientation and gender identity, the proposed rule would solidify protections against discrimination consistent with the U.S. Supreme Court's holding in *Bostock v. Clayton County*.

Strengthening this rule is a significant achievement for the Biden-Harris Administration and promotes gender and health equity and civil rights for communities of color, women, LGBTQI+ individuals, people with disabilities, persons with limited English proficiency (LEP), and seniors.

Information discussed on the call will be embargoed until 4 PM EST on Monday, July 25.

LOGISTICAL INFORMATION

Details are subject to change

WHO:

- Secretary Xavier Becerra
- Melanie Fontes Rainer, Acting Director of the Office for Civil Rights

WHEN: Monday, July 25, 2022 at 2:15 PM EST

WHERE: Press must RSVP to to receive call-in information.

Thank you,
Kelly

Kelly Cure
Executive Assistant to ADM Rachel Levine
Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: kelly.cure@hhs.gov
Office: (202) 690-7694
hhs.gov/ash

<< OLE Object: Picture (Device Independent Bitmap) >>

From: Dr. Marci Bowers
Sent: Wed, 10 Aug 2022 06:52:46 -0700
To: Boateng, Sarah (HHS/OASH)
Cc: Levine, Rachel (HHS/OASH); Mitra, Jenny (HHS/OASH); Lee, Kinbo (HHS/OASH); Cure, Kelly (OS/OASH) (CTR); Gray, Oneika (HHS/OASH); Schall, Theodore (HHS/OASH)
Subject: Re: Meeting with Dr. Bowers

Thank you so much, Sarah. I completely agree.

Kindly.....

Marci Bowers MD
WPATH President-elect
Trevor Project Board of Directors

345 Lorton Ave Suite #101, Burlingame, CA 94010
(650)570-2270

Standing tall in times of darkness

On Aug 9, 2022, at 10:49 AM, Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov> wrote:

Thanks so much Dr. Bowers. It was wonderful to connect yesterday. Look forward to future connections.

Sarah

From: Dr. Marci Bowers (b)(6)
Sent: Monday, August 8, 2022 12:59 PM
To: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Cc: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Mitra, Jenny (HHS/OASH) <Jenny.Mitra@hhs.gov>; Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>; Gray, Oneika (HHS/OASH) <Oneika.Gray@hhs.gov>; Schall, Theodore (HHS/OASH) <Theodore.Schall@hhs.gov>
Subject: Re: Meeting with Dr. Bowers

Thank you for sharing— this is a stunningly well-written article and spot on. These stories of real people talking real experiences resonate better even than science. I hope the right people will listen. Like we saw in Kansas, good people exist everywhere but we need to afford then the opportunity to interrupt this hijack of medical care by political extremists.

Kindly.....

Marci Bowers MD
WPATH President-elect

Trevor Project Board of Directors

345 Lorton Ave Suite #101, Burlingame, CA 94010
(650)570-2270

Standing tall in times of darkness

On Aug 8, 2022, at 8:21 AM, Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov> wrote:

See op-ed ADM Levine referenced

Trans youth in Florida under attack, despite public support | Miami Herald

-----Original Appointment-----
From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Friday, August 5, 2022 8:54 AM
To: Levine, Rachel (HHS/OASH); Dr. Marci Bowers
Cc: Boateng, Sarah (HHS/OASH); Mitra, Jenny (HHS/OASH); Lee, Kinbo (HHS/OASH); Cure, Kelly (OS/OASH) (CTR); Gray, Oneika (HHS/OASH); Schall, Theodore (HHS/OASH)
Subject: Meeting with Dr. Bowers
When: Monday, August 8, 2022 11:00 AM-11:30 AM (UTC-05:00) Eastern Time (US & Canada).
Where: (b)(6)

ADM Rachel Levine is inviting you to a scheduled ZoomGov meeting.

Join ZoomGov Meeting
(b)(6)

Meeting ID: (b)(6)
Passcode: (b)(6)
One tap mobile
(b)(6) US (San Jose)
US (New York)

Dial by your location
(b)(6) US (San Jose)
US (New York)
US (San Jose)
US
Meeting ID: (b)(6)
Find your local number: (b)(6)

Join by SIP
(b)(6)

From: Broido, Tara (HHS/OASH)
Sent: Wed, 3 Aug 2022 12:35:16 +0000
To: Marcella, Jessica (HHS/OASH); Oh, Kathy (OS/OASH); Boateng, Sarah (HHS/OASH); Calsyn, Maura (HHS/OASH); Levine, Rachel (HHS/OASH)
Cc: Silver, Karen (OS/OASH); Sarvana, Adam (HHS/OASH); Migliaccio-Grabill, Kate (HHS/OASH); Channer, Amber (OS/OASH); Seigfreid, Kimberly (HHS/OASH); Novick, Emily (OS/OASH)
Subject: FW: FACT SHEET: President Biden Issues Executive Order at the First Meeting of the Task Force on Reproductive Healthcare Access

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FYSA

Sent: Wednesday, August 3, 2022 6:19 AM
Subject: FACT SHEET: President Biden Issues Executive Order at the First Meeting of the Task Force on Reproductive Healthcare Access

THE WHITE HOUSE
WASHINGTON

FOR IMMEDIATE RELEASE
August 3, 2022

FACT SHEET:
President Biden Issues Executive Order at the First Meeting of the Task Force on Reproductive Healthcare Access

President Biden will issue an Executive Order on Securing Access to Reproductive and Other Healthcare Services, building on actions that the Biden-Harris Administration has taken to protect access to reproductive healthcare services and defend women's fundamental rights. The President kick off the Vice President's first meeting of the Task Force on Reproductive Healthcare Access. At the meeting, the Cabinet will discuss their progress and the path forward to address the women's health crisis in the wake of the

Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*.

EXECUTIVE ORDER ON SECURING ACCESS TO REPRODUCTIVE AND OTHER HEALTHCARE SERVICES

Through today's Executive Order, the President will announce actions to:

- **Support Patients Traveling Out of State for Medical Care.** The Executive Order directs the Secretary of Health and Human Services (HHS) to consider action to advance access to reproductive healthcare services, including through Medicaid for patients who travel out of state for reproductive healthcare services. This directive is in line with the President and the Attorney General's clear statements on the Administration's commitment to defending the bedrock right to travel across state lines to seek reproductive healthcare in states where those services remain legal.

- **Ensure Health Care Providers Comply with Federal Non-Discrimination Law.** The Executive Order directs the Secretary of HHS to consider all appropriate actions to ensure health care providers comply with Federal non-discrimination laws so that women receive medically necessary care without delay. These actions could include providing technical assistance for health care providers who may be confused or unsure of their obligations in the aftermath of the Supreme Court decision in *Dobbs*; convening providers to convey information on their obligations and the potential consequences of non-compliance; and issuing additional guidance or taking other appropriate action in response to any complaints or reports of non-compliance with federal non-discrimination laws.

- **Promote Research and Data Collection on Maternal Health Outcomes.** To accurately measure the impact that diminishing access to reproductive health care services has on women's health, the Executive Order directs the Secretary of HHS to evaluate and improve research, data collection, and data analysis efforts at the National Institutes of Health and the Centers for Disease Control and Prevention on maternal health and other health outcomes.

INTERAGENCY TASK FORCE ON REPRODUCTIVE HEALTHCARE ACCESS

The President will sign the Executive Order at the first meeting of the interagency Task Force on Reproductive Healthcare Access. After the President signs the Executive Order, Cabinet heads will report on the progress they have made in implementing the President's July 8, 2022 Executive Order on Protecting Access to Reproductive Healthcare Services, as well as related actions to defend reproductive rights.

Established by Executive Order, the Task Force on Reproductive Healthcare Access is co-chaired by the Secretary of Health and Human Services, Xavier Becerra, and the Director of the White House Gender Policy Council, Jennifer Klein. The Task Force coordinates and drives efforts across the Federal government to protect access to reproductive healthcare services and defend reproductive rights.
Offices across the White House – including the Office of the Vice President, the Office of White House Counsel, the Domestic Policy Council, the National Economic Council, the National Security Council, the Office of Intergovernmental Affairs, and the Office of Science and Technology Policy –also serve on the Task Force alongside the following Federal agencies:

- Department of Health and Human Services
- Department of Defense
- Department of Education
- Department of Homeland Security
- Department of Justice
- Department of Labor
- Department of the Treasury
- Department of Transportation
- Department of Veterans Affairs
- Federal Communications Commission
- Federal Trade Commission
- Office of Management and Budget
- Office of Personnel Management

TODAY'S ANNOUNCEMENTS BUILD ON ADMINISTRATION'S ACTIONS TO PROTECT ACCESS TO REPRODUCTIVE HEALTHCARE

Today's announcements build on the actions the Biden-Harris Administration has already taken to protect access to healthcare, including abortion and contraception, in the wake of

the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*.

President Biden continues to call on Congress to codify the right to abortion into federal law and has said he would support changing the filibuster rules to codify *Roe v. Wade* into law. The White House has also released Statements of Administration Policy supporting H.R. 8296 – Women's Health Protection Act of 2022 and H.R. 8297 – Ensuring Access to Abortion Act of 2022.

The Administration has also taken immediate action to:

- **Protect Access to Reproductive Healthcare Services:** The President issued an Executive Order outlining actions to safeguard access to reproductive health care services, including abortion and contraception; protect the privacy of patients and their access to accurate information; promote the safety and security of patients, providers, and clinics; and coordinate the implementation of Federal efforts.

- **Defend the Right to Travel:** On 6/24/22, President Biden reaffirmed the Attorney General's statement that women must remain free to travel safely to another state to seek the care they need. President Biden committed his administration to defending "that bedrock right." Today's actions build upon this commitment and direct HHS to explore supports for women traveling out of state to seek medical care.

- **Protect Emergency Medical Care:** DOJ filed a lawsuit seeking to enjoin Idaho's abortion prohibition, which makes abortion a crime even when necessary to prevent serious risks to the health of pregnant patients. The suit asserts that Idaho's law conflicts with, and is therefore preempted by, the Emergency Medical Treatment Active Labor Act (EMTALA), which requires providers to offer stabilizing treatment, including abortion services if necessary, in certain emergency situations. This litigation follows guidance issued by HHS affirming EMTALA's requirements, as well as a letter from Secretary Becerra to providers making clear that federal law preempts state law restricting access to abortion in emergency situations.

- **Strengthen Nondiscrimination in Healthcare.** HHS announced a proposed rule to strengthen nondiscrimination in health care. The proposed rule implements Section 1557 of the Affordable Care Act and affirms protections consistent with President Biden's executive orders on nondiscrimination based on sexual orientation and gender identity.

- **Issue Guidance to Retail Pharmacies.** HHS issued guidance to roughly 60,000 U.S. retail pharmacies to remind them of their obligations under federal civil rights laws to ensure access to comprehensive reproductive health care services. The guidance makes clear that as recipients of federal financial assistance, pharmacies are prohibited under law from discriminating on the basis of race, color, national origin, sex, age, and disability in their programs and activities. This includes supplying medications; making determinations regarding the suitability of a prescribed medication for a patient; and advising patients about medications and how to take them.

- **Take Action Against Illegal Use and Sharing of Sensitive Data.** The Federal Trade Commission committed to fully enforcing the law against illegal use and sharing of highly sensitive data, including location and health information contained in fertility and period tracking data. The FTC urged companies to consider that sensitive data is protected by numerous state and federal laws, claims that data is "anonymous" are often deceptive, and the FTC has a track record of cracking down on companies that misuse consumer data.

- **Protect Patient Privacy under HIPAA**. HHS issued guidance to address how the HIPAA Privacy Rule protects the privacy of individuals' protected health information, including information related to reproductive health care. The guidance helps ensure doctors and other medical providers and health plans know that, with limited exceptions, they are not required – and in many cases, are not permitted – to disclose patients' private information, including to law enforcement. HHS also issued a how-to guide for consumers on steps they can take to make sure they're protecting their personal data on mobile apps.

- **Request Information on Data Privacy from Mobile Providers.** The Federal Communications Commission Chairwoman wrote to the top 15 mobile providers requesting information about their data retention and data privacy policies and general practices, consistent with the President's commitment to

protecting Americans' privacy.

- **Launch a DOJ Reproductive Rights Task Force:** The DOJ announced a Reproductive Rights Task Force, which will monitor and evaluate state and local actions that infringe on federal protections relating to the provision or pursuit of reproductive care, impair women's ability to seek reproductive care where it's legal, impair individuals' ability to inform and counsel each other about the reproductive care that is available in other states, ban medication abortion, or impose criminal or civil liability on federal employees who provide legal reproductive health services.

- **Convene Attorneys to Defend Reproductive Rights.** The Department of Justice and the Office of White House Counsel convened more than 200 lawyers and advocates from private firms, bar associations, legal aid organizations, reproductive rights groups, and law schools across the country on Friday, July 29 for the first convening of pro-bono attorneys, as called for in the Executive Order. The convening closed with a call to action from the Second Gentleman, urging firms to commit a minimum of 500 hours to defending reproductive rights and justice.

- **Provide Access to Accurate Information and Legal Resources.** HHS launched ReproductiveRights.gov, a website on people's right to access reproductive health care, including birth control, abortion services, other preventive health services, and health insurance coverage. DOJ also launched justice.gov/reproductive-rights, a webpage that provides a centralized online resource of the Department's work to protect access to reproductive healthcare services.

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From: Jerrica Kirkley
Sent: Tue, 2 Aug 2022 08:31:59 -0600
To: Levine, Rachel (HHS/OASH); Boateng, Sarah (HHS/OASH); Schall, Theodore (HHS/OASH)
Subject: Update on virtual gender-affirming care from Plume
Attachments: FINAL-Letter to DEA and HHS Supporting Gender-Affirming Hormone Therapy.pdf

Dear Admiral Levine, Ms. Boateng and Mr. Schall,

I hope you all are doing well and thank you for all of your work on behalf of the LGTBQ+ community. It was nice to see you again, Dr. Levine, at the virtual Trans Summit event in June. I was pleased to see the recent announcement from HHS regarding rule (RIN 0945-AA17) which would restore gender identity and sexual orientation as protections from discrimination under Section 1557 of the Affordable Care Act.

I wanted to circle back on one of the issues we discussed in our meeting in June and provide some updates. You may recall Plume provides gender-affirming hormone therapy (including testosterone, a schedule III controlled substance) in addition to other healthcare services for the gender diverse community via telehealth in 41 states. We are able to prescribe testosterone virtually currently because the public health emergency has waived certain provisions of the Ryan Haight Act. In the omnibus budget deal earlier this year, Congress provided 151 days of certainty beyond the end of the PHE for telehealth flexibility but only for certain Medicare programs – the Ryan Haight Act – was left out. At the same time, the DEA told Congress that legislation was unnecessary because the agency was working on regulations on the matter.

Several members of the US House sent the attached letter, which we helped draft, in collaboration with NCTE, to the DEA on this issue and Senator Markey is also working on a similar letter to the DEA.

On the ground, we are unfortunately seeing an abrupt increase in pushback from pharmacies over the last month in filling testosterone prescriptions, sometimes citing not wanting to fill because it is sent via telehealth and sometimes just citing, "not feeling comfortable to fill". In the past 2 weeks, WalMart pharmacy has implemented a nationwide policy to not fill controlled substances via telehealth without an in-person visit first, including testosterone, which has forced many patients to scramble and find a different pharmacy. We are seeing this even in states such as Florida, which just enacted a law July 1, 2022 which explicitly allows the virtual prescribing of controlled substances III-V without an in-person visit (testosterone would be included in this provision).

Lastly, we have seen inconsistent enforcement of the DEA's current stance on controlled substance prescribing and DEA licensure by regional DEA agents across the country, oftentimes putting up unnecessary roadblocks to prescribing and licensure for our telehealth clinicians, which ultimately impedes access to lifesaving and lifegiving healthcare.

Now, more than ever, a strong federal stance by the DEA explicitly allowing the virtual prescribing of schedule III substances feels essential - for lifesaving care such as gender-affirming care as well as medication-assisted treatment. We greatly appreciate your support on the issue and of course, please let us know if you have any questions.

Mr. Schall, thank you for your recent email, I will connect directly to schedule a followup call this week to hear updates on your end as well, including the recent meeting with Dr. Califf.

Best,

Jerrica

--

Jerrica Kirkley (she/her)
Co-Founder, Chief Medical Officer

c: (b)(6)
jerrica@getplume.co
https://getplume.co

July 6, 2022

Ms. Anne Milgram
Administrator
United States Drug Enforcement Administration
800 K Street NW, Suite 500
Washington, DC 20001

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Milgram and Secretary Becerra:

We write today to urge you to quickly issue rulemaking pursuant to your authority under the Ryan Haight Act to permanently waive the face-to-face requirement for controlled substance prescribing and allow the use of telehealth services. The waiver, which was granted due to the COVID-19 pandemic, has had a tremendous impact on treatment access for many patient populations, especially transgender Americans. Permanent rules for prescribing via telehealth will ensure this community can continue to access gender-affirming hormone therapy, such as testosterone therapy, via telehealth following the conclusion of the COVID-19 Public Health Emergency (PHE).

Gender-affirming hormone therapy, including testosterone therapy, is safe, effective, and critically important for the trans community. Upwards of 80% of transgender Americans seek hormone therapy, which includes testosterone, as part of their overall health care and well-being.[1] Testosterone for gender-affirming hormone therapy is safe, effective, and endorsed as medically necessary, evidence-based care by many professional organizations including the World Professional Association of Transgender Health, the Endocrine Society, the American Academy of Family Physicians, the American Medical Association, and the American Psychological Association. However, prior to the COVID-19 PHE, access to testosterone therapy was significantly limited because of its classification as a Schedule III controlled substance, which requires a face-to-face visit with a physician to initiate a prescription. With LGBTQ+-focused clinics clustered in only a few major cities, these clinics can be difficult to access for the transgender community and often have significant, often months-long waiting periods to secure an appointment. General practitioners and clinics, while more accessible geographically, often have providers and staff that are unfamiliar with the specific care needs of the transgender community and can often result in discriminatory experiences and care from physicians unfamiliar with gender-affirming hormone therapy. Of those that see a physician, 33% of transgender patients are harassed or denied care[2] and 50% reported that they had to train their own physician on how to properly provide care.[3]

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[1] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[2] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[3] https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf
[4]https://www.liebertpub.com/doi/10.1089/trgh.2020.0161
[5] https://www.dea.gov/press-releases/2022/03/23/deas-commitment-expanding-access-medication-assisted-treatment

The waiver of the face-to-face requirement for controlled substance prescribing during the PHE has helped increase access to care for many patients, including those with substance use disorders, by allowing the prescribing of medication-assisted treatment via telehealth. Other populations have also greatly benefitted from the waiver, including the historically underserved transgender community, which has successfully been able to access testosterone therapy under the waiver. A recent study demonstrates a clear increase in new transgender patient visits specifically for gender-affirming hormone therapy with the adoption of telehealth during the pandemic,[4] highlighting the important progress made related to access to care for this often-marginalized community. While we very much appreciate the DEA's recent announcement that it is working to make permanent the temporary regulations allowing medication-assisted treatment to be prescribed by telemedicine,[5] we urge you to include the trans community in your rulemaking by ensuring that these regulations also permanently allow testosterone therapy to be prescribed by telemedicine. We must ensure the progress made on increased access to care during the PHE is not lost for this vulnerable population by making this waiver permanent through the rulemaking process.

