

# Office of the Attorney General



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October 12, 2022

The Honorable Merrick Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Attorney General Garland,

We, the undersigned State Attorneys General, write to express our deep concern with the recent letter you received from the American Academy of Pediatrics, American Medical Association, and the Children's Hospital Association asking you to investigate and prosecute people who question the medical establishment's current treatment of children struggling with gender dysphoria. You cannot and should not undertake such investigations or prosecutions.

We emphatically agree that anyone engaged in violent crime or threats of violence should be investigated and prosecuted by the appropriate authorities. But the medical organizations are asking you for much more than that. They are asking you to direct the criminal enforcement power of the federal government not only at those committing or threatening violence but also at those whose speech may "provoke" such threats.

This broad request, and related comments by leaders in the medical organizations, indicate that they are interested not just in preventing violence but also in suppressing ideas with which they disagree. For example, in the press release accompanying the letter, the president of the Children's Hospital Association targets "misleading and inflammatory comments that result in threats." No doubt the medical associations object to the characterization of double mastectomies for minors as "mutilation" or "cutting healthy breasts off teen girls," or of hormonal treatments as "chemical castration." These descriptors may inflame and provoke. They are also entirely protected by the First Amendment. *See, e.g., Terminiello v. Chicago*, 337 U.S. 1, 4-5 (1949) ("There is no room under our Constitution for a more restrictive view. For the alternative would lead to standardization of ideas either by legislatures, courts, or dominant political or community groups.").

Growing concerns about the current treatment of pediatric gender dysphoria make a free and open dialogue urgently necessary. For example, the Florida Medicaid Unit, after reviewing the available medical literature on the use of puberty suppression, cross-sex hormones, and surgical procedures, determined that there was “insufficient evidence” that such treatments are a “safe and effective treatment for gender dysphoria.”<sup>1</sup> While the American medical organizations endorse a monolithic consensus they tout as impermeable to doubt, other countries have moved to restrict the medical treatment of pediatric gender dysphoria. Determining that the risks outweigh the benefits, Sweden’s National Board of Health and Welfare recommends<sup>2</sup> tight restrictions on hormonal interventions for minors. The board previously highlighted a 1500% increase<sup>3</sup> in gender dysphoria diagnoses among teenage girls over a ten year span. Finland’s leading authority, the Council for Choices in Health Care, also recommends<sup>4</sup> strict limitations on the use of hormonal intervention for juveniles. The council further recommends against *any* surgical treatment for minors with gender dysphoria.

Meanwhile, in the United Kingdom, a blue ribbon investigation<sup>5</sup> led to the closure of the country’s only dedicated gender identity clinic and raised serious concerns about the use of puberty blockers. And the National Academy of Medicine in France advises<sup>6</sup> caution in pediatric gender transition and expresses concern over the existence of epidemic-like case clusters of adolescent gender dysphoria.

One might expect a bit more intellectual humility from U.S. medical organizations when they address the life-altering, irreversible procedures they are championing as the cure du jour for pediatric gender dysphoria. Last century, leaders of the American Medical Association embraced eugenics as a cure for various social ills. Mid-century, the frontal lobotomy came into vogue as a treatment for psychiatric ailments.

Despite these past cautionary tales and recent radical changes in pediatric practices, the medical establishment asks you to forcibly eliminate criticism of the treatment regime for gender dysphoric

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<sup>1</sup> Generally Accepted Professional Medical Standards Determination on the Treatment of Gender Dysphoria, Florida Medicaid, p3, June 2, 2022, <http://www.ahca.myflorida.com/Medicaid/GAPMS/index.shtml>.

<sup>2</sup> *Updated recommendations for hormone therapy in gender dysphoria in young people*, Sweden National Board of Health and Welfare, Press Release, Feb. 22, 2022, <https://www.socialstyrelsen.se/om-socialstyrelsen/pressrum/press/uppdaterade-rekommendationer-for-hormonbehandling-vid-konsdysfori-hos-unga/>.

<sup>3</sup> Multiple psychiatric diagnoses common in people with gender dysphoria, Sweden National Board of Health and Welfare, Press Release, Feb. 2, 2022, <https://www.socialstyrelsen.se/om-socialstyrelsen/pressrum/press/vanligt-med-flera-psykiatriska-diagnoser-hos-personer-med-konsdysfori/>.

<sup>4</sup> Medical treatment methods for dysphoria associated with variations in gender identity in minors – recommendation, Council for Choices in Health Care in Finland, June 16, 2020, [https://palveluvalikoima.fi/documents/1237350/22895008/Summary\\_minors\\_en+\(1\).pdf/fa2054c5-8c35-8492-59d6-b3de1c00de49/Summary\\_minors\\_en+\(1\).pdf?t=1631773838474](https://palveluvalikoima.fi/documents/1237350/22895008/Summary_minors_en+(1).pdf/fa2054c5-8c35-8492-59d6-b3de1c00de49/Summary_minors_en+(1).pdf?t=1631773838474).

<sup>5</sup> Implementing advice from the Cass Review, National Health Service of England, (Oct. 10, 2022) <https://www.england.nhs.uk/commissioning/spec-services/npc-crg/gender-dysphoria-clinical-programme/implementing-advice-from-the-cass-review/>.

<sup>6</sup> Medicine and gender transidentity in children and adolescents, French National Academy of Medicine, Press Release, Feb. 25, 2022, <https://www.academie-medecine.fr/la-medecine-face-a-la-transidentite-de-genre-chez-les-enfants-et-les-adolescents/?lang=en>.

minors. We would welcome clarification from the organizations as to the scope of their request, but as of now it appears they would rather silence critics than debate them.

We respectfully demand that you stand down and allow the national conversation to continue. Now is a time for more speech, not less. Each side must have the opportunity to marshal evidence, make its case, and attempt to persuade the American people of the rightness of its position. This is the process most likely to attain the truth and promote effective policymaking. Silencing critics of current gender dysphoria treatment practices for minors will not make children any safer or healthier. Instead, it will lead to bad decision-making and erode public confidence in both the federal government and the medical community.

We are particularly troubled by the medical organizations' parallel calls to you and leading social media platforms to take action against speech they find unwelcome or inconvenient regarding the treatment of pediatric gender dysphoria. A concerted effort by government and industry to suppress speech violates America's most fundamental principles. As you are aware, any conspiracy between federal officials and private actors to deprive Americans of a constitutional right would give rise to civil and criminal liability for all involved. 18 U.S.C. § 241; 42 U.S.C. § 1983; *Dennis v. Sparks*, 449 U.S. 24 (1980).

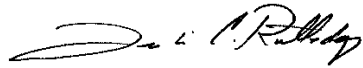
Americans frequently disagree about important issues. That is normal and healthy. But the answer to disagreement is never the criminalization of speech. "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in matters of politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein." *West Virginia Bd. of Ed. v. Barnette*, 319 U.S. 624, 642 (1943).

Nothing matters more than protecting our children. We need to make sure we are doing that right. The only way to obtain that certainty is through rigorous interrogation of current practices. Criticism must be welcomed, not silenced. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Skrmetti". The signature is written in a cursive, flowing style with a long horizontal flourish extending to the right.

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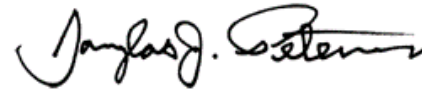
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