

April 9, 2025

Robert F. Kennedy, Jr.
Secretary
Department of Health and Human Services
Attention: CMS-9884-P
P.O. Box 8016
Baltimore, MD 21244-8016

Dear Secretary Kennedy:

On behalf of Advancing American Freedom, we are writing to file a comment on 45 CFR Parts 147, 155, and 156 [CMS-9884-P] RIN 0938-AV61, “Patient Protection and Affordable Care Act; Marketplace Integrity and Affordability.”

We commend the Trump Administration’s actions to exclude sex-trait modification as an “essential health benefit” (EHB) required for individual market, nongroup, and small group insurance policies under the Affordable Care Act. This will save Americans money in correspondence with President Trump’s “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis” executive order memorandum. The American people shouldn’t have to pay for a scientifically debunked practice that also weighs on the consciences and fundamental beliefs of hundreds of millions of Americans.

As explained in the Cass Review, a review of gender medicine commissioned by the British government and chaired by Dr. Hilary Cass, the safety of such “treatments” (such as puberty blockers) as a temporary fix for gender dysphoria cannot be extrapolated from their safety as a treatment for precocious puberty.¹ First, puberty blockers may be intended to help those taking them “pass” as the opposite sex when they are adults. The Review notes that “since most young people are not starting puberty blockers until the age of 15 and above, it is unclear how helpful they might be” for allowing those on them to “pass” later on in life.² Further, since a desire to “pass” depends on the continued experience of gender dysphoria, and because the prevalence of its persistence appears to be greatly increased by the administration of puberty blockers, even if puberty blockers did help adults with gender dysphoria “pass,” that would not indicate that the

¹ Dr. Hilary Cass, *Independent Review of Gender Identity Services for Children and Young People* 174. The full report is available for download at <https://cass.independentreview.uk/home/publications/final-report/>. The evidence that the science behind “trans medicine” is unreliable has continued to come in. *Research Into Trans Medicine has Been Manipulated*, *The Economist* (July 27, 2024) <https://tinyurl.com/46esdsr6>. Yet under the Biden-Harris Administration, the Federal Government may have been acting to cover up the data that would expose that lack of evidence in America. As Leor Sapir explains, the Department of Justice (DOJ) may have tried “to halt release of more information in the Alabama case, as that material could further expose [the World Professional Association for Transgender Health (WPATH)] and shed more light on how [the Department of Health and Human Services] and other executive-branch officials misled the American public about youth gender transition.” Leor Sapir, *What Does the DOJ Not Want Americans to Know?*, *City Journal* (July 12, 2024) <https://www.city-journal.org/article/what-does-the-doj-not-wantamericans-to-know>.

² Cass at 177.

administration of puberty blockers had been or would be acceptable. The goal should be to resolve gender dysphoria by helping people feel comfortable with their biological sex, not perpetuate dysphoria and encourage rejection of one's biological sex.

As the Cass Review explains, "A formal diagnosis of gender dysphoria is frequently cited as a prerequisite for accessing hormone treatment. However, it is not reliably predictive of whether that young person will have longstanding gender incongruence in the future, or whether medical intervention will be the best option for them."³ It is at least as plausible, if not significantly more so, that suppressing natural puberty locks in discomfort with gender that may have otherwise subsided with time. The question, of course, is whether without this intervention, the person's gender dysphoria would have persisted after natural puberty. The Cass Review goes on to note that the administration of puberty blockers may alter "the trajectory of development of sexual and gender identity."⁴ Sadly, puberty blockers may well prevent a natural resolution of young people's gender identity issues. By preventing the natural pubertal process, young people may well be locked into their mental state rather than developing out of it.

Further, even if used as intended, cross-sex hormones may lead to sexual dysfunction and, by biological necessity, to sterility.⁵ It is increasingly clear that starting kids on puberty blockers constitutes not a singular intervention, but rather starting them down an unproven path with a high risk of harm. Second, puberty blockers may well hinder neurocognitive development. As the Cass Review explains: [A]dolescent sex hormone surges may trigger the opening of a critical period for experience-dependent rewiring of neural circuits underlying executive function (i.e. maturation of the part of the brain concerned with planning, decision making and judgment). If this is the case, brain maturation may be temporarily or permanently disrupted by the use of puberty blockers, which could have a significant impact on the young person's ability to make complex, risk-laden decisions, as well as having possible longer-term neuropsychological consequences.⁶ The research on this issue is, at best, inconclusive. One study found no cognitive difference between those adolescents given puberty blockers for less than a year and those not given puberty blockers at all, "but found worse executive functioning in those treated for more than one year compared to those not treated."⁷ Common sense suggests that delaying puberty, one of the most important physiological and psychological developmental milestones in a person's life, would have lifelong impacts.