Thank you for your attention to this important issue. We appreciate your leadership in ensuring this patient population does not lose access to vital health care services.

Sincerely,

Marie Newman
Member of Congress

Pramila Jayapal
Member of Congress

Jennifer Wexton
Member of Congress

Jan Schakowsky
Member of Congress

Adriano Espaillat
Member of Congress

[1] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[2] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[3] https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf
[4] https://www.liebertpub.com/doi/10.1089/trgh.2020.0161
[5] https://www.dea.gov/press-releases/2022/03/23/deas-commitment-expanding-access-medication-assisted-treatment

Gerald E. Connolly
Member of Congress

Sara Jacobs
Member of Congress

Earl Blumenauer
Member of Congress

Ritchie Torres
Member of Congress

Bonnie Watson Coleman
Member of Congress

Linda T. Sánchez
Member of Congress

David N. Cicilline
Member of Congress

Eleanor Holmes Norton
Member of Congress

Dina Titus
Member of Congress

Rashida Tlaib
Member of Congress

[1] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[2] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[3] https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf
[4]https://www.liebertpub.com/doi/10.1089/trgh.2020.0161
[5] https://www.dea.gov/press-releases/2022/03/23/deas-commitment-expanding-access-medication-assisted-treatment

Deborah K. Ross
Member of Congress

Mark Takano
Member of Congress

Al Green
Member of Congress

Nydia M. Velázquez
Member of Congress

Mark Pocan
Member of Congress

Angie Craig
Member of Congress

Alan Lowenthal
Member of Congress

Jesús G. "Chuy" García
Member of Congress

Sean Casten
Member of Congress

Judy Chu
Member of Congress

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[2] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[3] https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf
[4]https://www.liebertpub.com/doi/10.1089/trgh.2020.0161
[5] https://www.dea.gov/press-releases/2022/03/23/deas-commitment-expanding-access-medication-assisted-treatment

Tony Cárdenas
Member of Congress

Andy Levin
Member of Congress

Sylvia R. Garcia
Member of Congress

Mark DeSaulnier
Member of Congress

Nanette Diaz Barragán
Member of Congress

Raja Krishnamoorthi
Member of Congress

Ro Khanna
Member of Congress

A. Donald McEachin
Member of Congress

Jason Crow
Member of Congress

Diana DeGette
Member of Congress

[1] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[2] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[3] https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf
[4] https://www.liebertpub.com/doi/10.1089/trgh.2020.0161
[5] https://www.dea.gov/press-releases/2022/03/23/deas-commitment-expanding-access-medication-assisted-treatment

Suzanne Bonamici
Member of Congress

Colin Z. Allred
Member of Congress

[1] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[2] https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf
[3] https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf
[4]https://www.liebertpub.com/doi/10.1089/trgh.2020.0161
[5] https://www.dea.gov/press-releases/2022/03/23/deas-commitment-expanding-access-medication-assisted-treatment

From: Fisher, Megan (HHS/OASH)
Sent: Fri, 29 Jul 2022 14:07:31 +0000
To: king@civilrights.org
Cc: Oh, Kathy (OS/OASH); Lee, Kinbo (HHS/OASH); almazan@civilrights.org
Subject: RE: Civil Rights Community Urges Policymakers to Include, Protect, and Celebrate Transgender Students

Good morning Liz,

Thank you so much for sharing the message below. We wanted to acknowledge receipt and that ADM Levine has been provided the correspondence. Have a great day and thank you for all that you do.

Best,
Megan Fisher

From: Liz King (she/her) <king@civilrights.org>
Sent: Wednesday, July 27, 2022 3:39 PM
To: Liz King (she/her) <king@civilrights.org>
Cc: Steven Almazán (he/him) <almazan@civilrights.org>
Subject: Civil Rights Community Urges Policymakers to Include, Protect, and Celebrate Transgender Students

In light of ongoing attacks on the civil and human rights of LGBTQI+ young people, and the Administration's current rulemaking related to Title IX and 1557, I wanted to make sure that you saw our open letter from June of this year referenced below. Please always let me know if I can be helpful, or if there are ever any questions about the civil rights community's views and commitment to full inclusion of trans young people specifically and LGBTQI+ people more broadly.

Thanks,
Liz

Liz King (she/her)
Senior Program Director, Education Equity

The Leadership Conference on Civil and Human Rights
The Leadership Conference Education Fund
civilrights.org

Press Release

The Leadership Conference

FOR IMMEDIATE RELEASE / LINK / TWEET THIS
June 22, 2022
Contact: Mattie Goldman, goldman@civilrights.org

Civil Rights Community Urges Policymakers to Include, Protect, and Celebrate Transgender Students

150 civil rights and education groups denounce hateful policies, 'an attack on transgender youth is an attack on civil rights'

WASHINGTON – The Leadership Conference on Civil and Human Rights, joined by 150 national civil and human rights organizations, condemned discriminatory legislation that would harm both cisgender and transgender girls and women. Citing the unprecedented wave of proposed and enacted laws across the country that aim to make participating in school intolerable for LGBTQI+ students, and especially transgender students, the open letter calls for policymakers to reject attacks on transgender youth and commit to the full inclusion of transgender students in educational opportunities.

"We reject the bigoted, ignorant, mean-spirited, and discriminatory policies currently being considered by far too many state legislatures that seek to exclude transgender people and make these members of our communities invisible. Targeting and excluding transgender students from participation in school programming, including athletics programs, alongside their cisgender peers is harmful to all students and undermines the learning environment for everyone," the groups wrote.

The letter adds, "We are fortunate that transgender people are present in our community, and we fully embrace them as members of our community. As organizations that care deeply about ending sex-based discrimination and ensuring equal educational opportunities, we support laws and policies that protect transgender people from discrimination, including participation in sports, access to gender-affirming care, access to school facilities, and access to inclusive curriculum. We firmly believe that an attack on transgender youth is an attack on civil rights."

The full letter can be found here.

The Leadership Conference on Civil and Human Rights is a coalition charged by its diverse membership of more than 230 national organizations to promote and protect the rights of all persons in the United States. The Leadership Conference works toward an America as good as its ideals. For more information on The Leadership Conference and its member organizations, visit www.civilrights.org .

###

From: Levine, Rachel (HHS/OASH)
Sent: Tue, 28 Jun 2022 00:24:59 +0000
To: Sarvana, Adam (HHS/OASH); 'Sarah Boateng'
Subject: FW: Mentioned this to Adm. Levine

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Ina Turpen Fried <inafried@sbcglobal.net>
Sent: Monday, June 27, 2022 1:50 PM
To: Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: Mentioned this to Adm. Levine

Adam,

I traded a couple messages woith Adm. Levine on Twitter. For my day job, I lead Axios' tech coverage and am always open to any stories that might make sense, But I also wanted her to be aware of (and hopefully take part in) this effort I started in my spare time, called #letters4transkids. Bascially as a journalist I knew I couldn't wade too deeply in the politics, but at the same time as a prominent trans women I couldn't let the next generation not here voices of support amid the hate. Anyway, it got some good traction this spring, but looking to get it trending again.

It can be a short tweet, a handwritten note or a short video on any social media with the #letters4transkids

Happy to chat too

More info below

Call to action

Post on any social media (Twitter, Instagram, Facebook, TikTok, even LinkedIN) a message of love and support for trans youth - it can be a short , a typed note or a picture of a handwritten note. Just use the hashtag #letters4transkids. You can also e-mail it tolettersfortranskids@gmail.com

Some of the celbs that have taken part and links:

Gorge Takei
https://twitter.com/georgetakei/status/1516511914758746112?s=21&t=oIM8NKznrGbmzCoItUPEvQ

Pro hockey player Kurtis Gabriel
https://twitter.com/kurtisgabriel/status/1513648362783973382?s=21&t=emDSXUUGVN1CUwfzZWBmbw

Actor Javier Muñoz:
https://twitter.com/jmunozactor/status/1513206588806336513?s=21&t=27eVvndsDW4PIgSTmu9mVg

Judy Shepard
https://twitter.com/inafried/status/1515149576214233089?s=21&t=uerdnKWGmS379s0Y7UuKlg

FCC Chairwoman Jessica Rosenworcel:
https://twitter.com/jrosenworcel/status/1513228884245889029?s=21&t=JzuTboSWfCL-YJUDjtkAFQ

Ask Amy advice columnist Amy Dickinson:
https://twitter.com/askingamy/status/1513231785072762882?s=21&t=JzuTboSWfCL-YJUDjtkAFQ

Glaad CEO Sarah Kate Ellis
https://twitter.com/sarahkateellis/status/1514722264469712901?s=21&t=QQ8zwfEj-GXnh5U2Cp59Nw

Trevor project ceo Amir paley
https://twitter.com/amitpaley/status/1514357869860343812?s=21&t=OBrY_G2FEDZ48-8vMtCXdw

HRC interim president Joni Madison https://www.hrc.org/news/joni-madisons-letter-4-trans-kids

It Gets Better Executive Director Brian Wenke
https://twitter.com/itgetsbetter/status/1516835775748390915?s=21&t=gecesVML0bxztU-k1NMvHQ

Description of project

Letters4transkids was started by trans journalist Ina Fried who was looking for a way to counter the messages of hate being sent by a spate of anti-trans legislation across the country. The idea was simple, have as many people as possible send a message of support showing trans and nonbinary kids, their families and their communities that there is lots of support out there despite what's in the headlines.

Original posts so you have handy:

Twitter https://twitter.com/inafried/status/1513201705567105026?s=20&t=Zoyc0NkS5B1XZkYVFOoEng

Facebook: https://facebook.com/InaFried/posts/397758482169977…

Press Coverage

Xtra #Letters4TransKids sends messages of encouragement and love to trans youth | Xtra Magazine

Advocate #Letters4transkids Looks to Encourage Trans Youth Under Attack

OutSports: Social media campaign #Letters4TransKids shares love and support

Into: With #Letters4TransKids, Ina Fried is Reminding Trans Kids They Have a Future

From: Sarvana, Adam (HHS/OASH)
Sent: Tue, 26 Jul 2022 14:52:58 +0000
To: Boateng, Sarah (HHS/OASH); Levine, Rachel (HHS/OASH); Oh, Kathy (OS/OASH); Calsyn, Maura (HHS/OASH); Schall, Theodore (HHS/OASH)
Cc: Broido, Tara (HHS/OASH); Channer, Amber (OS/OASH); Seigfreid, Kimberly (HHS/OASH); Migliaccio-Grabill, Kate (HHS/OASH)
Subject: RE: ADM Levine's ACA 1557 Tweet Thread Featured in Washington Post

Our thread is actually several posts longer than what they excerpted, but I'll take it:
https://twitter.com/HHS_ASH/status/1551663870326054912

Adam Sarvana
Director of Communications
Office of the Assistant Secretary for Health

Email: adam.sarvana@hhs.gov
Mobile: (b)(6)
Desk: (202) 795-7619
hhs.gov/ash
OASH Office of the Assistant Secretary for Health

From: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Sent: Tuesday, July 26, 2022 10:51 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Schall, Theodore (HHS/OASH) <Theodore.Schall@hhs.gov>
Cc: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Channer, Amber (OS/OASH) <Amber.Channer@hhs.gov>; Seigfreid, Kimberly (HHS/OASH) <Kimberly.Seigfreid@hhs.gov>; Migliaccio-Grabill, Kate (HHS/OASH) <Kate.Migliaccio-Grabill@hhs.gov>
Subject: RE: ADM Levine's ACA 1557 Tweet Thread Featured in Washington Post

Thanks all!

From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Tuesday, July 26, 2022 10:49 AM

To: Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Schall, Theodore (HHS/OASH) <Theodore.Schall@hhs.gov>
Cc: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Channer, Amber (OS/OASH) <Amber.Channer@hhs.gov>; Seigfreid, Kimberly (HHS/OASH) <Kimberly.Seigfreid@hhs.gov>; Migliaccio-Grabill, Kate (HHS/OASH) <Kate.Migliaccio-Grabill@hhs.gov>
Subject: RE: ADM Levine's ACA 1557 Tweet Thread Featured in Washington Post

Great, thanks

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>
Sent: Tuesday, July 26, 2022 10:47 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Schall, Theodore (HHS/OASH) <Theodore.Schall@hhs.gov>
Cc: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Channer, Amber (OS/OASH) <Amber.Channer@hhs.gov>; Seigfreid, Kimberly (HHS/OASH) <Kimberly.Seigfreid@hhs.gov>; Migliaccio-Grabill, Kate (HHS/OASH) <Kate.Migliaccio-Grabill@hhs.gov>
Subject: ADM Levine's ACA 1557 Tweet Thread Featured in Washington Post

Sharing with ADM Levine and others (see below) – the link is here: Biden wants to take legal protections for LGBT Americans a step further - The Washington Post

Adam Sarvana
Director of Communications
Office of the Assistant Secretary for Health

Email: adam.sarvana@hhs.gov

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Desk: (202) 795-7619
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OASH | Office of the Assistant Secretary for Health

From: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Sent: Tuesday, July 26, 2022 10:44 AM
To: Channer, Amber (OS/OASH) <Amber.Channer@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Seigfreid, Kimberly (HHS/OASH) <Kimberly.Seigfreid@hhs.gov>; Migliaccio-Grabill, Kate (HHS/OASH) <Kate.Migliaccio-Grabill@hhs.gov>
Subject: Fwd: [MARKETING EMAIL]The Health 202: Biden wants to take legal protections for LGBT Americans a step further

Making sure you saw RLL's tweet was featured in today's 202

Get Outlook for iOS

From: The Washington Post <email@washingtonpost.com>
Sent: Tuesday, July 26, 2022 8:44:28 AM
To: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Subject: [MARKETING EMAIL]The Health 202: Biden wants to take legal protections for LGBT Americans a step further

View in browser

By Rachel Roubein

with research by McKenzie Beard

Happy Tuesday, everybody. Is August recess in the air? Send your best predictions on when/whether the Senate will vote on its health-care bill to rachel.roubein@washpost.com.

Today's edition: The Biden administration is planning to name a coordinator to oversee the monkeypox response. Obamacare is back in court today. **But first…**

Americans may once again be able to allege medical discrimination based on sexual orientation or gender identity

A woman waves a rainbow flag during the annual Pride march in Berlin. (Markus Schreiber/AP)

The Biden administration wants to restore protections for LGBT Americans that fell under the Trump administration — and to take them a step further.

A new proposal from the federal health department wouldprohibit discrimination on the basis of sexual orientation and gender identity among health-care providers that receive federal dollars. It also aims to cover pregnant women seeking health-care services, including abortions, **Dan Diamond and I** report. The language would allow people to file claims with the Health and Human Services Office of Civil Rights if they believed they had faced discrimination from a health-care provider based on their sexual orientation, gender identity or pregnancy.

But this likely isn't the end of the battle over such language. Top Biden health officials, as well as experts, say they're bracing for legal challenges over the proposed rule, which has previously been enmeshed in court battles. Opponents are likely to challenge the rule, arguing it's an overreach and an inaccurate interpretation of the law.

The plan comes at an inflection point for such protections, as gender-related care and other services have increasingly become the target of state legislative battles and litigation across the country. **Some who reviewed the rule say they're still trying to unpack how it could intersect with state laws across the country.**

"In terms of the federal purview, it really helps to provide a blanket protection for people based on their sexual orientation and gender identity," said **Jen Kates,** a senior vice president at the **Kaiser Family Foundation.** "Will it be challenged in court? Probably."

Rachel Levine, HHS assistant secretary for health:

The details

The proposed rule issued by the **Department of Health and Human Services** boosts a part of Obamacare known as Section 1557. The provision bars discrimination in health programs based on race, color, national origin, sex, age or disabilities.

In 2020, the Trump administrationrolled back the Obama-era policy that protected transgender patients from discrimination — a move that received backlash from some health experts. LGBT advocates praised Biden's efforts yesterday to broaden federal language to protect people seeking transition-related care, people with disabilities and others.

On the abortion front, the proposal seeks to clarify that discrimination on the basis of sex includes decisions regarding "pregnancy termination." HHS also requested public input on the impact of the Supreme Court's ruling overturning the constitutional right to an abortion on the anti-discrimination provisions — comments that health officials could then use to make changes to the final version of the rule.

Experts say they're still parsing the proposed rule's implications on the battle over rights to the procedure, as a wave of states implement new restrictions.

- **"I think people who oppose this rule will try and construe it as a mandate for abortion.** That's just so far from the case," said **Katie Keith,** director of the Health Policy and the Law Initiative at **Georgetown Law's O'Neill Institute.**

But some conservative and religious groups contend the rule change would force providers to perform procedures against their religious beliefs. HHS officials said they sought to assuage some of those critiques, pointing to parts of the proposal that explicitly addressed protections for providers who raised conscience or religious objections to performing procedures, like abortions.

Other provisions

The proposal applies to Obamacare health plans, Medicaid and Medicare. **But for the first time, the nondiscrimination provisions would also extend to Medicare Part B, which covers physicians' visits and other outpatient care.**

Doing so would fill a critical gap in anti-discrimination protections, ensuring the rules are "consistent and simple," said **Chiquita Brooks-LaSure**, the Biden administration's Medicare and Medicaid chief.

The Trump administration had also scaled back requirements that most health-care providers post information in 15 languages, as well as to make translation services available. The new proposal seeks to restore the language assistance services.

White House prescriptions

Biden administration weighs declaring monkeypox a health emergency

The White House is considering declaring a public health emergency over the monkeypox outbreak that has sent thousands scrambling to get the vaccinated against the virus. (Eric Cox/Reuters)

The Biden administration is wrestling over whether to declare the monkeypox outbreak a public health emergency, as it gears up to name a White House coordinator to oversee the country's response, our colleague **Dan Diamond** reports.

A decision on the emergency declaration could come later this week, and potentially be tied to an announcement that about800,000 additional vaccine doses will be distributed following completion of a review by the **Food and Drug Administration**.

But health officials are still split on whether the monkeypox emergency declaration is necessary. Some believe the designation would give the federal government authority to cut through red tape and collect data about the virus's spread. Others argue the move is mostly symbolic and wouldn't address vaccine shortages, treatment barriers and other challenges hindering the U.S. response.

