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OHIO ACADEMY OF
FAMILY PHYSICIANS

December 5th, 2023

The Honorable Matt Huffman
President
Ohio Senate
Ohio Statehouse
Columbus, Ohio 43215

RE: Healthcare Provider Community Concerns with House Bill 68

Dear President Huffman and Members of the Ohio Senate—

On behalf of the organizations above, which represent tens of thousands of licensed physicians and healthcare providers across Ohio and the millions of patients they serve, we are writing today to express our strong opposition to House Bill 68. This legislation infringes on parental rights and will lead to direct harm for transgender children in Ohio.

House Bill 68 Erodes Parental Rights and Harms Children

In addition to the many qualified witnesses who have testified or will testify on behalf of hospitals, physicians, and healthcare providers against HB 68, there are also several parents who have spoken out on behalf of their children. This bill takes away the rights of parents and creates a situation where their children will no longer receive the care that they need and that their parents support. Parents of transgender children face an extraordinarily difficult situation, as do their kids. These parents have the ultimate responsibility to care for their children, and HB 68 undermines that obligation.

Physicians and healthcare providers also have a responsibility to their patients and families in their care. Parents of transgender children must explore available options and select the course of action they feel is best based upon the trusted relationship of their physician or healthcare provider that has been forged over months, if not years of personal counseling and clinical care. Healthcare providers have an obligation to work with these families and provide the best advice possible. Trust is essential and the relationship between parents, children, and their chosen physician or healthcare provider is critical to the delivery of gender-affirming care. While the General Assembly has a responsibility to pass laws that benefit and protect Ohioans, you should not do so at the expense of parental rights.

By supporting HB 68, you are telling parents that you know what is best for their children. Further, you are telling highly educated, and highly trained medical experts that you know more than they do about the evidence-based care of these children and their families. As Ann Becker, a Republican Township Trustee in Southwest Ohio and former Trump County Campaign Co-Chair said in her opposition testimony in the House earlier this year, "It saddens me that I must come here to address a legislative body that has done so many good things in the name of freedom for Ohio....HB 68 says that transgender parents are not free or independent, HB 68 takes parents' rights and turns them over to the state." We believe that parents and patients should be able to seek care from a trusted physician or healthcare provider without legislative interference.

Gender-Affirming Care is Regulated, Contrary to Claims

Proponents of HB 68 and related bills in other states claim that gender-affirming care is 'unregulated' and therefore legislation is needed. This is false on several fronts. First, all healthcare providers in the State of Ohio are licensed by their respective licensure boards and must adhere to a strict code of ethical, clinical, and legal conduct. This includes providing accurate and unbiased advice to parents and families, obtaining informed consent, acting in the best interest of the patient, and documenting and maintaining medical records. Children are children and the same regulations that protect these youth from medical misconduct are standards that all licensing boards adhere to under threat of penalty. Violations of these standards can result in a temporary or permanent loss of license along with other penalties. If proponent allegations are indeed true, then we would see some disciplinary action by of Ohio healthcare licensure boards. We have not.

Additionally, the handful of parents and patients who have testified in support of HB 68 would have the ability to seek damages and other relief in the civil justice system. While most of these witnesses were from out of state, should similar claims arise in Ohio the existing medical liability system we have will provide more than adequate relief for any substandard or unethical care. Lastly, some of the allegations made by proponents and the bill sponsor would also rise to the level of criminal prosecution. We deny that these things are happening in Ohio and have not seen any criminal investigations that would validate proponent claims.

Healthcare rightfully remains one of the most heavily regulated industries, and the idea that providers are practicing gender-affirming care or any other type of medical intervention without regulation is simply false. We reject the insinuation that our members and other providers are acting inappropriately and find such allegations offensive. Given the lack of licensure board action, civil lawsuits, or criminal prosecutions, we feel these accusations are merely political talking points aimed at driving a narrative rather than something that should be taken seriously by the Ohio House. On a related note, many of our organizations have released detailed and comprehensive policy statements in support of gender-affirming care. These policy statements are built upon systematic reviews of all relevant studies and data, diverse expert insights, and a commitment to continued evaluation and revision. Our organizations exist to promote practice and protect patients. This is our driving force, not political ideology.

Proponents Frequently Use Misinformation to Push House Bill 68

Legislation seeking to ban care for transgender youth has been discussed for years at the Ohio Statehouse, however basic facts continue to be misunderstood. Children cannot consent to their own care, only parents may do so. Further, nearly every witness who spoke in favor of the bill received care outside of Ohio, began their transition as adults, who have little or no clinical experience in caring for transgender children. Patients who have recounted their experiences in other states are often describing care that is substandard and would not be performed in Ohio.

