

March 10, 2022 (reissued)

Mental Health and Child Welfare Stakeholders Remain Committed to Supporting Gender Affirming Care

In response to the February 18, 2022 non-binding opinion from Texas Attorney General Ken Paxton and subsequent letter from Governor Greg Abbott to Department of Family and Protective Services Commissioner Jaime Masters, the undersigned 56 mental health organizations, child welfare organizations, and advocates write to express intense concern about any further action that would, by policy, practice, or statute, define gender-affirming care as child abuse and/or neglect. Any attempt to characterize gender-affirming care, including medical and mental health treatment, as “child abuse” carries significant potential negative consequences for families, transgender children and adults, mental health and medical professionals, as well as for professionals working in and around the child welfare system.

The undersigned group of stakeholders has remained opposed to any redefining of child abuse, including through proposed legislation filed during the 87th Legislative Session and in response to Commissioner Jaime Masters’ August 11, 2021 letter to Governor Greg Abbott regarding investigating child abuse. We will continue to oppose any such changes, as we know that this puts children and youths’ lives in danger and will punish families for providing care that has been determined by trained and licensed professionals to be medically appropriate and necessary for their child.

According to a national survey conducted by the Trevor Project, 94 percent of LGBTQ+ youth report that such actions have negatively impacted their mental healthⁱ. Equating gender-affirming care with child abuse in any form goes against evidence-based practices, misleads the public, generates needless confusion, causes potential professional liability for mandatory reporters, and creates unnecessary barriers to accessing medical care for trans and gender diverse youth - barriers which are clearly and demonstrably associated with substantial risk of harm to children and adolescents^{ii,iii}.

All credible, major medical associations and mental health professional associations such as the American Academy of Child and Adolescent Psychiatry^{iv,v}, American Academy of Pediatrics^{vi}, American College of Obstetricians and Gynecologists^{vii}, American Psychological Association^{viii}, the American Medical Association^{ix}, the American Psychiatric Association^x, and the World Professional Association for Transgender Health^{xi,xii} believe that gender-affirming care for transgender youth is life-saving, best-practice, and medically necessary based on currently available research evidence; the National Association of School Psychologists^{xiii}, the National Association of Social Workers^{xiv}, and the American Counseling Association^{xv} also support medical gender affirming care as best practice for transgender and gender diverse youth. These positions are well grounded in medical and social science literature. Although transgender youth experience higher rates of PTSD, depression, anxiety, suicidal ideation, suicide attempts, and self-harm when their health and mental health care needs are not met^{xvixvii}, rates of mental illness and suicide *decrease* when youth are accepted, affirmed by who they are by parents, schools, and peers, and provided with appropriate medically necessary care^{xviii,xix,xx,xxi,xxii,xxiii,xxiv,xxv,xxvixvii}.

Collectively we are concerned about any change equating gender-affirming care to child abuse because of broader implications for the child welfare system. Classifying gender-affirming medical and mental health care as child abuse creates unnecessary stress on families, preventing children and adolescents from receiving the evidence-based, lifesaving, and medically necessary care they need, due to the looming threat of targeted and undue DFPS reports and investigations. The potential for families to suffer unintended consequences of a referral - including loss of employment, prevention from future employment or even the ability to adopt a child - are significant if a parent ends up on the child abuse registry.

Beyond investigations, if gender-affirming care is classified as child abuse, children could be removed from protective parents who are prudently following professional medical and mental health recommendations. Such removals constitute an impermissible intrusion by the state government into the lives of private citizens and caring families. This will infringe upon parents' rights and freedom to make critical healthcare decisions, made in consultation with qualified providers, they deem is in the best interest of their child. LGBTQ+ youth are already 3x more likely to enter foster care than their non-LGBTQ+ peers^{xxviii}. LGBTQ+ youth are more likely to enter care for reasons related to family hostility and less likely to enter for things like parental substance use that generally drives children into the foster care system^{xxix,xxx,xxxii}. We should not push transgender youth into the foster care system at a time when there is broad bi-partisan support, and recently-enacted federal legislation under the Families First Prevention and Services Act ("FFPSA"), to reduce the number of children and families involved in the child welfare system^{xxxii}. Importantly, we should not push transgender youth into the foster care system in the midst of an ongoing foster care placement crisis^{xxxiii}.