Domestic politics is another complicating factor. Advocacy groups have called on the administration to declare emergencies for abortion and gun violence and climate change, igniting debate over which issues to prioritize. All the while, the administration continues to renew the designation also attached to opioids and the coronavirus, which expire every 90 days.

White House officials say the decision rests with HHS Secretary Xavier Becerra, who told **CNN** yesterday that his department is still debating the merits of an emergency declaration.

As for a monkeypox coordinator, the administration is considering people with expertise in epidemic response and government operations, Dan writes. This comes as Chief of Staff **Ron Klain** — who coordinated the U.S. response to Ebola during the Obama administration — as well as White House coronavirus czar **Ashish Jha** and infectious-disease expert **Anthony Fauci** have recently been drawn in to doing work on the monkeypox response.

More from Dan:

In the courts

Latest legal battle over the ACA begins

The ruling could lead to cost hikes for millions of Americans who receive coverage through Affordable Care Act health-care plans. (Daniel Acker/Bloomberg News)

Oral arguments will begin today in a case that threatens one of the **Affordable Care Act**'smost popular provisions, which requires insurers and group health plans to cover more than 100 preventive health-care services at no cost to consumers.

The Obamacare benefit could be in for a rough ride — at least initially. The dispute is pending before U.S. District Judge **Reed O'Connor**, who once declared the ACA must berepealed entirely, though the Supreme Court didn't agree.

If eliminated, millions of Americans enrolled in ACA plans may face increased out-of-pocket health-care expenses for routine services like cancer screenings and vaccines. **But any such ruling would surely be appealed.**

Challengers in*Kelley v. Becerra* argue that the ACA's requirement is unlawful because members of the three entities affiliated with HHS that determine which preventive services should be free haven't been nominated by the president or confirmed by the Senate. In a separate claim, the lawsuit also contends that requiring coverage for HIV prevention drugs violates the **Religious Freedom Restoration Act,** according to **the Commonwealth Fund**, a health-care think tank.

The American Medical Association:

Coronavirus

Senate Democrats wrestle with covid-19 absences

Sen. Joe Manchin III (D-W.Va.) is the latest Democrat to test positive for the coronavirus. (Elizabeth Frantz/Reuters)

Sen. **Joe Manchin III** (D-W.Va.) announced yesterday that he had tested positive for the coronavirus and is experiencing mild symptoms, our **Post Politics Now** colleagues report.

The centrist lawmaker is the latest in a long string of Democrats to be infected with the virus. Sens. **Tina Smith** (Minn.) and **Thomas R. Carper** (Del.) were sidelined last week, further complicating the party's efforts to push several legislative priorities through an evenly split chamber before leaving town for August recess. Smith announced last night that she'd be back today.

Manchin's absence this week is not likely to affect the timing of votes on the Senate floor. But if he's out into next week, it could upset plans by Democratic leadership to deliver on a long-awaited health-care package they're attempting to pass without GOP votes.

- The health-care bill would empower Medicare to negotiate some drug prices and temporarily extend enhanced financial help to many Americans who buy insurance through state and federal exchanges. **But to pass the measure, the party needs the support of every Senate Democrat.**

Sen. Joe Manchin III (D-W.Va.):

Reproductive wars

Indiana abortion debate draws protesters, criticism from vice president

Abortion rights protesters gathered at the Indiana Statehouse yesterday during a special legislative session on a near-total abortion ban. (Jon Cherry/Getty Images)

State lawmakers in Indiana kicked off a special legislative session yesterday to consider a bill that would ban nearly all abortions. The debate is one of the first held by Republican-led legislatures following the Supreme Court's decision last month overturning *Roe v. Wade*, the **Associated Press** reports.

The session drew protesters to the Indiana Statehouse, and received sharp criticism from **Vice President Harris**, whodenounced the effort during a meeting with Democratic lawmakers.

More from Harris:

Other abortion news:

- **On tap today: Key Senate Democrats will announce an effort** to pass legislation later this week via unanimous consent that guarantees the right to contraception. This followspassage of a companion bill in the House last Thursday.

- **A manpleaded not guilty yesterday in Ohio to charges of raping a 10-year-old girl** who traveled to Indiana for an abortion last month, in a case that quickly became a flashpoint in the

national debate over the procedure, the **Associated Press** reports.

- **In West Virginia**: Gov. **Jim Justice** (R)asked lawmakers to "clarify and modernize" the state's 150-year-old abortion ban — which has been blocked by the courts — amid a special legislative session that began yesterday. Justice's office didn't respond to requests for comment from The Health 202.

In other health news

- **President Biden's coronavirus symptoms have "almost completely resolved"** after completing his fourth full day of the antiviral treatment Paxlovid, White House physician **Kevin O'Connor** wrote in a letter yesterday.

- **The National Association of Manufacturers launched asix-figure ad campaign yesterday**seeking to fight Democrats' drug pricing legislation.

- **D.C. public health officials will shift the city's monkeypox vaccine strategy** togive out first doses to those most at-risk

instead of reserving shots for the second part of the two-shot regimen, The Post's **Jenna Portnoy** reports.

Health reads

Biden poised for big wins in Congress

By Yasmeen Abutaleb and Mike DeBonis | The Washington Post • **Read more »**

A troubling report on Cerner's VA rollout offers a rare look into the hidden harms of health records

By Katie Palmer | Stat • **Read more »**

People with disabilities weigh medication, pregnancy in post-Roe world

By Meena Venkataramanan | The Washington Post • **Read more »**

Big Hospitals Provide Skimpy Charity Care—Despite Billions in Tax Breaks

By Anna Wilde Mathews, Tom McGinty and Melanie Evans | Wall Street Journal • **Read more »**

Sugar rush

Thanks for reading! See y'all tomorrow.

More intelligence for leaders.

Our 202 newsletters are your go-to source for all things Washington. Check out the rest of the suite.

A lunchtime briefing featuring political analysis and a global perspective on the stories driving the day. Delivered weekdays.

Sign up

From: Levine, Rachel (HHS/OASH)
Sent: Mon, 25 Jul 2022 11:57:02 +0000
To: Boateng, Sarah (HHS/OASH)
Subject: RE: Morning Notes

8 am is good, thanks

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

OASH

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Sent: Monday, July 25, 2022 7:37 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Subject: Morning Notes

Good Morning

Do you want to connect today at 8am or 8:30am? Either are good for me.

Sarah

Call with Canada re: MSM
WPATH - Tuesday at 1pm?
Monkeypox
EO report

Kessler request
ORI/EXO recommendations.
1557

<< File: OASH - Reproductive Health EO report 7-21-22 for Review_SB.docx >>

Sarah Newman Boateng (She/Her)
Chief of Staff
Office of the Assistant Secretary for Health

Email:
Mobile: (b)(6)
Desk: (202) 401-7003

<< OLE Object: Picture (Device Independent Bitmap) >>

From: Boateng, Sarah (HHS/OASH)
Sent: Fri, 22 Jul 2022 11:54:17 +0000
To: Levine, Rachel (HHS/OASH)
Subject: Morning notes

COVID $$ - we should reach back out
Call with Zeke
WPATH
Liam

Sarah Newman Boateng (She/Her)
Chief of Staff
Office of the Assistant Secretary for Health

Email: sarah.boateng@hhs.gov
Mobile: (b)(6)
Desk: (202) 401-7003

From: Boateng, Sarah (HHS/OASH)
Sent: Thu, 21 Jul 2022 11:44:10 +0000
To: Levine, Rachel (HHS/OASH)
Subject: Morning Notes
Attachments: ADM Levine Talking Points on Medicare A19 proposals 24, 25 2022 7-19.docx

COVID $$ - we should reach back out
WHO EURO
CMS A-19
Kinbo
Wolf
WPATH
Knight
August 1, 10am-11am - SBC meeting Budget on behavioral health
Senior Advisors

Sarah Newman Boateng (She/Her)
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ADM Levine Talking Points on Medicare A19 Proposals

(b)(5)

ADM Levine Talking Points on Medicare A19 Proposals

(b)(5)

From: Boateng, Sarah (HHS/OASH)
Sent: Fri, 1 Jul 2022 11:58:20 +0000
To: Levine, Rachel (HHS/OASH)
Subject: Morning Notes

WPATH
Corp ask
NeGev
HIV meeting

Sarah Newman Boateng (She/Her)
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From: Levine, Rachel (HHS/OASH)
Sent: Wed, 13 Jul 2022 19:06:47 +0000
To: Cure, Kelly (OS/OASH) (CTR)
Cc: Boateng, Sarah (HHS/OASH); Lee, Kinbo (HHS/OASH); Fisher, Megan (HHS/OASH); Oh, Kathy (OS/OASH); Gray, Oneika (HHS/OASH)
Subject: RE: SCHEDULED: Meetings w/Dr. Catherine Gordon, Baylor College of Medicine & Dr. Priya Verghese, Ann & Robert H. Lurie Children's Hospital and Northwestern University

Thank you

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
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OASH Office of the Assistant Secretary for Health

From: Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>
Sent: Wednesday, July 13, 2022 2:09 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Fisher, Megan (HHS/OASH) <Megan.Fisher@hhs.gov>; Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Gray, Oneika (HHS/OASH) <Oneika.Gray@hhs.gov>
Subject: SCHEDULED: Meetings w/Dr. Catherine Gordon, Baylor College of Medicine & Dr. Priya Verghese, Ann & Robert H. Lurie Children's Hospital and Northwestern University

Good afternoon ADM Levine,

A meeting for you to reconnect with Dr. Catherine Gordon has been scheduled on Wednesday, August 10th at 2pm.

A meet and greet with Dr. Priya Verghese has been scheduled on Thursday, August 11th at 4:30pm.

Dr. Verghese would like to discuss an invite for you to be the keynote speaker at the PNRC Fall Meeting on September 9th at the Westin Houston Medical Center in Texas on barriers to health care and health research for trans children. We will be reviewing this event with you in tomorrow's weekly invitation review meeting.

Please let me know if you have any questions.

Thank you,
Kelly

From: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Sent: Tuesday, July 5, 2022 8:52 AM
To: Verghese, Priya <pverghese@luriechildrens.org>; Gordon, Catherine (b)(6)
Cc: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Fisher, Megan (HHS/OASH) <Megan.Fisher@hhs.gov>; Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>
Subject: RE: E-introduction

Catherine, Thanks for the email introduction.
Priya, wonderful to meet you.
Yes, lets set up a zoom.
I will cc my staff to schedule the call. Take care, Rachel

Rachel L. Levine, M.D.
ADM, United States Public Health Service

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From: Verghese, Priya <pverghese@luriechildrens.org>
Sent: Friday, July 1, 2022 1:47 PM
To: Gordon, Catherine (b)(6) Levine, Rachel (HHS/OASH)

<Rachel.Levine@hhs.gov>
Subject: RE: E-introduction

Thank you for the introduction Catherine. I am grateful. Rachel, it would be a delight to meet with you or talk to you. My cell phone number is 312-804-9781 or perhaps we can set up a zoom? I am happy to coordinate that separately so Catherine does not get inundated with emails. Just let me know.
Warm wishes to you both,
Priya

Priya Verghese, MD, MPH
(she/hers/her)
Division Head of Nephrology, *Ann & Robert H. Lurie Children's Hospital of Chicago*
Isaac A. Abt, MD Professor in Nephrology
Professor of Pediatrics, *Northwestern University Feinberg School of Medicine*
T 312.227.6167 | F 312.227.9405 | 225 East Chicago Avenue, Box 37, Chicago, Illinois 60611-2605

From: Gordon, Catherine (b)(6)
Sent: Friday, July 1, 2022 11:33 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Verghese, Priya <pverghese@luriechildrens.org>
Subject: E-introduction

Dear Rachel,

I hope you are keeping well. I am writing to e-introduce you to Dr. Priya Verghese, who is Division Chief of Nephrology at Lurie Children's
Hospital and Northwestern in Chicago. She is an advocate for transgender youth and is planning a conference for the fall.
I wanted you to have the chance to meet her and most importantly, to know about her advocacy.
I will let you two connect when convenient.

Hope you both have a relaxing and enjoyable July 4th weekend!

All the best,
Catherine

Catherine M. Gordon, MD, MS
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From: Levine, Rachel (HHS/OASH)
Sent: Tue, 21 Jun 2022 16:18:34 +0000
To: Hayes, Kaye (HHS/OASH); Boateng, Sarah (HHS/OASH); Handley, Elisabeth (OS/OASH)
Cc: Berger, James J. (HHS/OASH); Harrison, Timothy (HHS/OASH); Calsyn, Maura (HHS/OASH)
Subject: RE: ADVANCE Study Congressional Letter to FDA

Kaye, Good afternoon. Thank you for your email and the information, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
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OASH Office of the Assistant Secretary for Health

From: Hayes, Kaye (HHS/OASH) <Kaye.Hayes@hhs.gov>
Sent: Tuesday, June 21, 2022 11:28 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Handley, Elisabeth (OS/OASH) <Elisabeth.Handley@hhs.gov>
Cc: Berger, James J. (HHS/OASH) <James.Berger@hhs.gov>; Harrison, Timothy (HHS/OASH) <Timothy.Harrison@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: FW: ADVANCE Study Congressional Letter to FDA

ADM Levine—

FYI on ADVANCE Study Congressional letter……below is an article Jim received in this week's ABC Newsletter. The letter from Rep Torres and Higgins was sent to the FDA Commissioner Robert Califf, addressing the ADVANCE Study. Also of interest the article mentions the 2020 Blood Safety Congressional Report and asked that HHS "create a national taskforce to review the U.S. blood supply……

Kaye

Rep. Norma Torres (D-Calif.) and Rep. Brian Higgins (D-N.Y.) sent letters to the U.S. Food and Drug Administration (FDA) addressing the deferral of men who have sex with other men (MSM). In her letter, Rep. Torres urged FDA Commissioner Robert Califf, MD to have the agency "move expeditiouslyto review the Assessing Donor Variability and New Concepts in Eligibility (ADVANCE) Study and update blood donation guidelines…and work with blood centers to implement the updated guidelines without delay." She also asked the agency to "create a national taskforce to review the U.S. blood supply," per a 2020report to Congress on the adequacy of the national blood supply, and "requested report language to create a national taskforce to review the blood supply in the Fiscal Year 2023 Agriculture Appropriations bill." Rep. Higgins' letter to Commissioner Califf stated, "[i]t is widely acknowledged in the scientific and medical communities [that] eligibility for blood donation should be based on individual risk and that determining eligibility solely on sexual orientation and gender identity is not a necessary safety measure when considering the risk of blood-based diseases such as HIV/AIDS. In addition to risk assessment measures, FDA-qualified blood donation centers are required to screen donated blood for blood-borne diseases. As part of implementing the recently lifted ban, Canada will instate a new donor screening approach.In addition to Canada, seven other nations recently lift[ed] blood donation restrictions on gay and bisexualmen including the United Kingdom, Greece, France, Israel, Hungary, Denmark, and Brazil. It is clear that the three-month deferral requirement is not only unnecessary, but hurtful to willing donors turned away only for their sexual orientation and harmful for the millions of Americans in need of blood transfusions during this shortage."

(Sources: Rep. Norma Torres News Release, 6/14/22; Rep. Brian Higgins News Release, 6/14/22)

ABC Newsletter 6/17/22 (#22)

***Lead Story*: Donor-Recipient Gender Associated with Transfusion Outcomes?**

From: HHS Office of Public Affairs
Sent: Mon, 27 Jun 2022 21:39:54 +0000
To: Levine, Rachel (HHS/OASH)
Subject: Readout of HHS Secretary Becerra's Roundtable with Trans Youth

U.S. Department of Health and Human Services

News Release

202-690-6343
media@hhs.gov
www.hhs.gov/news
Twitter @HHSGov

FOR IMMEDIATE RELEASE
Monday, June 27, 2022

Readout of HHS Secretary Becerra's Roundtable with Trans Youth

Secretary Becerra was joined in person by Assistant Secretary January Contreras and virtually by Admiral Rachel Lavine.

On Monday, June 27, 2022, U.S. Health and Human Services Secretary Becerra hosted families with transgender children from Massachusetts, Virginia, Texas, California, Georgia, and Florida to hear about their families' experiences. He emphasized the Department's commitment to protecting access to health care, including gender-affirming care. January Contreras, the Assistant Secretary for the Administration for Children and Families (ACF) and Admiral Rachel Levine, the Assistant Secretary for Health (ASH), joined him.

Secretary Becerra thanked the families in the room for providing safe, supportive homes that allow their youth to thrive, and noted that "every American deserves to be safe, every American deserves to be loved." He stressed the Department's work to provide support services in schools, related to mental health and beyond, and the Department's effort to ensure states receiving Medicaid funding abide by nondiscrimination laws.

Statements from Additional Speakers at the Roundtable Follow Below:

January Contreras, Assistant Secretary at the Administration for Children and Families, said the nation's LGBTQI+ youth "are overrepresented in experiencing foster care and homelessness. At ACF, we share the responsibility with families and communities to change this, while we also work to create safe and gender-affirming spaces where all children and youth can thrive. Every child deserves to feel safe, valued, and loved."

Admiral Rachel Levine, Assistant Secretary for Health, joined via zoom for the second half of the conversation. She was accompanied by Congressman Darren Soto (FL-09) and a group they convened in Florida to discuss protecting trans youth. Admiral Levine underscored that "President Biden and his Administration see the LGBTQI+ community in all its diversity. We have a President who supports equality and works to ensure everyone is represented."

National Center for Transgender Equality also participated in today's roundtable. Rodrigo Heng-Lehtinen, Executive Director, emphasized that "representation matters. Being seen matters. Being heard matters, especially for transgender youth. Across this country, some politicians are

trying to score cheap political points by attacking transgender youth and their families. Today, HHS got to hear firsthand about the toll these attacks take, about the ongoing struggle of being transgender in America or loving a transgender child, and to see for themselves the beauty, dignity and poise of these families as they confront these challenges."

GenderCool also helped to convene this group. Jen Grosshandler, Executive Director and Founder of The GenderCool Project, stated "we applaud the leadership of Secretary Becerra and commitment of Health and Human Services to protecting and affirming transgender and nonbinary youth. When transgender and nonbinary youth are loved and supported, they thrive. We are deeply grateful to HHS and the Biden Administration."

Danielle King, Senior Youth Policy Counsel at the National Center for Lesbian Rights (NCLR), stated that "now more than ever it is important to show up for trans and nonbinary youth and their families, who are facing unprecedented attacks. Queer and trans youth of color particularly face enormous disparities in the child welfare and juvenile justice systems and are uniquely burdened by the school-to-prison pipeline. It is critical that we prioritize protecting our most vulnerable youth. We applaud Secretary Becerra for showing that LGBTQ youth will be protected and supported at the federal level."