It is evident that many lawmakers are concerned over gender-affirming surgeries being performed on minors. Let us be unequivocally clear – gender-affirming surgeries on minors are not recommended and we have no objection to the General Assembly banning these procedures. If parents or patients have questions about surgery, we hope they will discuss them with a trusted healthcare provider who can advise them to wait as the risks are too great and the procedure is not reversible. We are not responsible for resources made available on social media, nor the conduct of providers who choose not to follow evidence-based standards of care for transgender patients. Any physician who is willing to perform a gender-affirming surgical procedure on a child is providing substandard care that is inconsistent with guidelines supported by our organizations.

Supporters of HB 68 frequently misuse studies or selectively pick out data to drive their narrative. In some instances, they use information from studies that are supportive of gender-affirming care to challenge that care. Witnesses have held themselves out to be experts while having no clinical or research experience working with transgender patients. Such conduct is inappropriate and shows a lack of respect for the legislative process and members of the Ohio House of Representatives. Throughout debate on HB 68 and HB 6, our organizations have sought to work with lawmakers to better understand these issues and seek out amendments to ensure these bills do not harm the children they seek to protect. Further, we have presented accurate data and factual information in its proper context to ensure you have the best possible information in order to make your decisions.

Current OHSAA Standards Protect Youth Sports for All Participants

HB 6 is built upon a faulty premise that children assigned male at birth are simply declaring themselves to be female and then playing sports, winning medals, and earning athletic scholarships. In reality, protocols adopted by the Ohio High School Athletic Association (OHSAA) have succeeded in allowing transgender students to play sports and activities while protecting the integrity of women's sports. In the most recent Spring athletic season, OHSAA approved just three transgender girls to play women's sports statewide. None of these athletes possessed any physical advantages, nor did they break records and steal scholarships. They are just children who want to play sports with their friends and make memories, which is a privilege all children in Ohio should be afforded.

The Ohio Senate Can Protect Children and Parental Rights with Sensible Amendments

It is important to note that the vast majority of children with a gender identity issue will never receive a diagnosis of gender dysphoria and, for children with that diagnosis, the majority will not receive hormone therapy or puberty blockers to assist with their care. In rare instances when these drugs are recommended to parents, there is an extensive set of protocols that should be followed. The Senate could adopt a comprehensive standard of care that would ensure all patients in Ohio receive the best, evidence-based care. These standards could include strong parental consent language that ensures all relevant studies and evidence is presented to parents, a requirement that patients have received and continue to receive behavioral health services, and enumerated guidelines for when patients can be considered candidates for these therapies. Again, these protocols would only impact a small number of patients as most children with gender identity issues benefit exclusively from mental health services.

We also believe that a simple amendment adopting OHSAA guidelines could address concerns over those portions of HB 68. Under current guidelines for middle school and high school sports, transgender girls must meet several criteria to participate in women's sports. These adolescents must have a diagnosis of gender dysphoria, be receiving hormone therapy for at least six months, and have a statement from their physician attesting that they do not possess any physical attributes that would give them an unfair advantage. Finally, a committee of experts must grant them authorization. These guidelines ensure that girls sports in middle school and high school are fair while providing a pathway for transgender girls to benefit from participation. We feel these protocols could be adopted as a positive compromise.

In closing, we want to stress that gender-affirming care is evidence-based and continues to be developed and refined based on expert recommendations, data and research from healthcare providers from all professions. Dissenting opinions are taken seriously and debate on standards of care is always open and fair. Our only agenda is to provide the best care possible to these children. Please do not advance HB 68 and instead allow us to discuss amendments that would codify a standard of care that serves the best interest of children, recognizes the rights of parents, and ensures all providers are adhering to evidence-based best practices for these kids. Thank you for your time and thoughtful consideration.

Submitted on behalf of—

Ohio Chapter of the American Academy of Pediatrics
Ohio Osteopathic Association
National Association of Social Workers, Ohio Chapter
Ohio Occupational Therapy Association
Ohio Chapter, American College of Surgeons
Ohio State Medical Association
Ohio Psychiatric Physicians Association
Ohio Chapter, American College of Obstetrics and Gynecology
Ohio Academy of Family Physicians
National Association of Social Workers, Ohio Chapter
Ohio Counseling Association
Ohio School Psychologists Association
The Academy of Medicine of Cleveland and Northern Ohio