

FOR IMMEDIATE RELEASE:

Tom Warnke (Lambda Legal): (213) 841-4503; [twarnke@lambdalegal.org](mailto:twarnke@lambdalegal.org)

Simone Chriss (Southern Legal Counsel): (352) 271-8890; [simone.chriss@southernlegal.org](mailto:simone.chriss@southernlegal.org)

Alison Yager (Florida Health Justice Project): (646) 322-8111; [yager@floridahealthjustice.org](mailto:yager@floridahealthjustice.org)

## Florida AHCA Launches Sham Anti-Transgender Rule-Making Process

**Health and LGBTQ Legal Advocates condemn stealth efforts by the Florida Agency for Health Care Administration (AHCA) to force through a new rule denying Medicaid coverage for medically necessary gender-affirming care.**

(Tallahassee, FL, June 17, 2022) – The Florida Agency for Health Care Administration (ACHA) today issued a Notice of Proposed Rule for a new rule that would deny Medicaid coverage for *all* medically necessary gender-affirming care for both youth and adults. The Notice, issued on a Friday, follows an irregular process and launches a three-week public comment period that encompasses two federal holidays. Southern Legal Counsel, Florida Health Justice Project, Lambda Legal, and National Health Law Program reiterated their pledge to engage in and carefully monitor the rule-making process, as well as to defend the right of Transgender Floridians to access nondiscriminatory health care:

“Two weeks ago, we highlighted the fact that Governor DeSantis’s administration was intent on issuing a proposed new rule based on junk science and discredited so-called experts to justify denying Medicaid coverage for hormone therapy and other accepted medical interventions, as well as for gender-confirming surgery, for transgender Floridians. We expressed our concern that AHCA seemingly had predetermined the outcome, which today’s announcement makes all the clearer. And we warned that, should AHCA follow through on its clear intent to engage in a sham rulemaking charade, rather than conduct a robust and substantive process that incorporates valid science, we stood ready to defend the rights of transgender people in Florida, including the right to nondiscriminatory health care coverage.

“Today, we reaffirm that pledge.

“While today’s Notice seemingly carries forward AHCA’s discriminatory intent, it remains true that:

- AHCA’s intended rulemaking and report do not currently prevent any doctor in Florida from providing medically necessary and essential medical care to transgender patients;
- Private health insurance must still cover medically necessary gender-affirming care; and
- No finalized rulemaking has occurred. Therefore, Florida Medicaid still should provide coverage and reimbursement for medically necessary gender-affirming care.

“We intend to take robust part in the rulemaking process and to provide critical input concerning the broad medical and scientific consensus regarding the necessity, safety, and efficacy of providing appropriate and comprehensive care to transgender people, especially transgender youth. We will provide transgender Floridians with additional information and work with those affected and our community partners to ensure that the public has an opportunity to provide the input that AHCA seems so determined to deter.

“AHCA’s proposed rule cruelly and inexcusably compounds what has been an incredibly stressful year for transgender individuals and their families nationwide, and we intend to hold AHCA to account. It is unconscionable that Gov. DeSantis would jeopardize the health and safety of vulnerable Floridians in pursuit of political wins based on fear and hate.”

“We urge any person who has been denied coverage for gender-affirming health care under Florida’s Medicaid program to contact us, including by reaching out to Lambda Legal’s help desk: <https://www.lambdalegal.org/helpdesk>.”

### **Background:**

Just last week, a federal district court in North Carolina [ruled](#) that an exclusion in that state’s health plan similar to that proposed by AHCA is unconstitutional. In doing so, the court concluded that,

*“Issues surrounding transgender healthcare evoke strong emotional and political opinions. ... But politics and emotion are not admissible as evidence in a court of law. Plaintiffs’ doctors, their experts, every major medical association, and Defendants’ own third-party administrators all agree that, in certain cases, gender affirming medical and surgical care can be medically necessary to treat gender dysphoria. Defendants attempt to create scientific controversy in this uniform agreement through experts who mix their scientific analysis with hypothetical speculation and political hyperbole. ... Defendants’ belief that gender affirming care is ineffective and unnecessary is simply not supported by the record. Consequently, their categorical sex and transgender-based exclusion of gender affirming treatments from coverage unlawfully discriminates against Plaintiffs in violation of the U.S. Constitution[.]”*

In addition, this past April, legal and medical experts from Yale Law School, the Yale School of Medicine’s Child Study Center and Departments of Psychiatry and Pediatrics, and the University of Texas Southwestern issued an in-depth report debunking the misleading claims upon which AHCA’s report is based. The report, “Biased Science: The Texas and Alabama Measures Criminalizing Medical Treatment for Transgender Children and Adolescents Rely on Inaccurate and Misleading Scientific Statements,” is available [here](#).

Courts have recently enjoined as likely unconstitutional the attempts by Alabama and Arkansas to prohibit medically necessary gender-affirming medical care for transgender youth, and a court in Texas has stopped the investigation based on the Texas Governor’s unlawful directive deeming the provision of such necessary and essential care to be child abuse.

Dr. Quentin Van Meter, one of AHCA’s so-called “experts,” was found by a court in Texas to not be qualified as an expert on the “question of whether an adolescent transgender child should be administered puberty blockers and whether affirmation of an incongruent gender in a child is harmful or not.”

Similarly, just last month, the testimony of Dr. James Cantor, another of AHCA’s so-called “experts,” was given “very little weight” by a federal court in Alabama “regarding the treatment of gender dysphoria in minors” because Dr. Cantor had never provided care to a transgender minor under the age of sixteen; had never diagnosed a child or adolescent with gender dysphoria; had never treated a child or adolescent for gender dysphoria; and had no personal experience monitoring patients receiving transitioning medications.

Likewise, a federal court noted that there is evidence that calls Dr. Patrick Lappert's, another of AHCA's so-called "experts," "bias and reliability into serious question" and concluded that Dr. Lappert "is not qualified to render opinions about the diagnosis of gender dysphoria, its possible causes, ... the efficacy of puberty blocking medication or hormone treatments, the appropriate standard of informed consent for mental health professionals or endocrinologists, or any opinion on [] non-surgical treatments," and that his views "do not justify the exclusion" of gender-affirming medical care.

###

Southern Legal Counsel (SLC) is a Florida statewide not-for-profit public interest law firm that is committed to the ideal of equal justice for all and the attainment of basic human and civil rights. SLC's Transgender Rights Initiative protects the rights of Florida's LGBTQ+ community through federal impact litigation, policy advocacy, and individual representation. [www.southernlegal.org](http://www.southernlegal.org)

Florida Health Justice Project engages in comprehensive advocacy to expand health care access and promote health equity for marginalized and vulnerable Floridians. [www.floridahealthjustice.org](http://www.floridahealthjustice.org)

Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people, and everyone living with HIV through impact litigation, education, and policy work. [www.lambdalegal.org](http://www.lambdalegal.org)

The National Health Law Program is a non-profit law firm dedicated to protecting and advancing health rights of low-income and underserved individuals and families. [www.healthlaw.org](http://www.healthlaw.org)