Earlier this year, Secretary Becerra announced several immediate actions HHS is taking to protect LGBTQI+ youth's access to health care, including:

- Releasing guidance to state child welfare agencies through an Information Memorandum that makes clear that states should use their child welfare systems to advance safety and support for LGBTQI+ youth, which importantly can include access to gender-affirming care;
- Releasing guidance on patient privacy to clarify that health care providers are not required to disclose private patient information related to gender-affirming care; and
- Issuing guidance making clear that denials of health care based on gender identity are illegal, as is restricting doctors and health care providers from providing care because of a patient's gender identity.

These actions and others are detailed on HHS' LGBTQI+ website are part of the Department's work to ensure that transgender communities – youth, adults, families, caretakers, and providers – have the resources they need to protect the health care of transgender individuals.

If you believe that you or another party has been discriminated against on the basis of gender identity or disability in seeking to access gender-affirming care, visit HHS' Office for Civil Rights complaint portal to file a complaint online.

The roundtable closed with a statement from a 13-year-old non-binary participant, who stated a simple reminder: "We shouldn't think about this as talking to trans kids, it's just talking to kids."

###

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From: Levine, Rachel (HHS/OASH)
Sent: Fri, 24 Jun 2022 11:11:21 +0000
To: Broido, Tara (HHS/OASH)
Cc: Handley, Elisabeth (OS/OASH); Boateng, Sarah (HHS/OASH); Calsyn, Maura (HHS/OASH); Lyles, Johnalyn (HHS/OASH); Channer, Amber (OS/OASH); Migliaccio-Grabill, Kate (HHS/OASH); Seigfreid, Kimberly (HHS/OASH); Fisher, Megan (HHS/OASH); Lee, Kinbo (HHS/OASH); Cure, Kelly (OS/OASH) (CTR); Mataka, Arsenio (HHS/OASH); Oh, Kathy (OS/OASH); Iademarco, Michael (HHS/OASH); Rabin, Brian (HHS/OASH/IO)
Subject: RE: Comms Nightly: Thursday, June 23

Tara, good morning. Thank you very much, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
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OASH | Office of the Assistant Secretary for Health

From: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Sent: Thursday, June 23, 2022 4:54 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Handley, Elisabeth (OS/OASH) <Elisabeth.Handley@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Lyles, Johnalyn (HHS/OASH) <Johnalyn.Lyles@hhs.gov>; Channer, Amber (OS/OASH) <Amber.Channer@hhs.gov>; Migliaccio-Grabill, Kate (HHS/OASH) <Kate.Migliaccio-Grabill@hhs.gov>; Seigfreid, Kimberly (HHS/OASH) <Kimberly.Seigfreid@hhs.gov>; Fisher, Megan (HHS/OASH) <Megan.Fisher@hhs.gov>; Lee, Kinbo (HHS/OASH) <Kinbo.Lee@hhs.gov>; Cure, Kelly (OS/OASH) (CTR) <Kelly.Cure@hhs.gov>; Mataka, Arsenio (HHS/OASH) <Arsenio.Mataka@hhs.gov>; Oh, Kathy (OS/OASH) <Kathy.Oh@hhs.gov>; Iademarco, Michael (HHS/OASH) <Michael.Iademarco@hhs.gov>; Rabin, Brian (HHS/OASH/IO) <Brian.Rabin@hhs.gov>
Subject: Comms Nightly: Thursday, June 23

Dear ADM Levine,

We have five updates for you this evening.
For your review/approval
1. National Association of Social Work Remarks (Live Friday, June 24 at 9:45 AM)
a. 20-25 minutes of remarks and 20-25 minutes of Q & A
b. Mildred "Mit" C. Joyner, DPS, MSW, BSW, LCSW is President of the National Association of Social Workers will introduce you.
2. Health Affairs Policy Spotlight (Live Friday, June 24 at 1:00 PM)
a. This hour long interview with Health Affairs Editor-In-Chief Alan Weil

3. Interview: This Way Out Radio (TAPED Friday, June 24 at 4:00 PM)
a. YOU will participate in an interview with This Way Out: International LGBTQ Radio magazine, heard on 183 public and community radio stations worldwide. The host of "Conversation with Q" is a 4-part series hosted by Writer/Performer Roger Q. Mason will interview YOU.

4. Updated Speaking Engagement List

For your information/awareness
5. Department of Education Title IX Regulation Rollout Materials
a. press release: https://www.ed.gov/news/press-releases/us-department-education-releases-proposed-changes-title-ix-regulations-invites-public-comment
b. Secretary Cardona's remarks from the press call to help around how he framed it: https://www.ed.gov/news/speeches/secretary-cardonas-remarks-us-department-educations-release-proposed-amendments-title-ix
c. Department of Education's Talking Points:
Key Highlights:

- The Department's goals are to ensure that **no one experiences sex discrimination in education, that all students receive appropriate supports as needed, and that schools have fair procedures in place to investigate and resolve sex discrimination complaints**, including complaints of sex-based harassment and violence.
- The new proposed regulations will restore vital protections for students that were eroded by controversial regulations implemented during the previous Administration. Those regulations weakened protections for survivors of sexual assault and diminished the promise of an education free from discrimination.

- The new proposed regulations will also provide clear rules to help schools meet their Title IX obligation to eliminate sex discrimination in school environments.
- They will also strengthen protections for LGBTQI+ students by clarifying that Title IX's protections against discrimination based on sex apply to discrimination based on sexual orientation and gender identity.
- The proposed regulations reaffirm the Department's core commitment to fundamental fairness for all parties; protecting freedom of speech and academic freedom; and respect for the autonomy and protections that complainants need and deserve when they come forward with a claim of sex discrimination.

More Details:

The proposed regulations require **all schools that receive federal funds to respond promptly, equitably, and effectively to *all* sex discrimination in their education programs or activities**. **They would:**

- **Protect students and employees from all forms of sex discrimination, including** discrimination based on **sex stereotypes, pregnancy or related conditions, sexual orientation, and gender identity**.
- **Protect LGBTQI+ students from discrimination based on sexual orientation, gender identity, and sex characteristics.**
    - The proposed regulations would clarify that Title IX's prohibition on discrimination based on sex applied to discrimination based on sexual orientation and gender identity. They would make clear that preventing someone from participating in school programs and activities consistent with their gender identity would cause harm in violation of Title IX, except in some limited areas set out in the statute or regulations.
    - The Department plans to issue a separate notice of proposed rulemaking on whether and how the Department should amend the Title IX regulations to address students' eligibility to participate on a particular male or female athletics team.

Thanks,
OASH Comms

From: HHS Office of Public Affairs
Sent: Thu, 23 Jun 2022 18:51:10 +0000
To: Levine, Rachel (HHS/OASH)
Subject: Pride Month Fact Sheet

News Release

U.S. Department of Health and Human Services

202-690-6343
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www.hhs.gov/news
Twitter @HHSGov

FOR IMMEDIATE RELEASE
Thursday, June 23, 2022

Pride Month Fact Sheet

I. Fighting Discrimination based on Sexuality or Gender Identity

- Issued guidance making clear that denials of health care based on gender identity are illegal, as is restricting doctors and health care providers from providing care because of a patient's gender identity. [OCR]
- Took action to further civil rights and equal opportunity for all people, irrespective of their sexual orientation, gender identity, and religion, by reestablishing the agency's commitment to furthering nondiscrimination and upholding the law by rescinding inappropriate, overly broad waivers issued by the prior Administration. [OCR]
- Departmental Appeals Board (DAB) representatives engaged in discussions regarding upcoming Section 1557 nondiscrimination notice updates, which await finalization.
- The Centers for Disease Control and Prevention's (CDC) Office of Equal Employment Opportunity (OEEO) began meeting quarterly with GLOBE and other Employee organizations to develop and improve relationships and cultural awareness throughout the agency.

Promoting the use of inclusive language

- DAB participated in Secretary's Challenge on Equity and submitted initiative to promote and implement the use of inclusive language throughout the DAB.
- DAB is currently working with HHS EEODI to schedule regular DEIA training beginning this summer, and plans to focus initial training on developing an inclusive workplace.

- In December 2021, the Administration for Children and Families (ACF) Senior Leadership and the Office of Grants Policy hosted a training session to provide guidance to program offices about gender affirming language to consider including in Notices of Funding Opportunity to promote equity and support for sexual and gender diverse Individuals.
- CDC's National Center for Health Statistics (NCHS) released the findings of the federal government's first-ever user research testing conducted with transgender Americans on how they want to see themselves reflected on Federal IDs. This groundbreaking user research by the Collaborating Center for Question Design and Evaluation Research (CCQDER) at NCHS directly informed the State Department's adopted definition of the "X" gender marker.
- In 2021, the NIH Sexual & Gender Minority Research Office developed and released a digital resource titled *Gender Pronouns & Their Use in Workplace Communications*.
    - This resource provides an overview of gender pronouns, legal rights protecting sexual and gender minority (SGM) employees, guidance on the appropriate use of pronouns within the workplace, and other useful information.

II. LGBTQI+ Inclusive Policy Priorities and Research and Community Investments

- DAB appointed representatives to the HHS LGBTQI+ Coordinating Committee; also assigned representatives to the Internal HHS Operations to Enact LGBTQI+ Inclusive Priorities subcommittee and Policy Development subcommittee.
- Since 2015, the National Institutes of Health has seen unprecedented growth in the number of research projects funded related to the health and well-being of sexual and gender minority (SGM) communities.
- From FY 2015 to FY2020, the agency saw a 66.1% increase in the number of funded SGM-related projects.
- In FY 2020, the number of non-HIV/AIDS funded SGM-related projects reached its highest level ever, demonstrating a 148.1% increase since FY 2015.
- There was also an 89.9% increase in the number of training and career-related awards within this space from FY 2015 to FY 2020. The growth and expansion of SGM health-related activities at NIH have been and continue to be a key priority of the NIH Sexual & Gender Minority Research Office (SGMRO).
- CDC's REACH cooperative agreement, currently funding 40 recipients throughout the U.S. to plan and carry out local, culturally appropriate programs to address a wide range of health issues, explicitly includes LGBT populations as a potential priority population experiencing health disparities.
- CDC is monitoring human papillomavirus (HPV) burden and HPV vaccination for gay, bisexual, and other men who have sex with men

(MSM) and transgender women, who are disproportionately affected by HPV infection and related cancers. In the United States, HPV vaccination is routinely recommended for all adolescents at age 11–12 years and catch-up vaccination is recommended for all persons through age 26 years. The ongoing Surveillance of Anal HPV among Men (SAM) project and two related completed research studies have provided evidence of HPV vaccine effectiveness among MSM and transgender women.

- CDC Provided over $135,000 in PHHS Block Grant funds to three state health departments (Hawaii, Indiana, and Wyoming) to include or maintain Sexual Orientation and Gender Identity (SOGI) minorities data in Behavioral Risk Factor Surveillance System (BRFSS) surveys to monitor health risk behaviors in LGBTQI+ populations (PHHS Block Grant)
- FDA CDER has designated two representatives from the Center's Office of Medical Policy (OMP) designated to serve on the subcommittee for policy development related to the HHS LGBTQI+ Coordinating Committee's emerging workstreams. [OMP]
- CDER participated in the "Clinical Pharmacology Considerations for Treatment and Prevention of HIV-1 Infection in Transgender Population" presentation at the 2022 annual meeting of the American Society for Clinical Pharmacology and Therapeutics (ASCPT). The presentation discussed why transgender people are a key demographic to focus on during development of therapeutics for the treatment and prevention of HIV-1 infection, highlighted unique challenges and knowledge gaps and outlined a few strategies to facilitate early enrollment of transgender people in clinical trials (Link to Program) [CDER/OTS/OCP]
- CDRH authorized marketing of the One Male Condom, specifically indicated to help reduce transmission of sexually transmitted infections (STIs) during anal intercourse for gay and straight partners. [CDRH]
- Provided $2.2 billion in Ryan White HIV/AIDS Program funding for cities, counties, states, and local community-based organizations in fiscal year (FY) 2021 to supports a comprehensive system of HIV primary medical care, medication, and essential support services critical to improving the health outcomes of nearly 560,000 people with HIV in the United States, as announced in October 2021. [HRSA]
- Hosted 16 virtual Ending the HIV Epidemic in the U.S. (EHE) initiative community engagement listening sessions between March 2021 and September 2021 in the 10 U.S. Department of Health and Human Services regions to provide a direct line of communication among HRSA, public health leaders, and community members in EHE jurisdictions. More than 1,900 participants, including people with lived experience, healthcare providers, community leaders, and organizations involved in HIV prevention, care, and treatment, attended at least one of the sessions. [HRSA]

III. Sharing Resources, Information, and Support from the Department

- For the first time in Department history HHS flew the pride flag outside of the Hubert H. Humphrey building.
- DAB will promote culture campaign events for LGBTQI+ Pride Month in June (currently soliciting DAB-wide suggestions for LGBTQI+ Pride Month celebration ideas; drafting DAB-wide communications from leadership and engagement coordinator highlighting HHS and federal government events and resources; will host LGBTQI+ Pride History Trivia event in late June).
- Working to provide frontline health providers and public health officials with information about what infection with monkeypox looks like and how to manage the illness, as well as raising awareness of the current situation with multiple partners in the LGBTQIA+ community. Activities include building awareness and providing public health messaging via social/dating apps popular with gay and bisexual men, sharing information with LGBTQIA+ community partners and sexual health clinics, and developing a fact sheet for people who are sexually active.
- The FDA Center for Tobacco Products (CTP) also published a web page that is focused on tobacco use in the LGBTQI+ community and that summarizes risk factors and health risks, and provides quitting resources on FDA.gov –[https://www.fda.gov/tobacco-products/health-effects-tobacco-use/tobacco-use-lgbt-community-public-health-issue]
- The FDA Office of Minority Health and Health Equity (OMHHE) supports and promotes LGBTQI+ communities through social media and health education resources. OMHHE will celebrate Pride Month and the progress made to promote health equity for LGBTQI+ communities. In addition, OMHHE launched new health education resources on HIV, including a fact sheet, brochure, infographics, and a podcast episode on PrEP and PEP for HIV prevention in older adults.
- DAB sent out agency-wide announcements regarding the HHS Transgender Day of Visibility, including the White House's Community Call and the HHS Transgender Pride Flag photo opportunity.
- For the first time in HHS and FDA history, for the full month on June 2022 (PRIDE Month), the Progress Pride flag was raised at HHS and FDA Headquarters in Washington, D.C., and Silver Spring, Maryland.
    - HHS, to commemorate the occasion, held a small ceremony on June 1 outside of the Hubert Humphrey building in Washington D.C. for HHS employees to see the Progress Pride flag fly outside of HHS headquarters and share their stories about what this moment meant to them.
    - FDA, to commemorate the occasion, held a small ceremony on June 1st to include remarks from the FDA Commissioner and the Principal Deputy Commissioner, the Chief Operating Officer, and the OEEO Director. Other participants included other Center Directors, members of the LGBTQI+ ERG

(FDA GLOBE), and other employees. This flag will be preserved with the FDA History Office.

IV. Improving access to quality, affirming care

- Released guidance on patient privacy, clarifying that health care providers are not required to disclose private patient information related to gender affirming care. [OCR]
- The Affordable Care Act improved rates of health care coverage among LGBTQ+ people, with a 27 percent relative decline in the uninsured rate from 2013 to 2019. https://aspe.hhs.gov/reports/health-insurance-coverage-lgbtq [ASPE]
- Because the American Rescue Plan (ARP) increased the generosity of premium subsidies available in the Marketplace, approximately 210,000 LGBTQI+ Marketplace enrollees now have access to a zero-premium plan. https://aspe.hhs.gov/reports/health-insurance-coverage-lgbtq [ASPE]
- Biden-Harris Administration Greenlights Coverage of LGBTQ+ Care as an Essential Benefit in Colorado - Summary: "In October 2021, CMS approved a request to provide gender-affirming care in the individual and small group health insurance markets as part of Colorado's Essential Health Benefit (EHB) benchmark. Colorado's EHB-benchmark plan, which enhanced access to coverage for gender-affirming care that meets individual needs, aligned with the Biden-Harris Administration's efforts to address health care disparities by removing longstanding barriers and expanding access to care for transgender persons."
- Released a letter in December 2021 encouraging Ryan White HIV/AIDS Program service providers to leverage their existing infrastructure to provide access to gender affirming care and treatment services to transgender and gender diverse individuals with HIV. [HRSA]
- Released the Health Resources and Services Administration's HIV/AIDS Bureau (HRSA HAB) Policy Clarification Notice (PCN) 21-02 entitled "Determining Client Eligibility and Ensuring Payor of Last Resort in the Ryan White HIV/AIDS Program (RWHAP)." Effective October 2021, PCN 21-02 reduces RWHAP recipient administrative and client burden by eliminating the six month recertification process, while enhancing continuity of care to ensure that clients have access to medical and support services in order to reach viral suppression. [HRSA]
- Launched the Ryan White HIV/AIDS Program (RWHAP) Best Practices Compilation in August 2021, which gathers and disseminates RWHAP interventions that improve outcomes along the HIV care continuum. [HRSA]
- Funded the National LGBTQIA+ Health Education Center publication "Health Care Considerations for Two Spirit and LGBTQIA+ Indigenous Communities" to guide health centers in providing affirming care and services for Two Spirit and LGBTQIA+ American Indian/Alaska Native (AI/AN) people. This resource explores key concepts, terminology, and the

effects of historical trauma. It shares best and promising practices for care that incorporate Indigenous holistic models of wellness and focus on resilience and protective factors, including links to resources for further exploration of this topic. January 2022 [HRSA]

Prioritizing Equity and Closing Disparity Gaps

- In support of the Patient Centered Outcomes Research Trust Fund (PCORTF) Strategic Plan, the Office of Assistant Secretary for Planning and Evaluation (ASPE) coordinated a workshop with the National Academies. A supporting panel within the workshop focused on "PCOR Data Infrastructure: Disparities and Health Equity Research," which highlighted health disparities among and lack of data for sexual and gender minority patients within the LGBTQ+ community. These findings were reflected in a NASEM interim report and will be integrated in the future release of the PCORTF Strategic Plan. [ASPE]
- Through a National Center for Poverty and Economic Mobility Research grant, ASPE partnered with the University of Wisconsin-Madison to issue a research memo on inequities in human services due to SOGI, including mechanisms to disrupt, reduce, or eliminate these inequities. (ASPE)
- Biden-Harris Administration Quadruples the Number of Health Care Navigators Ahead of HealthCare.gov Open Enrollment Period - Summary: "In August 2021, the Biden-Harris Administration expanded the number of Navigator organizations to help people enroll in coverage through the Marketplace, Medicaid, or the Children's Health Insurance Program (CHIP) in 30 states with a Federally Facilitated Marketplace. Awardees focused on outreach to people who identify as racial and ethnic minorities, people in rural communities, the LGBTQ+ community, American Indians and Alaska Natives, refugee and immigrant communities, low-income families, pregnant women and new mothers, people with transportation or language barriers or lacking internet access, veterans, and small business owners."