³ Cass at 193.

⁴ Cass at 178.

⁵ And, as Dr. Marci Bowers, president of WPATH said, the administration of puberty blockers before a certain stage of pubertal development leads to sexual dysfunction. Hannah Grossman, *Influential Trans Care Doctor Once Warned Puberty Blockers Could Cause Permanent Sexual Dysfunction*, Fox News (May 23, 2022 4:24 AM) <https://www.foxnews.com/media/influential-trans-care-doctor-once-warned-puberty-blockers-could-cause-permanent-sexual-dysfunction>

⁶ Cass at 178.

⁷ *Id.*

Next, the Cass Review argues that puberty blockers can prevent a child’s sexual development such that, as an adult, he will not have properly developed genitalia.⁸ Such destruction of young bodies is not unlike those mutilations discussed above of young boys’ and girls’ bodies now rightly seen as barbaric relics. Surgical interventions for gender dysphoria intentionally cause irreversible physical destruction of the healthy function of minors’ bodies. At least 5,747 minors in the United States have received surgeries of some kind to address their gender dysphoria.⁹ It is not clear how many of these children were sterilized.

According to the previous Administration’s Department of Health and Human Services (HHS), “[g]ender- [a]ffirming [s]urgeries” include “[t]op’ surgery – to create male-typical chest shape or enhance breasts,” “[b]ottom’ surgery – surgery on genitals or reproductive organs,” and “[f]acial feminization or other procedures.”¹⁰ Described without obfuscation, the utter savagery of these procedures becomes clear.

Top surgery, which HHS referred to in this document as creating a “male-typical chest shape or enhanced breasts,”¹¹ “[t]ypically involves bilateral mastectomy (removal of both breasts), followed by contouring of the remaining chest tissue to appear like a male chest,” or for boys, “[e]nlargement of breasts using breast implants.”¹² Bottom surgery, which HHS simply described as “surgery on genitals or reproductive organs,”¹³ is, “[a] surgery where a healthy penis and testes are removed, and remaining tissue from the penis is used to construct an artificial (pseudo) vagina, clitoris, and labia,” “[a] surgery that uses existing genital tissue, such as an enlarged clitoris following the use of testosterone, to form an artificial/pseudo penis,” or: The construction of an artificial penis from donor skin, usually from the patient’s own thigh, and an artificial scrotum using tissue from the labia. This surgery also requires lengthening of the urethra to pass through the artificially created penis, so the patient can urinate normally. A penile implant is also inserted to allow for erection.¹⁴ According to the Biden-Harris HHS, “Gender-Affirming Surgeries” are “Not reversible.”¹⁵ Victor Frankenstein would blush at the barbarity.

⁸ That these interventions could permanently close doors the importance of which the child or adolescent in question could not possibly understand at his age is not the exercise of autonomy, but its destruction. See, generally, Moti Gorin, *What is the Aim of Pediatric “Gender-Affirming” Care?*, 54 *Hastings Center Report* 15 (2024).

⁹ Stop the Harm Database, <https://stoptheharmdatabase.com/about/> (last visited Oct. 11, 2024).

¹⁰ Office of Population Affairs, *Gender-Affirming Care and Young People* at 2, Department of Health and Human Services <https://www.opa.hhs.gov/sites/default/files/2022-03/genderaffirming-care-young-people-march-2022.pdf> (last visited Oct. 11, 2024).

¹¹ *Id.*

¹² Stop the Harm Database, Glossary, <https://stoptheharmdatabase.com/method/> (last visited Oct. 11, 2024).

¹³ Office of Population Affairs, *supra* note 10 at 2.

¹⁴ Stop the Harm Database, *supra* note 12.

¹⁵ Office of Population Affairs, *supra* note 10 at 2. While some government officials take a cavalier attitude towards allowing minors to undergo medically unnecessary irreversible surgical or hormonal interventions, reversibility is a core tenet of ethical art conservation. See, e.g., Baumgartner Restoration, *Torn Portrait Conservation: Restoring The Child*, June 3, 2024, https://www.youtube.com/watch?v=CuO8v1kR_VU. True art is of great value, but people are more valuable and should thus be treated with even greater care and support.

No tax credits should be utilized for these elective/cosmetic procedures, which are not commonly provided by employers. We applaud the Trump Administration for taking every effort necessary to ensure that Federal subsidies do not continue to fund sex-trait modification.

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