How this Arkansas law puts government in exam room, harms patients

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Arkansas’ ban on gender-affirming treatments infringes on physicians and other health professionals’ ability to provide accurate, medically sound advice and blocks them from providing the best care to young transgender patients, doctors and others tell a federal court.

Such government intrusion in the exam room can endanger young people’s lives, says a brief that the Litigation Center of the American Medical Association and State Medical Societies filed along with the American Academy of Pediatrics and more than a dozen other national and state medical, mental health and educational organizations in a lawsuit challenging the Arkansas law’s constitutionality.

A U.S. District Court judge in Little Rock, Arkansas, has temporarily stopped the law from taking effect while the lawsuit makes its way through the courts. In a decision from the bench, the judge said that the plaintiffs in the case satisfied the requirements for an injunction and that allowing the law to be enforced would hurt transgender youth who are receiving care now, according to a report in The Washington Post. The judge also denied the tate’s request to dismiss the lawsuit.

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The families of four transgender youth and two doctors filed a lawsuit, Brandt v. Rutledge. They aim to permanently block the law that would prohibit providing care or referring transgender youth for medically necessary health care that the medical community endorses and that, according to the brief, has been “empirically proven to reduce the distress of transgender adolescents at risk for or suffering from … gender dysphoria.”

The law—which the brief refers to as the “Health Care Ban”—also would prohibit state funds or insurance coverage for gender-affirming health care for those under 18. It would allow private insurers to refuse to cover gender-affirming care for people of all ages.

“The Health Care Ban represents a broad legislative encroachment into the patient-health care provider relationship,” says the brief filed in the U.S. District Court for the Eastern District of Arkansas.
Central Division. “By putting health care providers in that impossible position and denying patients the candid and medically-accepted advice to which they are entitled, the Health Care Ban works irreparable harm on health care providers and patients alike.”

Further, the law subjects physicians and other health professionals to disciplinary action by “the appropriate licensing entity or disciplinary review board” for making referrals for gender-affirming care for adolescents.

That “places health care providers in the untenable position of violating state law and subjecting themselves to disciplinary action if they provide their patients with information they believe to be in the patient’s best medical interest; or remaining silent about treatments that could mitigate a patient’s profound distress,” the brief tells the court.

Find out more about the cases in which the AMA Litigation Center is providing assistance and learn about the Litigation Center’s case-selection criteria.

Learn about a letter the AMA sent to the National Governors Association with a strong message to stop interfering with transgender minors’ medical care.

**Inaccurate information shaped law**

In addition to restraining the free flow of information critical to the patient-physician relationship, the brief explains that the ban prohibits health professionals from treating patients with accepted standard of care and needlessly prolongs patients’ distress and materially heightens the risk of adverse outcomes—including suicide.

Physicians and others tell the court these three incorrect notions undergirding the law.

“Multiple studies have revealed long-term positive outcomes for transgender people who have undergone puberty suppression,” the brief says, contrary to the false notion that there are no long-term data for using puberty blockers to treat gender dysphoria.

Moreover, the Arkansas law “is a purported response to an issue that does not exist: general surgical procedures related to gender dysphoria ‘are not performed on youth in Arkansas,’” the brief tells the court, citing the Arkansas Chapter of American Academy of Pediatrics. That contradicts the law’s contention that health professionals are increasingly recommending genital surgery for youth younger than 18.

Finally, the law suggests many young people experiencing gender nonconformity will ultimately identify with the sex they were assigned at birth, rendering “most physiological interventions unnecessary.”
Physicians and others tell the court that no studies support that view and that it’s “premised on the demonstrably false assumption that an individual’s gender dysphoria will naturally cease in the absence of affirming medical care. “

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