V. Improving Data Collection

- In July 2021, the Office of the National Coordinator for Health Information Technology (ONC) released the United States Core Data for Interoperability version 2 (USCDI v2), a standardized set of health data classes and elements for nationwide, interoperable health information exchange. This update lays the foundation for the providers across the country to start systemizing the capture and use of sexual orientation and gender identity data in the clinical setting. (Press Release)
- Released the United States Core Data for Interoperability version 2 (USCDI v2), a standardized set of health data classes and constituent data elements for nationwide, interoperable health information exchange. USCDI v2 adds data elements like sexual orientation, gender identity, and social determinants of health while helping to address disparities in health

outcomes for minoritized, marginalized, and underrepresented individuals and communities [ONC]

- Data collection on gender identity, sexual orientation, and nonbinary sex: Future iterations of CDC's Study to Explore Early Development (SEED) Follow-up Studies plans to ask questions on gender identity, sexual orientation, and capture a third category for sex.
- CDC published the annual STD Surveillance Report providing current trends in reportable STDs in the United States, including trends in syphilis and gonorrhea among men who have sex with men (MSM) and, for the first time, trends in syphilis among transgender persons
- Released the 2020 Ryan White HIV/AIDS Program (RWHAP) Annual Client-Level Data Report in December 2021, which highlighted nearly 562,000 people received HIV care, treatment, and essential support services from the RWHAP in 2020. According to the report, 89.4 percent of RWHAP clients receiving HIV medical care in 2020 were virally suppressed, which means they cannot sexually transmit the virus to their partner. [HRSA]

VI. Prioritizing Intersectionality and promoting Wellbeing for disabled, older, and youth members of the LGBTQI+ community.

- The Agency for Healthcare Research and Quality (AHRQ) announced the results of Agency-funded research on disparities facing LGBTQ people of color that found educating clinicians, establishing safe spaces, and asking questions can help improve communication and shared decision-making with LGBTQ patients. Based on interviews and focus groups with more than 200 LGBTQ people of color, resources available include definitions and concepts related to sexual orientation and gender identity, as well as recommendations to help transform how clinicians teach their colleagues and advocate for their patients.
- ACL's National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR) funds research projects that contribute to better understanding the needs of people with disabilities who identify as lesbian, gay, bisexual, transgender, queer, intersex, asexual, or other (LGBTQIA+) to inform development of interventions aimed at improving their community living and participation, employment, and health outcomes. For example, NIDILRR funded a study entitled Understanding Sexuality and Community Participation in Adults on the Autism Spectrum and two peer reviewed articles reported on the healthcare needs of LGBTQIA+ disabled people in the last year. https://pubmed.ncbi.nlm.nih.gov/35270279/ (Feb 2022) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8823668/ (Nov 2021).
- ACL's National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR) funds a variety of projects, including one working with LGBTQ+ autistic adults to identify barriers to community participation and supports to address these barriers.

- ACL-funded State Councils on Developmental Disabilities in Washington, D.C., Michigan and New York are supporting projects that work directly with LGBTQ+ people with intellectual and developmental disabilities. For example, the New York DD Council has awarded a three-year grant to the National Alliance for Direct Support Professionals, The Autistic Self Advocacy Network and The Burton Blatt Institute to conduct virtual trainings that teach direct support professionals best practices in supporting people with intellectual and developmental disabilities who identify as LGBTQIA+. The importance of pride, safety, inclusion and acceptance of people who identify as LGBTQIA+ are all part of the "why" of this training.
- ACL-funded University Centers for Excellence in Developmental Disabilities (UCEDDs) around the country are working to ensure people with IDD have access to appropriate and inclusive sexual health information. For example, Oregon's UCEDD has developed a resource hub with videos, training tools, and more.
- Amplified and promoted technical assistance opportunities and webinars to support the Health Center Program's nearly 1,400 health centers to engage with and provide health care for LGBTQIA+ patients in their communities, including outreach and services for LGBTQIA+ youth, older adults, migrant and seasonal agricultural workers, and people experiencing homelessness. June 2021 to May 2022 [HRSA]
- Biden-Harris Administration Improves Home Health Services for Older Adults and People with Disabilities - Summary: "In November 2021, CMS issued a final rule that furthered CMS' strategic commitment to drive innovation that promotes comprehensive, person-centered care for older adults and people with disabilities by accelerating the shift from paying for home health services based on volume, to a system that incentivizes value and quality. The final rule also strengthened CMS' data collection efforts to identify and address health disparities and use of care among people who are dually eligible for Medicare and Medicaid, people with disabilities, people who identify as LGBTQ+, religious minorities, people who live in rural areas, and people otherwise adversely affected by persistent poverty or inequality."
- For more than fifteen years, ACL's guidance for Older Americans Act programs has stated that "isolation due to sexual orientation or gender identity may restrict a person's ability to perform normal daily tasks or live independently" and therefore LGBTQ+ older adults should be targeted for services and supports because they meet the Older Americans Act definition of "greatest social need."
- Since 2010, ACL has supported the National Resource Center on LGBT Aging to provide technical assistance aimed at improving the quality of services and supports offered to LGBTQ+ older adults.
- On Aug. 5, 2021, ACL released new guidance for states to use in developing their state plans. This guidance will emphasize and build upon ACL's long-standing inclusion of LGBTQ+ older adults as a population in

greatest social need by requiring states and area agencies on aging to describe in their plans how they will conduct outreach and education to LGBTQ+ older adults.

- ACL is taking steps to increase data and research on the unique needs of, and approaches to serving, members of the LGBTQ+ community. For example ACL is engaged with the Measuring Sex, Gender Identity, and Sexual Orientation for the National Institutes of Health ad hoc panel of the National Academies of Sciences, Engineering, and Medicine and looks forward to the report providing direction on how best to incorporate sexual orientation and gender identity questions into the National Survey of Older Americans Act Participants.
- Funded the National LGBTQIA+ Health Education Center publication "Housing, Health, and LGBTQIA+ Older Adults" which provides health centers with promising practices for supporting LGBTQIA+ older adults with their housing and related health care needs, including screening for homelessness and housing, supporting aging in place, providing affirming referrals for housing and supportive services, and offering inclusive health care environments. September 2021 [HRSA]
- In March 2022, ACF released an Information Memorandum (IM) that provides a roadmap for child welfare agencies to support and protect LGBTQI+ children in their care. More specifically, it gives agencies clear information about how to provide safe, appropriate, and affirming care to LGBTQI+ children and youth who are involved with the child welfare system. Finally, the IM underscores each agency's responsibility to support all children and youth who are in care, including those who are LGBTQI+.
- Confirming the positive impact of gender affirming care on youth mental health. The Substance Abuse and Mental Health Services Administration (SAMHSA) has posted on its website "LGBTQI+ Youth – Like All Americans, They Deserve Evidence-Based Care," in which Miriam Delphin-Rittmon, Ph.D., HHS Assistant Secretary for Mental Health and Substance Use and the leader of SAMHSA, shares how to engage LGBTQI+ youth, the evidence behind the positive effects of gender affirming care, and available resources for LGBTQI+ youth, their families, providers, community organizations, and government agencies. [SAMHSA]
- Confirming that gender-affirming care is trauma-informed care. The National Child Traumatic Stress Network (NCTSN), which is administered by the Substance Abuse and Mental Health Services Administration, is releasing new information for providers confirming that providing gender-affirming care is neither child maltreatment nor malpractice. [SAMHSA]
- The Substance Abuse and Mental Health Services Administration (SAMHSA) is updating the 2015 publication *Ending Conversion Therapy: Supporting and Affirming LGBTQ Youth* to reflect the latest research and state of the field. The revision will include updated professional consensus statements, information on health inequities and resilience among LGBTQI+ communities, and information on the latest recommended therapeutic interventions and supports for sexual and gender minority

youth, their families, and the communities in which they live. This revision will be posted and can be downloaded free from the SAMHSA Store. [SAMHSA]

- NASEM: Promoting Emotional Well-Being and Resilience: Through CDC's ongoing efforts and principles for inclusive communication, CDC supported the National Academies of Sciences, Engineering, and Medicine, to develop a series of tools that teach healthy ways to deal with stressful situations for children and adolescents. The tools include web-based, short, interactive videos and graphic novel-style documents. They are based on cognitive behavioral therapy strategies for reducing stress and anxiety. The tools feature characters including persons who are transgender and the use of gender-neutral pronouns. For example, the tool includes a scenario addressing some of the stressors that people who are transgender may experience and strategies for how to manage the stress and anxiety.
- CDC funds 11 comprehensive suicide prevention (CSP) recipients to implement and evaluate a comprehensive public health approach to suicide prevention, with attention to vulnerable populations, including LGBTQ+ youth and adults. Recipients are implementing upstream, community and healthcare-based strategies and approaches from CDC's Suicide Prevention Technical Package to prevent suicide.
- CDC's Dating Matters comprehensive teen dating violence prevention model is being adapted to be more explicitly inclusive of LGBTQ+ youth and their relationships, and to promote health equity by addressing the unique needs of LGBTQ+ youth in the prevention of dating violence and promotion of healthy relationships.
- CDC's newly published journal article, Examining the Relationship Between LGBTQ-Supportive School Health Policies and Practices and Psychosocial Health Outcomes of Lesbian, Gay, Bisexual, and Heterosexual Students | LGBT Health (liebertpub.com), describes how implementing LGBTQ-supportive school practices and policies helps all students feel safer at school and encourages students to make better health choices. For example, schools with gay-straight alliance (GSA) or similar clubs have better health comes for both LGB and straight students.
- Funded the National LGBTQIA+ Health Education Center publication "LGBTQIA+ Youth and Experiences of Human Trafficking: A Healing-Centered Approach" which provides a framework for understanding the forces that drive human trafficking among LGBTQIA+ youth, and offers recommendations for providing meaningful, affirming, and non-judgmental care through the application of a healing-centered approach. September 2021 [HRSA]

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From: Lovenheim, Sarah (HHS/ASPA)
Sent: Thu, 23 Jun 2022 15:46:43 +0000
To: Lovenheim, Sarah (HHS/ASPA)
Subject: Latest Toplines: Monkeypox

All:
Some of you have asked for our latest Monkeypox toplines. Please find the latest overview below, which includes key points tied to an announcement we made last night as a Department about expanding access to testing.

Monkeypox Topline Messages
6/23/2022

- Addressing the monkeypox outbreak is a critical priority, and we have launched a rapid and comprehensive response to address it.

- We continue to have ample tools at our disposal to treat and detect monkeypox – tests that the Centers for Disease Control and Prevention began shipping earlier this week to the top five commercial labs in the U.S. and a healthy volume of vaccines.

- However, our work is not over. We do not yet know how this disease may evolve.

- We continue to support health care providers, so that they can train clinicians about the importance of testing, and sending samples collected to labs for determining positive cases.

- There are now 155 confirmed cases of monkeypox and orthopox virus infections in the U.S.
    - Current U.S. and global maps and case counts are available here.
    - This includes one Florida case that is included in United Kingdom case counts because a person was tested while in the UK, and one case of a non-U.S. resident.

- Most people who are infected with monkeypox virus recover fully without the need for any specific treatment. The cases we've seen so far have not been severe.

- Today, the World Health Organization's International Health Regulations Emergency Committee is scheduled to discuss whether monkeypox should be declared a Public Health Emergency of International Concern (PHEIC). This is the WHO's highest level of global alert.

- On June 14, CDC issued a Health Alert Network (HAN) notice to inform health care providers about two emerging issues in the monkeypox response:
    - Symptoms and disease course that are different from what has been seen historically in other monkeypox outbreaks.
    - A limited number of monkeypox cases reported in people who had no obvious link to international travel.
    - These two issues have raised concerns that some monkeypox infections in the United States may not be recognized and tested.
    - The HAN notice presents an updated and expanded case definition intended to encourage testing for monkeypox in people with a rash and who may be at risk for developing monkeypox.

- More testing is critical to better understand how monkeypox is spreading.
    - Since the detection of this monkeypox outbreak in the United States, the number of tests conducted has nearly doubled each week.
    - CDC continues to work with partners to expand testing capabilities to commercial labs.
    - CDC also continues to review and expand case criteria to make sure clinicians across the country test patients who fit the clinical considerations.
    - CDC's confirmatory testing protocol should never delay public health interventions to prevent further spread. A positive case from a state lab should result in immediate interventions, such as isolation and contact tracing.
        - This week, the Centers for Disease Control and Prevention (CDC) began shipping monkeypox tests to five commercial lab companies, including the nation's largest reference laboratories, to quickly increase monkeypox testing capacity in every community.
        - These commercial labs will work swiftly to dramatically expand testing capacity.
        - Labs will begin to offer testing to clinical providers by early July and ramp up capacity throughout the month.
        - This development will facilitate increased testing, due to health care providers being able to work with labs they have established relationships with, and supports our ability to more fully understand the scope and spread of the current monkeypox outbreak

- Current evidence indicates that the virus appears to be spreading mostly through close, physical contact with someone who has monkeypox.

- CDC recommends that anyone who develops symptoms of monkeypox, such as a new or unexplained rash, should see a healthcare provider right away.

- Anyone – regardless of gender identity or sexual orientation – can get monkeypox if they have close contact with someone who has monkeypox. However,

many of those affected in the current global outbreaks are gay, bisexual, or other men who have sex with men.

- CDC urges healthcare providers to remain vigilant for potential monkeypox cases, use appropriate infection prevention and control measures, and notify public health authorities of suspected cases to reduce disease spread.

And here are additional talkers for any Q&A, if needed:

- Monkeypox is not COVID. We have studied Monkeypox over the years and in contrast to COVID-19, the U.S. has prepared for monkeypox by investing in tests, medicines, and vaccines needed to respond to such an outbreak, and we have been leveraging all of these tools since day one.

- There has been a whole-of-government response since May 18th, the day CDC confirmed the first monkeypox patient in the U.S. Hundreds of staff are engaged across federal government to execute on our response.

- However, COVID-19 has underscored the need to respond with urgency to infectious disease outbreaks. That is why we have been responding with urgency and doing the following:

    - Our top priority is scaling and decentralizing testing access as rapidly and broadly as possible, which is critical to control the outbreak. This has been our major focus since early in the response, and we are doing so as rapidly as possible.

    - We are ensuring access to vaccines and treatments by distributing vaccines and treatments to jurisdictions across the nation.

    - And we are providing guidance and communicating with healthcare providers, public health officials, and communities on a daily basis across the country to help state and local officials, providers, and patients understand how to access testing, treatments, and vaccines.

Please be in touch with any questions.

From: Levine, Rachel (HHS/OASH)
Sent: Wed, 22 Jun 2022 10:58:30 +0000
To: 'Sarah Boateng'; 'Megan Fisher'
Subject: FW: SOGI Data Inclusion Letter from LGBTQI+ service providers and advocacy organizations
Attachments: HHS Data Collection Letter FINAL.pdf

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
hhs.gov/ash

OASH | Office of the Assistant Secretary for Health

From: Brooks, Benjamin (He/Him/His) <BBrooks@whitman-walker.org>
Sent: Tuesday, June 21, 2022 4:08 PM
To: Becerra, Xavier (OS/IOS) <Xavier.Becerra@hhs.gov>
Cc: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Contreras, January (ACF) <January.Contreras@acf.hhs.gov>; Barkoff, Alison (ACL) <Alison.Barkoff@acl.hhs.gov>; Valdez, Robert (AHRQ/IOD) <Robert.Valdez@ahrq.hhs.gov>; Montz, Ellen (CMS/CCIIO) <Ellen.Montz@cms.hhs.gov>; director@cdc.gov; Derrick.harkins@hud.gov; Brooks-LaSure, Chiquita (CMS/OA) <Chiquita.Brooks-LaSure@cms.hhs.gov>; Pino, Lisa (HHS/OCR) <Lisa.Pino@hhs.gov>; Califf, Robert (FDA/OC) <Robert.Califf@fda.hhs.gov>; Sommers, Benjamin (HHS/ASPE) <Benjamin.Sommers@hhs.gov>; Carole.johnson@hrsa.gov; Fowler, Elizabeth (IHS/HQ) <Elizabeth.Fowler@ihs.gov>; McIver, LaShawn (CMS/OMH) <LaShawn.McIver@cms.hhs.gov>; Tabak, Lawrence (NIH/OD) [E] <lawrence.tabak@nih.gov>; Tripathi, Micky (OS/ONC) <Micky.Tripathi@hhs.gov>; Delphin-Rittmon, Miriam (SAMHSA/OAS) <Miriam.Delphin-rittmon@samhsa.hhs.gov>; Murthy, Vivek (HHS/OASH) <Vivek.Murthy@hhs.gov>
Subject: SOGI Data Inclusion Letter from LGBTQI+ service providers and advocacy organizations

Dear Secretary Becerra:

Attached please find a letter from 42 national, state and local health care and advocacy organizations serving LGBTQI+ communities throughout the United States, urging the Health and Human Services Administration (HHS) to effectuate the policy recommendations of President Biden's June 15 Executive Order, Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI) Individuals and the recommendations from the National Academies of Sciences, Engineering, and Medicine's report Measuring Sex, Gender Identity, and Sexual Orientation (SOGI).

We are thankful for the leadership of HHS and your demonstrated commitment to a data-driven approach to addressing health equity among LGBTQI+ people. We are appreciative of the opportunity to be in partnership with you to continue building on your historic investments for SOGI data inclusion.