Any interpretation of child abuse to include gender-affirming care would negatively impact foster care staff and agencies, including those working in residential settings who are responsible for the safety and well-being of youth in their care. These agencies are not only responsible for facilitating medical care for the children they serve, but also for helping them heal and thrive. LGBTQ+ youth in foster care experience more instability and are less likely to be reunited with their biological family, adopted, or placed in kinship care^{xxxiv}. Additionally, they are more likely to be placed in group care facilities^{xxxv}. Through testimony and reports in the federal lawsuit against the Texas foster care system, we have seen that these facilities often pose a greater risk of harm to children ranging from further physical and sexual victimization to preventable death^{xxxvi}. As recently as February 14, 2022, the Department itself has committed to develop guiding principles that support LGBTQ + youth in its care, and to do so by February 28, 2022^{xxxvii}. LGBTQ+ youth in foster care are at heightened risk of ongoing trauma while in the state's care, including physical and sexual abuse^{xxxviii}. LGBTQ+ youth in foster care also experience higher rates of homelessness and often view the streets as a safer alternative to foster care^{xxxix,xl}. We should not make it harder for foster care providers to care for transgender youth well.

We ask the Governor's office and the Department of Family and Protective Services to consider the dire consequences, given the issues involved in the Texas federal foster care litigation and the Department's recent problems involving Children Without Placement ("CWOP"), of interpreting the definition of child abuse to include gender affirming practices. We ask that the Governor's office and DFPS seriously consider this information and withdraw any determination to equate gender-affirming care with child abuse.

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National Alliance on Mental Illness (NAMI) Texas
National Association of Social Workers - Texas Chapter
Young Invincibles
Plumeria Counseling Center
GT Therapy Group, PLLC
Discovery Counseling Austin, PLLC
Austin Teen Therapy, PLLC
Austin City Counseling, LLC
Inclusive Therapists
Texas Counseling Association
Moving Parts Psychotherapy PLLC
Willow Tree Collective, PLLC
Wild Cactus Therapy, PLLC
Colors of Austin Counseling, PLLC
Ecotherapy Austin PLLC
Ample and Rooted, PLLC
Violet Crown Therapy - Austin, LLC
Deep Eddy Psychotherapy, PLLC
Bat City Counseling, LLC
Embracing Hope Counseling & Family Services PLLC
Pediatric Treatment Group
Peaceful Living Counseling and Wellness
Texas Working At The Intersection for Safe Families
Texas Society for Clinical Social Work
Anxiety Treatment Center of Austin, PLLC
Tonality Counseling, PLLC
Texas Psychological Association
Salvation Army
Inherent Wisdom Therapy, PLLC
Austin Counseling and Trauma Specialists, PLLC
Ovation Integrative Care, PLLC
Austin DBT Associates, PA
Strong Roots Psychotherapy, PLLC
Center for Survivors of Torture
Austin LGBTQIA2+ Elder Task Force
Embrace Austin
Illumina Counseling, PLLC
Enhancing Intimacy Austin, Individual & Relationship Counseling
Austin Women's Counseling, LLC
Ola Wellness, PLLC
Therapy Austin, PLLC

Clarity Child Guidance Center
Hogg Foundation for Mental Health
Culture in Mind, PLLC
Texas School Nurses Organization
Austin Concierge Therapy
Greenbrier Counseling
Texans Care for Children
True North Wellness, PLLC
Dugan Psychotherapy, PLLC
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Transgender Education Network of Texas
Austin Counseling and Nutrition, LLC
Family Eldercare
Human Rights Campaign
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