

## US transgender care providers face legal dilemma

Trump's ban on gender-affirming surgery and medication for minors is clashing with anti-discrimination law. Susan Jaffe reports from Washington, DC.



Among the multitude of executive orders issued by President Donald Trump is one that does little to advance his stated goals to shrink the size and cost of government. But it does create a legal quandary for US health-care providers.

In his executive order of Jan 28, 2025, Trump declared that “medical professionals are maiming and sterilizing a growing number of impressionable children under the radical and false claim that adults can change a child’s sex through a series of irreversible medical interventions. This dangerous trend will be a stain on our Nation’s history, and it must end”.

The order prohibits the use of puberty blockers and hormone therapy for patients aged 19 years or younger even though numerous medical associations support this treatment as safe and effective for transgender and gender diverse adolescents. The order also bans gender-affirming surgery for this age group, although a 2024 study found that such procedures were rare. (It does not address mental health services.)

To enforce the ban, the order wields a severe penalty: it directs the Secretary of Health and Human Services not only to block government insurance payments for such treatments but also block all Medicaid and Medicare payments to institutions that do not comply, as well as blocking federal research and medical education funding.

“When you have an executive order which may potentially withhold billions of federal dollars for simply providing life-saving health care for our transgender adolescent patients, the health-care system is put in a very difficult position”, said Kevin Wang, a family physician and medical director for LGBTQIA+ programmes at Swedish Health Services, a large hospital system

serving the Seattle (Washington, USA), area.

A week after the order was announced, PFLAG, a physician group, and several adolescent patients and their families sued the Trump administration to halt the ban. A few days later, a second lawsuit was filed by the states of Washington, Minnesota, Oregon, and Colorado, along with three physicians who were not identified because they “fear for their physical and legal safety”, according to their lawsuit.

Both lawsuits argue that an executive order is not a federal law—which can only be enacted by Congress—and does not supersede state or federal laws. They also claim that the order must be consistent with federal laws, including the Affordable Care Act, which protects patients from discrimination on the basis of sexual orientation and gender identity.

Federal court judges in both cases have temporarily blocked the order until full hearings are held. But the short-term reprieve has yielded little clarity for health-care providers, especially in the 27 states that already ban gender-affirming care for patients aged 18 years and younger.

“The point of the executive order is to create the kind of fear and uncertainty that causes providers to abandon their transgender patients”, said Harper Selvin, a senior staff attorney for the American Civil Liberties Union’s LGBTQ & HIV Project and co-counsel for the PFLAG lawsuit.

UVA Health, the medical system operated by the University of Virginia, followed Trump’s order and suspended gender-affirming care for minors, as advised by the state’s attorney general. But after the federal court blocked the order, it resumed care. Then, the university’s governing board passed a resolution saying that existing patients

who were minors should continue to be treated until they were “referred to alternate private providers that may be less susceptible to the significant legal and funding uncertainties facing the university”. New patients should be referred to other providers.

A university spokesperson provided a copy of the resolution but declined to answer *The Lancet’s* questions. Several other hospitals that have suspended gender-affirming care, according to news reports, also declined to respond to questions for this article.

In California, Washington state, and New York, attorneys general disagreed with their Virginia counterpart and instead warned providers they should not stop gender-affirming care. California law prohibits “discrimination on the basis of sexual orientation or gender identity”, said Deborah Alagbaba, a spokesperson for Rob Bonta, Attorney General of California. “Nothing about what the President has said or done changes hospital and health-care providers’ responsibilities to comply with state law.”

Gender-affirming care is legal under Washington state law and federal law, said Mike Faulk, a spokesperson for Washington state Attorney General Nick Brown. “The executive orders, even if they are ultimately upheld, do not change that.”

In June, the US Supreme Court is expected to decide whether to uphold a Tennessee law banning gender-affirming care for minors. The Biden administration sued the state to overturn the law, arguing against it at a hearing in December. In February, the Trump administration reversed that position, and now agrees with Tennessee, but still asked the court to rule on the case.

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For Executive Order 14178, Protecting Children from Chemical and Surgical Mutilation see <https://www.federalregister.gov/documents/2025/02/03/2025-02194/protecting-children-from-chemical-and-surgical-mutilation>

For prevalence of gender-affirming surgical procedures among minors and adults in the US see *JAMA Netw Open* 2024; 7: e24188142