Respectfully,

Benjamin Brooks,
on behalf of the Federal LGBTQI Health Policy Roundtable
(a coalition of 22 national advocacy organizations and community health centers, and a number of individual health care experts)

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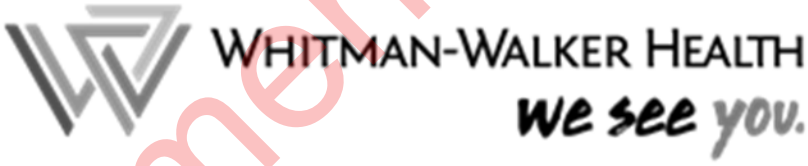

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Disclaimer

June 21, 2022

TO: The Honorable Xavier Becerra, Secretary of Health and Human Services

CC: Admiral Rachel L. Levine, MD, Assistant Secretary for Health;
January Contreras, JD, ACF Administrator;
Alison Barkoff, JD, ACL Administrator;
Robert Otto Valdez, PhD, AHRQ Administrator;
Ellen Montz, PhD, Deputy Administrator and Director of the Center for Consumer Information and Insurance Oversight;
Rochelle P. Walensky, MD, Director of the Centers for Disease Control and Prevention;
Derrick Harkins, MDiv, Center for Faith-Based and Neighborhood Partnerships Administrator;
Chiquita Brooks-LaSure, MPP, Administrator for the Centers for Medicare and Medicaid Services;
Lisa Pino, JD, Director, Office for Civil Rights, HHS;
Robert M. Califf, MD, FDA Administrator
Benjamin Sommers, MD, PhD, Senior Official Performing the Duties of the Assistant Secretary for Planning and Evaluation, Deputy Assistant Secretary, Office of Health Policy;
Carole Johnson, MA, HRSA Administrator;
Elizabeth Fowler, BS, IHS Administrator;
LaShawn McIver, MD, Director of the Office of Minority Health;
Lawrence A. Tabak, DDS, PhD, NIH Administrator;
Micky Tripathi, PhD, ONC Administrator;
Miriam E. Delphin-Rittmon, PhD, SAMHSA Administrator;
Vice Admiral Vivek Murthy, MD, U.S. Surgeon General,

Re: Expanding and enhancing data collection on LGBTQI+ communities

Dear Secretary Becerra:

On behalf of the undersigned 42 organizations committed to advancing the health and wellbeing of lesbian, gay, bisexual, transgender, queer, intersex, and other sexual and gender minority (LGBTQI+) people in the United States, we write in response to President Biden's June 15 Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals[1] and the recent release of the National Academies of Sciences, Engineering, and Medicine's (NASEM) report *Measuring Sex, Gender Identity, and Sexual Orientation*.[2] The milestone NASEM report presents guiding principles and best practices for collecting data on sex, sexual orientation, gender identity, and variations in sex characteristics, which are essential to identify and address the specific needs of LGBTQI+ populations. We are thrilled to see sexual orientation, gender identity, and sex characteristics inclusive data collection in President Biden's Executive Order. Data collection is a

[1] Executive Office of the President, "Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals," *Federal Register* 87 (118) (2022): 37189-95, available at https://www.govinfo.gov/content/pkg/FR-2022-06-21/pdf/2022-13391.pdf

[2] National Academies of Sciences, Engineering, and Medicine, "Measuring Sex, Gender Identity, and Sexual Orientation" (Washington: 2022), available at https://www.nap.edu/catalog/26424/measuring-sex-gender-identity-and-sexual-orientation.

critical goal for this Administration as well as for us, and we are so appreciative of the opportunity to work in partnership with you.

The U.S. Department of Health and Human Services (HHS) has demonstrated a commitment to advancing the rights of LGBTQI+ communities and to adopting a data-driven approach to policymaking.[3] Since at least 2001, HHS has recognized the staggering health inequities that LGBTQI+ people face,[4] and in 2016 the Department developed a plan to advance LGBTQI+ health equity that included demographic data collection as a priority for both population-based surveys and program administration.[5] Just recently, HHS published a comprehensive list of strategies to improve demographic data collection for all projects and programs in its Strategic Plan for 2022-2026.[6] The Centers for Medicare & Medicaid Services (CMS) put expanded demographic data collection front and center in its 2022-2032 Framework for Health Equity. Priority 1 of CMS's Framework outlines a commitment to improve standardized collection of information on beneficiaries' "race, ethnicity, language, gender identity, sex, sexual orientation, disability status, and social determinants of health."[7]

We now write to encourage HHS to continue building on its historic work by adopting the NASEM report's recommendations. Specifically, we respectfully request that HHS take necessary action to 1) support the addition of recommended measures of sexual orientation, gender identity, and variations in sex characteristics to priority HHS data collection mechanisms and 2) invest in future research to continue to develop, test, and improve measures of sexual orientation, gender identity, and sex characteristics.

Implementing and continuously improving these measures is essential to capture a more comprehensive, accurate, and data-driven understanding of the disparities and challenges that LGBTQI+ communities face with regard to their health, well-being, and opportunities, and to develop evidence-based policy interventions that advance health and equity. Expanding and enhancing data collection on LGBTQI+ communities is also critical to fulfill directives set out by Executive Order 13985,[8] which directs federal agencies to promote equity for LGBTQI+ and other underserved communities through various actions, including but not limited to increasing data collection efforts.

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[3] For example, see U.S. Department of Health and Human Services, "HHS Announces Prohibition on Sex Discrimination Includes Discrimination on the Basis of Sexual Orientation and Gender Identity," Press release, May 10, 2021, available at https://www.hhs.gov/about/news/2021/05/10/hhs-announces-prohibition-sex-discrimination-includes-discrimination-basis-sexual-orientation-gender-identity.html.

[4] See Healthy People 2010: Companion Document for Lesbian, Gay, Bisexual, and Transgender (LGBT) Health, Gay and Lesbian Med. Assoc. (2001), https://www.glma.org/_data/n_0001/resources/live/HealthyCompanionDoc3.pdf.

[5] Advancing LGBT Health & Well-Being: 2016 Report, HHS LGBT Policy Coordinating Committee, U.S. Department of Health and Human Services. (2016), https://www.hhs.gov/sites/default/files/2016-report-with-cover.pdf.

[6] See Objective 4.4: Improve Data Collection, HHS Strategic Plan FY 2022-2026, U.S. Department of Health and Human Services, https://healthapiguy.substack.com/p/the-scheduling-conundrum?s=r.

[7] Centers for Medicare and Medicaid Services, CMS Framework for Health Equity 2022-2032, https://www.cms.gov/files/document/cms-framework-health-equity.pdf.

[8] Executive Office of the President, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," *Federal Register* 86 (14) (2021): 7009-7013, available at https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf

As such, we urge HHS to take swift and meaningful action to adopt the NASEM report's recommendations and to begin collecting these important data as soon as possible.

I. The need to collect quality data on LGBTQI+ populations

Existing research reveals that LGBTQI+ people encounter significant barriers to accessing affordable, quality health care and insurance, as well as disparate outcomes related to physical, mental, and behavioral health.[9] Importantly, the health of LGTBQI+ communities is severely impacted by discrimination, stigma, prejudice, as well as other social determinants of health.[10] For transgender individuals,[11] LGBTQI+ people of color,[12] and LGBTQI+ people with disabilities,[13] obstacles to care and disparate health outcomes are even more pronounced. Health and social disparities affect LGBTQI+ children, youth, families, and older adults, including in the child welfare system and in accessing necessary services and supports across the lifespan.[14]

Lack of routine data collection on sexual orientation, gender identity, and variations in sex characteristics remains a significant barrier for policymakers, researchers, service providers, and advocates who want to more deeply understand these disparities and improve the wellbeing of LGBTQI+ communities. Currently, only a limited number of HHS-supported surveys collect data on sexual orientation and gender identity, and none ask questions that allow for the identification of people with intersex traits. HHS operating divisions that provide direct services to beneficiaries, such as CMS, also often do not require collection of information on the sexual orientation, gender identity, or variations in sex characteristics of their program participants even where other demographic data are collected. These gaps significantly restrict our ability to better understand and address the health and social challenges that LGBTQI+ people and their families face.[15, 16] Improving data collection on sexual orientation, gender identity, and variations in sex characteristics will help researchers characterize the experiences and outcomes of LGBTQI+ people; health care and human services

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[9] National Academies of Sciences, Engineering, and Medicine, "Understanding the Wellbeing of LGBTQI+ Populations" (Washington: 2020), available at https://www.nap.edu/read/25877/chapter/1

[10] Ibid.

[11] Caroline Medina, Thee Santos, Lindsay Mahowald, and Sharita Gruberg, "Protecting and Advancing Health Care for Transgender Adult Communities" (Washington: Center for American Progress, 2021), available at https://www.americanprogress.org/article/protecting-advancing-health-care-transgender-adult-communities/

[12] Lindsay Mahowald, "LGBTQ People of Color Encounter Heightened Discrimination" (Washington: Center for American Progress, 2021), available at https://www.americanprogress.org/issues/lgbtq-rights/news/2021/06/24/500918/lgbtq-people-color-encounter-heightened-discrimination/

[13] Caroline Medina, Lindsay Mahowald, Thee Santos, and Mia Ives-Rublee, "The United States Must Advance Economic Security for Disabled LGBTQI+ Workers" (Washington: Center for American Progress, 2021), available at https://www.americanprogress.org/article/united-states-must-advance-economic-security-disabled-lgbtqi-workers/

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[15] Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys, "Measurements of Sexual Orientation and Gender Identity in Federal Surveys," available at https://nces.ed.gov/FCSM/pdf/buda5.pdf (last accessed March 2021).

[16] Baker, Kellan E., Carl G. Streed Jr, and Laura E. Durso. "Ensuring That LGBTQI+ People Count-Collecting Data on Sexual Orientation, Gender Identity, and Intersex Status." The New England Journal of Medicine 384.13 (2021): 1184-1186.

providers offer person-centered care and services; and policymakers develop effective policy solutions to address disparities and assess progress on efforts to advance health equity and well-being at all ages.

II. The findings of the NASEM report

The NASEM report represents the most comprehensive review to date of methodological evidence and measurement-related research for the constructs of sex, sexual orientation, gender identity, and variations in sex characteristics.[17] This consensus report, which was commissioned by 19 entities across the National Institutes of Health (NIH), was compiled by a committee of experts in data collection methodology and practice and comprehensively reviewed by 15 peer reviewers. It provides evidence to support adding measures of these constructs to surveys and research studies, administrative data systems, and clinical systems, accounting for differences related to the uses of data, identifiability of respondents, and the risk of data disclosure in each context. The report specifically recommends formats for a question about sexual orientation identity, a two-step measure of current gender and sex assigned at birth to identify transgender and cisgender respondents, and a standalone measure of intersex status. The report also issues important recommendations for areas of ongoing research, testing, and development to continue to improve these measures.

III. Recommended actions

We respectfully urge HHS to seize the unique opportunity presented by this consensus report on evidence-based best practices by taking quick and decisive action to implement the recommendations issued by the NASEM panel. As the NASEM report makes clear, the recommended questions perform well in a variety of contexts, and there are substantial harms of continuing to exclude LGBTQI+ communities from agency efforts to enhance equitable data collection. Below we outline priority data collection mechanisms where we urge HHS to add these questions, as well as priority areas for future research.

Priority 1: Support the addition of recommended measures of sexual orientation, gender identity, and variations in sex characteristics to key HHS data collection mechanisms.

Adding measures of sexual orientation, gender identity, and variations in sex characteristics to the following HHS-supported data collection mechanisms is a top priority for our organizations. These data collection instruments can collect valuable information on LGBTQI+ communities to shape policy interventions and inform the provision of services that promote more equitable outcomes. Their size will also allow for data disaggregation, which will facilitate analysis on populations that are living at the intersection of multiple marginalized identities, such as LGBTQI+ people with disabilities and LGBTQI+ Black, Indigenous, and other communities of color. Importantly, we also support

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broad data collection on race, ethnicity, primary language, and disabilities in order to identify and address disparities that we know exist across our intersectional communities. We respectfully urge HHS to:

- Add sexual orientation, gender identity, and sex characteristics questions to the standardized demographic core questionnaire of the **Behavioral Risk Factor Surveillance System (BRFSS).** In 2020, 32 states and Guam used the sexual orientation and gender identity optional question modules.[18] Including questions on sexual orientation, gender identity, and sex characteristics in the BRFSS core is crucial to collecting valuable population-based data on the health of LGBTQI+ adults across all 50 states and the U.S. territories.

- Add gender identity and variations in sex characteristics questions to the core measures of the **Youth Risk Behavior Surveillance System (YRBSS)**, which monitors health-related behaviors among youth and young adults. Including questions on gender identity and sex characteristics is especially critical to measuring the health and wellbeing of LGBTQI+ youth given the recent wave of legislative attacks on LGBTQI+ youth, especially transgender and nonbinary youth.

- Make permanent gender identity measures and add a measure of variations in sex characteristics to the **National Health Interview Survey**, which collects valuable information to monitor trends in health status, determine barriers to accessing care, and evaluate progress toward achieving national health objectives.

- Ensure the finalized **United States Core Data for Interoperability (USCDI) version 3** includes improved sex, sexual orientation, and gender identity data elements and adds a standalone intersex status data element. Specifically, we strongly support the Office of the National Coordinator adopting data elements designed in alignment with recommendations submitted by the Health Level Seven International (HL7) Gender Harmony Project.[19] Doing so is critical to better standardize the sharing of electronic health data classes and constituent data elements to foster interoperability in health information exchange, support care for LGBTQI+ patients in clinical contexts, and facilitate monitoring of LGBTQI+ population disparities in public health surveillance.

- Implement collection of information on sexual orientation, gender identity, and variations in sex characteristics in **every HHS program where demographic information of participants is collected**. These programs include CMS programs such as Medicare, Medicaid, and the Health Insurance Marketplace, as well as programs overseen by HHS operating divisions such as the Administration for Community Living, the Administration for Children and Families, the Health Resources and Services Administration, and others that

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directly serve the public. While the existence of health disparities for LGBTQI+ people has been well-documented, their origins are not well understood. This is due in part to the fact that few high-quality, large-scale data sets exist in the very systems where those disparities occur. For example, CMS recently proposed a new information collection on the Model Medicare Advantage and Prescription Drug Plan application that did not include sexual orientation, gender identity, and variations in sex characteristics.[20] CMS did propose to add race and ethnicity questions to the Application and conduct cognitive testing of nonresponses to improve data collection. This information collection demonstrates that HHS can simultaneously require collection of demographic information and continue to test methods to improve data quality.[21] We encourage HHS to adopt the same approach with respect to data collection on sexual orientation, gender identity, and variations in sex characteristics in all of its programs. These data are essential for understanding whether and how LGBTQI+ people are equally served by HHS programs, projects, and activities and for ensuring that HHS upholds the civil rights of LGBTQI+ people.

- Ensure that **quality reporting** in all HHS-administered and -monitored programs includes information about and, where possible, stratification on participants' sexual orientation, gender identity, and variations in sex characteristics.

Priority 2: Invest in ongoing research to continue to develop, test, and improve measures of sexual orientation, gender identity, and sex characteristics.

- Engage in testing to continue to **improve measurement of gender**. We specifically encourage HHS to fast-track research to increase the face validity of the second component of the recommended two-step gender identity question to ensure it optimally reflects the identities of transgender people. Potential enhancements include the opportunity for participants to select all responses that apply (e.g., "male" and "transgender") and/or the addition of "nonbinary" as a response option. We note that the current evidence base finds a two-step format is critical to fully capture the complexity of gender, which incorporates both gender identity (i.e., identity as a man, a woman, or another gender) and gender modality (i.e., whether a person is transgender or cisgender).[22]
- Continue to invest in improving **administrative data collection** on gender identity, sex characteristics, and sexual orientation. For example, the Administration for Children and Families should rescind the 2019 policy that reversed the decision to collect information on

[20] Model Medicare Advantage and Prescription Drug Plan Individual Enrollment Request (CMS-10718), Regulations.gov (May 5, 2022), https://www.regulations.gov/document/CMS-2022-0013-0011.
[21] As another example, see the recommendations made by the State Health Access Data Assistance Center (SHADAC) in response to the recent RFI on Medicaid and CHIP Access: State Health Access Data Assistance Center (SHADAC), "SHADAC Advocates a Data-based Approach to Advancing Medicaid and CHIP Access Monitoring Plan (Response to CMS Request for Information)" (April 29, 2022), https://www.shadac.org/news/shadac-response-CMS-RFI-advancing-access.
[22] Florence Ashley, "'Trans' is My Gender Modality," in *Trans Bodies, Trans Selves*, 2nd edition (Oxford University Press, 2022): 22.

the sexual orientation, gender identity, and gender expression of children both in out-of-home care and of foster parents, adoptive parents, and legal guardians on the Adoption and Foster Care Analysis and Reporting System (AFCARS). Without transparent data, collected in a culturally competent manner, it is impossible to know whether we are meeting our responsibility to LGBTQI+ youth in state care, and we leave those youth at substantially greater risk for negative outcomes. A top priority in administrative data collection is the testing of alternative two-step gender measures that can identify transgender people in administrative data settings for aggregate statistical purposes without relying on sex assigned at birth, as collecting this information may be considered intrusive in situations where personally identifiable data are being maintained in employee or beneficiary files.[23]

- Test standalone measures that allow for **data collection on people with intersex traits**. This includes research to evaluate the comparative performance of the three measures identified in the NASEM report; the impacts of including definitions and examples in these questions; and the performance of proxy reporting, particularly among parents who report about their children.

Priority 3: Provide guidance and support to facilitate an effective cross-agency approach to advancing data collection on sexual orientation, gender identity, and variations in sex characteristics.

In order to advance this critical work in a consistent and coordinated manner across HHS, we request that HHS provide key guidance, personnel, and organizational resources required to successfully advance and organize these priorities across different departments. Specifically, we urge the following:

- HHS and individual departments must ensure these priorities are supported by **adequate staffing and requisite coordination** and ensure that departments regularly report back on progress. The Sexual and Gender Minority Research Office (SGMRO) has been an exemplary leader on LGBTQI+ equity efforts, but this has only been possible by having multiple, dedicated, permanent staff over a period of years. As such, we strongly support the recommendation in the President's budget to dedicate more resources to this important work at NIH to continue the growth of the SGMRO and for the creation of a Center for Sexual Orientation and Gender Identity Research to be led by the SGMRO. HHS has been most effective on data and other equity initiatives in the past when they have been driven by both senior political and career staff who are knowledgeable and committed to action; have dedicated portfolios that include LGBTQI+ health and data collection issues; and who coordinate closely, with political leadership regularly bringing priorities to the Secretary for decisions and working hand-in-hand with career staff to ensure effective execution.

[23] In addition to this research, agencies should consider issuing additional guidance on protecting the privacy of gender-related, medical, or other personal information for LGBTQI+ people, including under laws such as the Family Educational Rights and Privacy Act.

- HHS should revive the practice of releasing **annual LGBTQI+ reports**. When supported by adequate staffing, planning, and coordination, these reports have served as useful organizing mechanisms for making and tracking public commitments and driving implementation.

Conclusion

Our organizations are united in voicing our strong support for HHS to add measures of sexual orientation, gender identity, and sex characteristics to HHS-supported data collection instruments, while simultaneously investing in and advancing research to continue to improve these measures. We will also be requesting a meeting to learn more about how our organizations can best support HHS' efforts to standardize and advance data collection on sexual orientation, gender identity, and variations in sex characteristics.

Thank you for your time and consideration, and for your efforts to advance equity and serve LGBTQI+ people and communities. Please do not hesitate to contact Kellan Baker at KBaker@whitman-walker.org or (202) 797-4417 if you need any additional information.

In partnership,

1. Advocates for Youth
2. American Psychological Association
3. APLA Health
4. Athlete Ally
5. Callen-Lorde Community Health Center
6. Campus Pride
7. CenterLink: The Community of LGBT Centers
8. Center for American Progress
9. CrescentCare
10. Evaluation, Technical Assistance, and Data Integration Program, Northwestern University Institute for Sexual and Gender Minority Health and Wellbeing
11. Fenway Health
12. FORGE, Inc.
13. GLMA: Health Professionals Advancing LGBTQ Equality
14. GLSEN
15. Howard Brown Health
16. Human Rights Campaign
17. interACT: Advocates for Intersex Youth
18. Jacobs Institute of Women's Health
19. Lambda Legal
20. Legacy Community Health
21. LGBTQ Victory Institute
22. Los Angeles LGBT Center
23. Mazzoni Center
24. Modern Military Association of America
25. Movement Advancement Project
26. NASTAD

27. National Black Justice Coalition
28. National Center for Lesbian Rights
29. National Center for Transgender Equality
30. National Coalition for LGBTQ Health
31. National Health Law Program
32. National LGBT Cancer Network
33. NorthLakes Community Clinic
34. PFLAG National
35. Positive Women's Network-USA
36. SAGE
37. The Center for LGBTQ Health Equity – Chase Brexton Health Care
38. The Trevor Project
39. Transhealth Northampton
40. Trillium Health
41. True Colors United
42. Whitman-Walker Institute

June 21, 2022

TO: The Honorable Xavier Becerra, Secretary of Health and Human Services

CC: Admiral Rachel L. Levine, MD, Assistant Secretary for Health;
January Contreras, JD, ACF Administrator;
Alison Barkoff, JD, ACL Administrator;
Robert Otto Valdez, PhD, AHRQ Administrator;
Ellen Montz, PhD, Deputy Administrator and Director of the Center for Consumer Information and Insurance Oversight;
Rochelle P. Walensky, MD, Director of the Centers for Disease Control and Prevention;
Derrick Harkins, MDiv, Center for Faith-Based and Neighborhood Partnerships Administrator;
Chiquita Brooks-LaSure, MPP, Administrator for the Centers for Medicare and Medicaid Services;
Lisa Pino, JD, Director, Office for Civil Rights, HHS;
Robert M. Califf, MD, FDA Administrator
Benjamin Sommers, MD, PhD, Senior Official Performing the Duties of the Assistant Secretary for Planning and Evaluation, Deputy Assistant Secretary, Office of Health Policy;
Carole Johnson, MA, HRSA Administrator;
Elizabeth Fowler, BS, IHS Administrator;
LaShawn McIver, MD, Director of the Office of Minority Health;
Lawrence A. Tabak, DDS, PhD, NIH Administrator;
Micky Tripathi, PhD, ONC Administrator;
Miriam E. Delphin-Rittmon, PhD, SAMHSA Administrator;
Vice Admiral Vivek Murthy, MD, U.S. Surgeon General,

Re: Expanding and enhancing data collection on LGBTQI+ communities

Dear Secretary Becerra:

On behalf of the undersigned 42 organizations committed to advancing the health and wellbeing of lesbian, gay, bisexual, transgender, queer, intersex, and other sexual and gender minority (LGBTQI+) people in the United States, we write in response to President Biden's June 15 Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals[1] and the recent release of the National Academies of Sciences, Engineering, and Medicine's (NASEM) report *Measuring Sex, Gender Identity, and Sexual Orientation*.[2] The milestone NASEM report presents guiding principles and best practices for collecting data on sex, sexual orientation, gender identity, and variations in sex characteristics, which are essential to identify and address the specific needs of LGBTQI+ populations. We are thrilled to see sexual orientation, gender identity, and sex characteristics inclusive data collection in President Biden's Executive Order. Data collection is a

[1] Executive Office of the President, "Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals," *Federal Register* 87 (118) (2022): 37189-95, available at https://www.govinfo.gov/content/pkg/FR-2022-06-21/pdf/2022-13391.pdf

[2] National Academies of Sciences, Engineering, and Medicine, "Measuring Sex, Gender Identity, and Sexual Orientation" (Washington: 2022), available at https://www.nap.edu/catalog/26424/measuring-sex-gender-identity-and-sexual-orientation.

critical goal for this Administration as well as for us, and we are so appreciative of the opportunity to work in partnership with you.

The U.S. Department of Health and Human Services (HHS) has demonstrated a commitment to advancing the rights of LGBTQI+ communities and to adopting a data-driven approach to policymaking.[3] Since at least 2001, HHS has recognized the staggering health inequities that LGBTQI+ people face,[4] and in 2016 the Department developed a plan to advance LGBTQI+ health equity that included demographic data collection as a priority for both population-based surveys and program administration.[5] Just recently, HHS published a comprehensive list of strategies to improve demographic data collection for all projects and programs in its Strategic Plan for 2022-2026.[6] The Centers for Medicare & Medicaid Services (CMS) put expanded demographic data collection front and center in its 2022-2032 Framework for Health Equity. Priority 1 of CMS's Framework outlines a commitment to improve standardized collection of information on beneficiaries' "race, ethnicity, language, gender identity, sex, sexual orientation, disability status, and social determinants of health."[7]

We now write to encourage HHS to continue building on its historic work by adopting the NASEM report's recommendations. Specifically, we respectfully request that HHS take necessary action to 1) support the addition of recommended measures of sexual orientation, gender identity, and variations in sex characteristics to priority HHS data collection mechanisms and 2) invest in future research to continue to develop, test, and improve measures of sexual orientation, gender identity, and sex characteristics.

Implementing and continuously improving these measures is essential to capture a more comprehensive, accurate, and data-driven understanding of the disparities and challenges that LGBTQI+ communities face with regard to their health, well-being, and opportunities, and to develop evidence-based policy interventions that advance health and equity. Expanding and enhancing data collection on LGBTQI+ communities is also critical to fulfill directives set out by Executive Order 13985,[8] which directs federal agencies to promote equity for LGBTQI+ and other underserved communities through various actions, including but not limited to increasing data collection efforts.

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[3] For example, see U.S. Department of Health and Human Services, "HHS Announces Prohibition on Sex Discrimination Includes Discrimination on the Basis of Sexual Orientation and Gender Identity," Press release, May 10, 2021, available at https://www.hhs.gov/about/news/2021/05/10/hhs-announces-prohibition-sex-discrimination-includes-discrimination-basis-sexual-orientation-gender-identity.html.

[4] See Healthy People 2010: Companion Document for Lesbian, Gay, Bisexual, and Transgender (LGBT) Health, Gay and Lesbian Med. Assoc. (2001), https://www.glma.org/_data/n_0001/resources/live/HealthyCompanionDoc3.pdf.

[5] Advancing LGBT Health & Well-Being: 2016 Report, HHS LGBT Policy Coordinating Committee, U.S. Department of Health and Human Services. (2016), https://www.hhs.gov/sites/default/files/2016-report-with-cover.pdf.

[6] See Objective 4.4: Improve Data Collection, HHS Strategic Plan FY 2022-2026, U.S. Department of Health and Human Services, https://healthapiguy.substack.com/p/the-scheduling-conundrum?s=r.

[7] Centers for Medicare and Medicaid Services, CMS Framework for Health Equity 2022-2032, https://www.cms.gov/files/document/cms-framework-health-equity.pdf.

[8] Executive Office of the President, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," *Federal Register* 86 (14) (2021): 7009-7013, available at https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf

As such, we urge HHS to take swift and meaningful action to adopt the NASEM report's recommendations and to begin collecting these important data as soon as possible.

I. The need to collect quality data on LGBTQI+ populations

Existing research reveals that LGBTQI+ people encounter significant barriers to accessing affordable, quality health care and insurance, as well as disparate outcomes related to physical, mental, and behavioral health.[9] Importantly, the health of LGTBQI+ communities is severely impacted by discrimination, stigma, prejudice, as well as other social determinants of health.[10] For transgender individuals,[11] LGBTQI+ people of color,[12] and LGBTQI+ people with disabilities,[13] obstacles to care and disparate health outcomes are even more pronounced. Health and social disparities affect LGBTQI+ children, youth, families, and older adults, including in the child welfare system and in accessing necessary services and supports across the lifespan.[14]

Lack of routine data collection on sexual orientation, gender identity, and variations in sex characteristics remains a significant barrier for policymakers, researchers, service providers, and advocates who want to more deeply understand these disparities and improve the wellbeing of LGBTQI+ communities. Currently, only a limited number of HHS-supported surveys collect data on sexual orientation and gender identity, and none ask questions that allow for the identification of people with intersex traits. HHS operating divisions that provide direct services to beneficiaries, such as CMS, also often do not require collection of information on the sexual orientation, gender identity, or variations in sex characteristics of their program participants even where other demographic data are collected. These gaps significantly restrict our ability to better understand and address the health and social challenges that LGBTQI+ people and their families face.[15, 16] Improving data collection on sexual orientation, gender identity, and variations in sex characteristics will help researchers characterize the experiences and outcomes of LGBTQI+ people; health care and human services

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[9] National Academies of Sciences, Engineering, and Medicine, "Understanding the Wellbeing of LGBTQI+ Populations" (Washington: 2020), available at https://www.nap.edu/read/25877/chapter/1

[10] Ibid.

[11] Caroline Medina, Thee Santos, Lindsay Mahowald, and Sharita Gruberg, "Protecting and Advancing Health Care for Transgender Adult Communities" (Washington: Center for American Progress, 2021), available at https://www.americanprogress.org/article/protecting-advancing-health-care-transgender-adult-communities/

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[22] Florence Ashley, "'Trans' is My Gender Modality," in *Trans Bodies, Trans Selves*, 2nd edition (Oxford University Press, 2022): 22.

the sexual orientation, gender identity, and gender expression of children both in out-of-home care and of foster parents, adoptive parents, and legal guardians on the Adoption and Foster Care Analysis and Reporting System (AFCARS). Without transparent data, collected in a culturally competent manner, it is impossible to know whether we are meeting our responsibility to LGBTQI+ youth in state care, and we leave those youth at substantially greater risk for negative outcomes. A top priority in administrative data collection is the testing of alternative two-step gender measures that can identify transgender people in administrative data settings for aggregate statistical purposes without relying on sex assigned at birth, as collecting this information may be considered intrusive in situations where personally identifiable data are being maintained in employee or beneficiary files.[23]

- Test standalone measures that allow for **data collection on people with intersex traits**. This includes research to evaluate the comparative performance of the three measures identified in the NASEM report; the impacts of including definitions and examples in these questions; and the performance of proxy reporting, particularly among parents who report about their children.

Priority 3: Provide guidance and support to facilitate an effective cross-agency approach to advancing data collection on sexual orientation, gender identity, and variations in sex characteristics.

In order to advance this critical work in a consistent and coordinated manner across HHS, we request that HHS provide key guidance, personnel, and organizational resources required to successfully advance and organize these priorities across different departments. Specifically, we urge the following:

- HHS and individual departments must ensure these priorities are supported by **adequate staffing and requisite coordination** and ensure that departments regularly report back on progress. The Sexual and Gender Minority Research Office (SGMRO) has been an exemplary leader on LGBTQI+ equity efforts, but this has only been possible by having multiple, dedicated, permanent staff over a period of years. As such, we strongly support the recommendation in the President's budget to dedicate more resources to this important work at NIH to continue the growth of the SGMRO and for the creation of a Center for Sexual Orientation and Gender Identity Research to be led by the SGMRO. HHS has been most effective on data and other equity initiatives in the past when they have been driven by both senior political and career staff who are knowledgeable and committed to action; have dedicated portfolios that include LGBTQI+ health and data collection issues; and who coordinate closely, with political leadership regularly bringing priorities to the Secretary for decisions and working hand-in-hand with career staff to ensure effective execution.

[23] In addition to this research, agencies should consider issuing additional guidance on protecting the privacy of gender-related, medical, or other personal information for LGBTQI+ people, including under laws such as the Family Educational Rights and Privacy Act.

- HHS should revive the practice of releasing **annual LGBTQI+ reports**. When supported by adequate staffing, planning, and coordination, these reports have served as useful organizing mechanisms for making and tracking public commitments and driving implementation.

Conclusion

Our organizations are united in voicing our strong support for HHS to add measures of sexual orientation, gender identity, and sex characteristics to HHS-supported data collection instruments, while simultaneously investing in and advancing research to continue to improve these measures. We will also be requesting a meeting to learn more about how our organizations can best support HHS' efforts to standardize and advance data collection on sexual orientation, gender identity, and variations in sex characteristics.

Thank you for your time and consideration, and for your efforts to advance equity and serve LGBTQI+ people and communities. Please do not hesitate to contact Kellan Baker at KBaker@whitman-walker.org or (202) 797-4417 if you need any additional information.

In partnership,

1. Advocates for Youth
2. American Psychological Association
3. APLA Health
4. Athlete Ally
5. Callen-Lorde Community Health Center
6. Campus Pride
7. CenterLink: The Community of LGBT Centers
8. Center for American Progress
9. CrescentCare
10. Evaluation, Technical Assistance, and Data Integration Program, Northwestern University Institute for Sexual and Gender Minority Health and Wellbeing
11. Fenway Health
12. FORGE, Inc.
13. GLMA: Health Professionals Advancing LGBTQ Equality
14. GLSEN
15. Howard Brown Health
16. Human Rights Campaign
17. interACT: Advocates for Intersex Youth
18. Jacobs Institute of Women's Health
19. Lambda Legal
20. Legacy Community Health
21. LGBTQ Victory Institute
22. Los Angeles LGBT Center
23. Mazzoni Center
24. Modern Military Association of America
25. Movement Advancement Project
26. NASTAD

27. National Black Justice Coalition
28. National Center for Lesbian Rights
29. National Center for Transgender Equality
30. National Coalition for LGBTQ Health
31. National Health Law Program
32. National LGBT Cancer Network
33. NorthLakes Community Clinic
34. PFLAG National
35. Positive Women's Network-USA
36. SAGE
37. The Center for LGBTQ Health Equity – Chase Brexton Health Care
38. The Trevor Project
39. Transhealth Northampton
40. Trillium Health
41. True Colors United
42. Whitman-Walker Institute

From: Levine, Rachel (HHS/OASH)
Sent: Sat, 18 Jun 2022 12:18:05 +0000
To: Calsyn, Maura (HHS/OASH); Boateng, Sarah (HHS/OASH); Schall, Theodore (HHS/OASH); Broido, Tara (HHS/OASH); Seigfreid, Kimberly (HHS/OASH); Sarvana, Adam (HHS/OASH)
Subject: RE: Florida Medicaid Proposed Rule

Maura, Good morning. Thank you very much, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

OASH

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Sent: Friday, June 17, 2022 4:49 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Schall, Theodore (HHS/OASH) <Theodore.Schall@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Seigfreid, Kimberly (HHS/OASH) <Kimberly.Seigfreid@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>
Subject: Florida Medicaid Proposed Rule

I am sorry to share such news on a Friday afternoon before a long weekend, but Florida Medicaid just posted its proposed rule for gender-affirming care. The proposed rule would exclude coverage of puberty blockers, hormones, gender affirming surgery and "any other procedures that alter primary or secondary sexual characteristics" for all Medicaid recipients. It also redefines EPSDT to exclude these services.

<< File: FL Medicaid proposed rule.doc >>

Maura Calsyn (she/her)
Deputy Assistant Secretary, Health Policy
Office of the Assistant Secretary for Health

Email: maura.calsyn@hhs.gov
Mobile: (b)(6)
Desk: (202) 260-6883

<< OLE Object: Picture (Device Independent Bitmap) >>

From: Levine, Rachel (HHS/OASH)
Sent: Thu, 16 Jun 2022 14:29:33 +0000
To: Boateng, Sarah (HHS/OASH); Calsyn, Maura (HHS/OASH)
Subject: RE: [For EXPEDITED Review by 3pm TODAY (Thurs 6/16)] ED's Title IX Rollout Documents

Hmmm. Lets review and discuss, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

OASH

Email: rachel.levine@hhs.gov
hhs.gov/ash

From: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Sent: Thursday, June 16, 2022 10:29 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Subject: RE: [For EXPEDITED Review by 3pm TODAY (Thurs 6/16)] ED's Title IX Rollout Documents

Flagging where this landed:

Protect opportunities for all students to participate in athletics.
Title IX has played a critical role in advancing equal opportunity in athletics over the last 50 years. The proposed regulations would strengthen these protections by ensuring all students have the opportunity to participate in athletics and other extracurricular activities free from discrimination based on sex. The proposed regulations would clarify that students participating on male and female athletic teams in elementary school and middle grades would be protected in their right to participate consistent with their gender identity. The proposed regulations would permit high schools and postsecondary institutions the choice of having eligibility criteria for student participation on male and female teams that could result in restrictions on a

student's participation so long as those criteria are substantially related to the achievement of an important educational objective.
The proposed regulations also recognize that this is an area in active development and specifically request public comment on how the Department can best fulfill Title IX's nondiscrimination guarantee in regulating student participation on male and female athletic teams.

From: Levine, Rachel (HHS/OASH) <>
Sent: Thursday, June 16, 2022 9:08 AM
To: Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Subject: RE: [For EXPEDITED Review by 3pm TODAY (Thurs 6/16)] ED's Title IX Rollout Documents

Maura, Good morning. Thank you, RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

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Email: rachel.levine@hhs.gov
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From: Calsyn, Maura (HHS/OASH) <>
Sent: Thursday, June 16, 2022 8:45 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Subject: FW: [For EXPEDITED Review by 3pm TODAY (Thurs 6/16)] ED's Title IX Rollout Documents

See below for news from Department of Education. Their proposed rule to extend protections under Title IX.

From: Syed, Kashif (HHS/IOS) <Kashif.Syed@hhs.gov>
Sent: Thursday, June 16, 2022 8:22 AM
To: Lovenheim, Sarah (HHS/ASPA) <Sarah.Lovenheim@hhs.gov>; Jones, Kamara (HHS/ASPA) <Kamara.Jones@hhs.gov>; Kim, Hannah (HHS/ASPA) <Hannah.Kim@hhs.gov>; Zurita-Coronado, Jorge (HHS/IOS) <Jorge.Zurita-coronado@hhs.gov>; Egorin, Melanie (HHS/ASL) <Melanie.Egorin@hhs.gov>; Sullivan, Rose (HHS/ASL) <Rose.Sullivan@hhs.gov>; Figueroa, Marvin (HHS/IEA) <Marvin.Figueroa@hhs.gov>; Smith, Jessica (HHS/IEA) <Jessica.Smith@hhs.gov>; Greenberg, Mark H (HHS/OGC) <MarkH.Greenberg@hhs.gov>; OS OGC-IO ControlDesk (HHS/OS/OGC) <ControlDesk.OGCIO@hhs.gov>; Jee, Lauren (HHS/OCR) <Lauren.Jee1@hhs.gov>; Handerhan, Larry (ACF) <Larry.Handerhan@acf.hhs.gov>; Hitt, Linda (ACF) <Linda.Hitt@ACF.hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Cc: Zurita-Coronado, Jorge (HHS/IOS) <Jorge.Zurita-coronado@hhs.gov>
Subject: [For EXPEDITED Review by 3pm TODAY (Thurs 6/16)] ED's Title IX Rollout Documents

Dear colleagues:

OMB has asked for HHS's review of ED's rollout materials for the Title IX rule. Please see attached for a Title IX fact sheet and a Title IX rollout one-pager.

We are requesting responses in tracked-changes in the Word document **by no later than 3pm today**. Apologies, OMB is providing a very tight timeframe for review and we want to make sure IOS leadership has a chance to review as well.

Please reach out if there are questions and if there are others who should review on behalf of the Department, please let me know. Thank you!

<< File: T9 Fact Sheet 6.15.22.docx >> << File: NPRM Rollout one pagers 6.15.22.docx >>
Sincerely,
Kashif

Kashif Syed, JD (*he/his*)
Senior Advisor to the Executive Secretary
Immediate Office of the Secretary | Office of the Executive Secretary
U.S. Department of Health and Human Services
C: (b)(6)

From: Levine, Rachel (HHS/OASH)
Sent: Wed, 15 Jun 2022 11:54:44 +0000
To: Broido, Tara (HHS/OASH); Boateng, Sarah (HHS/OASH); Calsyn, Maura (HHS/OASH)
Cc: Sarvana, Adam (HHS/OASH); Migliaccio-Grabill, Kate (HHS/OASH); Seigfreid, Kimberly (HHS/OASH); Channer, Amber (OS/OASH)
Subject: RE: The Morning: A transgender care divide

Tara, Good morning. Thank you very much for your email and the article. Very interesting. RLL

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

Email: rachel.levine@hhs.gov
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OASH Office of the Assistant Secretary for Health

From: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Sent: Wednesday, June 15, 2022 7:08 AM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>; Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Cc: Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>; Migliaccio-Grabill, Kate (HHS/OASH) <Kate.Migliaccio-Grabill@hhs.gov>; Seigfreid, Kimberly (HHS/OASH) <Kimberly.Seigfreid@hhs.gov>; Channer, Amber (OS/OASH) <Amber.Channer@hhs.gov>
Subject: Fwd: The Morning: A transgender care divide

FYSA

Get Outlook for iOS

From: The New York Times <nytdirect@nytimes.com>
Sent: Wednesday, June 15, 2022 6:30 AM
To: Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>
Subject: The Morning: A transgender care divide

The New York Times

The Morning

June 15, 2022

By Emily Bazelon
Staff Writer, NYT Magazine

Good morning. Doctors who provide gender-affirming care are split on how to evaluate teens.

Tori, 13, told her parents in seventh grade that she didn't want a boy's body.Anne Vetter for The New York Times

A medical frontier

This summer, the World Professional Association for Transgender Health, an international group of health care professionals, plans to release an update to its guidelines for giving care. The guidelines include a chapter on adolescents that is already generating heat from across the political spectrum.

In the decade since the last update, two intersecting forces have transformed the field of transgender health care for preteens and teens. The first is a large rise in the number of teenagers openly identifying as transgender and seeking care. The second is a right-wing backlash in the United States against allowing medical transitions for minors. I spent months reporting about this transformation for a New York Times Magazine cover story that was published online this morning.

As Scott Leibowitz, a child and adolescent psychiatrist who co-led the working group that wrote the adolescent chapter, told me, "Our world, the world of gender care, has exploded."

The debate

Not surprisingly, there is a sharp divide among those who support gender-affirming care — the approach major American medical organizations have adopted for embracing children and teenagers who come out as transgender — and those who oppose medical treatments for minors, including medications that suppress puberty and hormones that change secondary-sex characteristics.

But there is also a divide *among* gender-affirming providers. It doesn't break down along transgender-cisgender lines — both groups express a range of perspectives. The debate starts with how to evaluate kids who want these treatments.

The research

For transgender adults, the benefits of medical transition are well established and the rate of regret is low. Two studies also show positive long-term results for people who transitioned as teenagers. In 2011, researchers in Amsterdam found a "decrease in behavioral and emotional problems over time" among 70 young

patients who received puberty suppressants. Follow-up research showed that five years after going on to hormone treatments as teenagers, the 55 patients who remained in the study had the same or better levels of well-being as a control group of cisgender people their age. None regretted their treatment.

All the young people in the study had a childhood history of gender incongruence and went through a comprehensive diagnostic assessment, to establish the psychological and social context of their gender identity and how it might intersect with other mental-health conditions. That helped prompt Leibowitz and his co-authors to recommend a comprehensive diagnostic assessment (as well as parental consent and other criteria) as they updated the international care guidelines.

Other gender-affirming providers, however, argue that the purpose of an assessment is not to determine the basis of a kid's gender identity. "People are who they say they are," said Colt St. Amand, a clinical psychologist and family-medicine physician at the Mayo Clinic. "So I am less concerned with certainty around identity and more concerned with hearing the person's embodiment goals. Do you want to have a deep voice? Do you want to have breasts?"

The rise

Underlying the debate about assessments is the question of why the number of teenagers in the U.S. who identify as transgender has nearly doubled in recent years.

The authors of the adolescent chapter in the World Professional Association for Transgender Health's Standards of Care said that the increased visibility of trans people in entertainment and the media had played a major — and positive — role in reducing stigma and helping many kids express themselves in ways they might have previously kept buried. But they also wrote about the role of "social influence," absorbed online or peer to peer. During adolescence, the chapter recognizes, peers and culture often affect how kids see themselves and who they want to be.

Some transgender advocates think that bringing up social influence in the context of trans identity is beyond the pale. It "defies reason" to say that "enormous numbers of cisgender-privileged youth are magically transformed by mere social media exposure" to the "most mortally at-risk minority class," the group International Transgender Health, which includes health care professionals, wrote when a draft of the care standards was released in December.

The politics

The backdrop for these debates is a right-wing effort to ban gender-related medical treatment for minors. So far, bans have passed in Arkansas, Arizona, and Alabama and have been proposed this year in about a dozen other states. As with other fraught issues like abortion, America is becoming a split screen. In red states, gender-related care for young people is already rare yet faces legal threats. At clinics that are mostly in progressive metropolitan areas, meanwhile, it's not clear how common comprehensive assessments are. Some families are bewildered by a landscape in which there are no labels for distinguishing one type of therapeutic care from another.

For my Times Magazine story, I interviewed more than 60 clinicians and other experts as well as about two dozen young people seeking care and a similar number of parents. As is often the case in medicine, the question is how to apply existing research for the growing numbers of patients — in this case, teenagers — lining up for care. The intrusion of politics into science makes that more difficult.

THE LATEST NEWS

Election Night

- Tom Rice, a South Carolina Republican who voted to impeach Donald Trump over the Jan. 6 attack, lost his primary to a Trump-endorsed state legislator.

- In another South Carolina district, Representative Nancy Mace, who criticized Trump but didn't support impeaching him, beat a Trump-backed challenger.
- In a sign of Republican gains with Latino voters, Mayra Flores, a daughter of Mexican immigrants, flipped a Democratic-held House seat in a Texas special election.
- In Nevada, which will be a battleground in November, Trump loyalists prevailed in the Republican primaries, including Adam Laxalt (for senator), Jim Marchant (for secretary of state), and Joe Lombardo (for governor).
- Herschel Walker, a Republican Senate candidate from Georgia and a critic of absentee fathers, publicly acknowledged having a son he doesn't see.
- Here are yesterday's results.

The Economy

- President Biden is considering rolling back some tariffs on Chinese goods to slow rising prices. The effect would probably be small, but there aren't many other options.
- The Bitcoin crash is shaking the ecosystem around cryptocurrency: Coinbase, the largest U.S. crypto exchange, announced layoffs.

War in Ukraine

Smoke rising over Sievierodonetsk, Ukraine.Tyler Hicks

- The last bridge into a besieged eastern city, Sievierodonetsk, has collapsed, making evacuations difficult.
- North of Kyiv, the Russians have retreated, but residents continue to live in fear.
- The U.S. Open, unlike Wimbledon, will allow tennis players from Russia and Belarus.
- A Russian court extended the detention of the W.N.B.A. star Brittney Griner until July 2.

Other Big Stories

Terri Harris, a formerly unhoused mother, with her daughter in Houston.Christopher Lee for The New York Times

- In the past decade, Houston has moved more than 25,000 homeless people directly into apartments and houses.
- Yellowstone evacuated visitors as rains washed away roads. Part of the park may be closed for the rest of the season.
- Happy, an elephant at the Bronx Zoo, is not entitled to a fundamental human right, a court ruled. Activists argued that she was being illegally detained.
- Lizzo changed her new song "Grrrls" after learning that a word has been used to demean people with disabilities.
- The K-pop group BTS is taking a break while its members explore solo careers.

Opinions

"He endured racism without becoming bitter," **Senator Raphael Warnock** writes of his father, a self-educated pastor and Army veteran.

Inflation is a blow to the policy ambitions of the progressive left and the populist right, **Ross Douthat** argues.

MORNING READS

The Center for Chicano Art and Culture, in Riverside, Calif.Carlos Jaramillo for The New York Times

Cheech: A stoner comedy icon is behind a museum showcasing Chicano art.

Beachwear: A one-piece bathing suit is complex to make. Is that why it's so expensive?

Summer travel: It's chaos at European airports.

Ask Well: Tips for sleeping better in the summer.

A Times classic: The great A.I. awakening.

Advice from Wirecutter: Clean your hairbrush.

Lives Lived: The economist Sharon Oster was the first woman to become a tenured professor of the Yale School of Management, and its first female dean. She died at 73.

ARTS AND IDEAS

Elle Woodworth began flipping furniture during the pandemic.Alfonso Duran for The New York Times

The fix is in

Social media stars are teaching followers to flip their furniture — a trend that is perhaps no surprise after a period when many people downloaded TikTok to fend off the boredom of being stuck on the couch.

“Flipping,” in this sense, means finding a well-built but aging piece of furniture, refurbishing it — often by sanding, adding fresh paint or varnish and updating its hardware — and reselling it. Many of the people making videos also aim to help viewers improve the furniture already in their homes.

“So many people can’t afford to spend thousands of dollars on furniture,” Christina Clericuzio, a flipper from Connecticut, told The Times. “So it’s fun to show people that they can have these things for less when they D.I.Y.”

PLAY, WATCH, EAT

What to Cook

Bobbi Lin for The New York Times. Food Stylist: Monica Pierini.

Combine the flavors of chicken souvlaki, Greek salad and tzatziki.

What to Read

In “Esmond and Ilia,” Marina Warner tells the story of her parents’ unlikely marriage as memoir, fairy tale and tragedy.

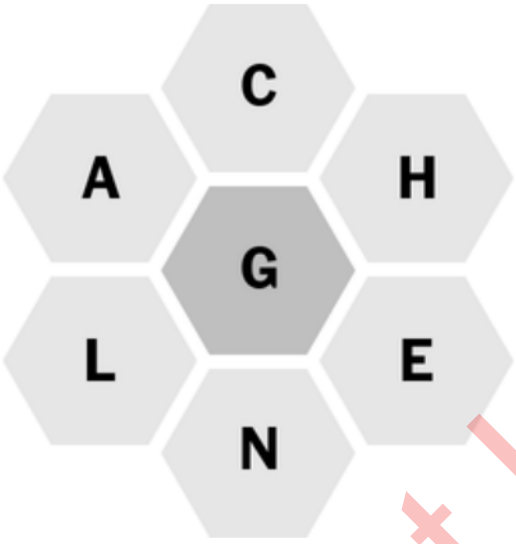
What to Watch

“Halftime,” a documentary about Jennifer Lopez, has a few political moments — and then it’s back to rehearsal.

Late Night

Trevor Noah tricked his audience into singing “happy birthday” for Trump.

Now Time to Play



The pangram from yesterday's Spelling Bee was *multiply*. Here is today's puzzle.

Here's today's Mini Crossword, and a clue: Glowing coal (five letters).

And here's today's Wordle. After, use our bot to get better.

Thanks for spending part of your morning with The Times. See you tomorrow.

P.S. The Times newsroom toasted Dean Baquet yesterday, his last day as executive editor. Bon voyage, Dean!

Here's today's front page.

"The Daily" is about the bear market. On "The Argument," a debate about cultural appropriation.

Claire Moses, Ian Prasad Philbrick, Tom Wright-Piersanti and Ashley Wu contributed to The Morning. You can reach the team at themorning@nytimes.com.

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From: Levine, Rachel (HHS/OASH)
Sent: Wed, 15 Jun 2022 17:44:21 +0000
To: Boateng, Sarah (HHS/OASH)
Cc: Calsyn, Maura (HHS/OASH); Broido, Tara (HHS/OASH); Sarvana, Adam (HHS/OASH)
Subject: RE: URGENT:Reply by COB, TODAY(6/15):OMB SAP:HR 4176(LGBTQ Data Inclusion Act)

Thank you

Rachel L. Levine, M.D.
ADM, United States Public Health Service

Assistant Secretary for Health
Office of the Assistant Secretary for Health

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hhs.gov/ash

OASH Office of the Assistant Secretary for Health

From: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>
Sent: Wednesday, June 15, 2022 1:04 PM
To: Levine, Rachel (HHS/OASH) <Rachel.Levine@hhs.gov>
Cc: Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>; Broido, Tara (HHS/OASH) <Tara.Broido@hhs.gov>; Sarvana, Adam (HHS/OASH) <Adam.Sarvana@hhs.gov>
Subject: FW: URGENT:Reply by COB, TODAY(6/15):OMB SAP:HR 4176(LGBTQ Data Inclusion Act)

ADM Levine

Please see the draft Administration statement on legislation related to LGBTQI+ Data collection as an FYI

Sarah

From: Yolanda Cao <yolanda.cao@hhs.gov>
Sent: Wednesday, June 15, 2022 12:28 PM

To: Boateng, Sarah (HHS/OASH) <Sarah.Boateng@hhs.gov>; Calsyn, Maura (HHS/OASH) <Maura.Calsyn@hhs.gov>
Cc: Fisher, Megan (HHS/OASH) <Megan.Fisher@hhs.gov>; Lyles, Johnalyn (HHS/OASH) <Johnalyn.Lyles@hhs.gov>
Subject: FW: URGENT:Reply by COB, TODAY(6/15):OMB SAP:HR 4176(LGBTQ Data Inclusion Act)

Hi all, forwarding for your information.

---------- Forwarded Message ----------
From: Willoughby, Michelle [michelle.willoughby@hhs.gov]
Sent: 6/15/2022, 12:01 PM
To: sean.mccluskie@hhs.gov; stephen.cha@hhs.gov; carlease.moore@hhs.gov; donna.householder@hhs.gov; kris.bradsher@hhs.gov; nicholas.vucic@acf.hhs.gov; cynthia.davis@acf.hhs.gov; rasheed.williams@acl.hhs.gov; paula.formoso@hhs.gov; brian.kehoe@hhs.gov; jessica.stewart@hhs.gov; jeff.hild@acf.hhs.gov; kzu2@cdc.gov; mrobleto@hrsa.gov; jennifer.klocinski@acl.hhs.gov; william.price1@hhs.gov; hhs.international@hhs.gov; melanie.egorin@hhs.gov; jennifer.bazinet@nih.gov; janai.hollinger@hhs.gov; leslie.zelenko@hhs.gov; debra.washington@hhs.gov; garrick.groves@hhs.gov; richard.nicholls@acl.hhs.gov; stephen.clapham@hhs.gov; robinsue.frohboese@hhs.gov; scott.logan@acf.hhs.gov; angela.ramirez@hhs.gov; kate.wolff@hhs.gov; lee.stevens@hhs.gov; sarah.despres@hhs.gov; david.christensen@hhs.gov; kimberly.espinosa@hhs.gov; oashiocontroldesk@hhs.gov; rose.sullivan@hhs.gov; edward.whitley@hhs.gov; carol.maloney@hhs.gov; katrina.brisbon@hhs.gov; james.thomas@hhs.gov; andrea.palm@hhs.gov; naomi.plasky@samhsa.hhs.gov; harold.henderson@hhs.gov; aspeclearances@hhs.gov; lauren.mullman@hhs.gov; higginsl@od.nih.gov; joe.banez@samhsa.hhs.gov; caldwell.jackson@acl.hhs.gov; mwilliams@hrsa.gov; melanie.rainer@hhs.gov; alexis.paci@acl.hhs.gov; kelsey.mellette@hhs.gov; jasmine.masand1@hhs.gov; rachel.pryor@hhs.gov; sharon.brockett@hhs.gov; darren.pete@ihs.gov; globalhealth@hhs.gov; camille.sealy@hhs.gov; vot@mail.nih.gov; os-ocrorexecsec@hhs.gov; atb6@cdc.gov; bill.hall@hhs.gov; qma0@cdc.gov; steven.lopez@hhs.gov; tiffani.redding@hhs.gov
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Subject: URGENT:Reply by COB, TODAY(6/15):OMB SAP:HR 4176(LGBTQ Data Inclusion Act)

TO: L/H L/HS
ACF OCR
ACL IEA
ASFR ASPA

ASPE CDC
ASH IOS/OS
SAMHSA IHS
HRSA OGA
NIH

FROM: Office of the General Counsel/Legislation Division

SUBJECT: OMB Statement of Administration Policy on HR 4176 - LGBTQ Data Inclusion Act

(NOTE: Attached please find a draft Statement of Administration Policy on H.R. 4176, the LGBTQI+ Data Inclusion Act. H.R. 4176 was introduced on June 25, 2021 by Rep. Grijalva (D-AZ) and was ordered reported by COR on June 14, 2022. The bill would require the collection of voluntary, self-disclosed information on sexual orientation and gender identity in certain surveys. OMB expects that the House will consider H.R. 4176 very soon.

Please provide any specific edits or your signoff on the SAP by the deadline below.)

The Office of Management and Budget has asked for the Department's views on this SAP.

In order that we may respond promptly to this request, please give your comments as soon as possible but no later than **COB, TODAY, WEDNESDAY , JUNE 15** to both **(1) MICHELLE JOHNSON-WEIDER** of this Division **and (2)** cc: our general e-mailbox (email.gcl@hhs.gov) (Microsoft Outlook users, select: OS GCL, EMAIL from the Global Address List). (Do not share this document(s) outside of the Executive Branch.)

To ensure that the Department's comments are given full consideration, please observe the following guidelines in providing your office's comments:

• Are there provisions of this bill that would conflict with Department or Administration policy, and how?

• Are there provisions that would pose difficulties for the operation or management of HHS programs, and how?

• Are there any other significant issues that you can identify?

• If you recommend specific changes, supply reasons and explanations, if the reasons are not obvious.

If you have any questions, call the GCL staff attorney named above, at 202-730-8702, or our Legislative Reference Service, at 202-690-7750.

Attachments

cc: OIG
GC/IO
GC/CFA
GC/CR
GC/GLD
GC/PH
GC/CMS
IOS/OS
GCL (Hertzog)

Michelle Lawrence Willoughby
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