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# GENDER AFFIRMING HEALTHCARE: NURSING ETHICS THROUGH THE NOISE

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DATE \_\_\_\_\_



## Roadmap/objectives

- The Noise
  - What are the tensions
- The signal
  - What are the considerations
- How do nurses navigate it
  - Nursing ethics considerations
  - Guidance

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**Gender Affirming Care Saves Lives.**

**TRANSGENDER CLINIC CONTROVERSY**

"THE 'PEDIATRIC TRANSGENDER CLINIC' AT VANDERBILT UNIVERSITY MEDICAL CENTER RAISES SERIOUS MORAL, ETHICAL AND LEGAL CONCERNS. WE SHOULD NOT ALLOW PERMANENT, LIFE-ALTERING DECISIONS THAT HURT CHILDREN OR POLICIES THAT SUPPRESS RELIGIOUS LIBERTIES, ALL FOR THE PURPOSE OF FINANCIAL GAIN. WE HAVE TO PROTECT TENNESSEE CHILDREN, AND THIS WARRANTS A THOROUGH INVESTIGATION."

—GOV. BILL LEE

**DEVELOPING NOW**

**VUMC UNDER SCRUTINY FOR GENDER-AFFIRMING CARE**

**trust politicians doctors**

**THE LEGISLATURE TODAY** January 31, 2023  
House Committees Advance 'Anti-Racism' Bill And Restrictions To Gender-Affirming Medical Care

**The Rally to End Child Mutilation**

**Utah banned gender-affirming care for trans kids.**  
Activists explain why that's 'fighting.'

BIOETHICS FORUM ESSAY

## Child Abuse in Texas

by Ian D. Wolfe and Anesla Kade Goepferd

Published March 14, 2022  
Posted in Children And Families, Hastings Bioethics Forum

Medical care that is widely considered beneficial for transgender teenagers has been identified as child abuse in Texas. The state attorney general issued a decision that gender-affirming medical treatments such as puberty-suppressing hormones fall under the definition of child abuse in Texas state law. A directive by the Texas governor, temporarily blocked last week, would require doctors, nurses, teachers, and other "licensed professionals who have direct contact with children" to report parents who have sought such treatments for their child and "provides criminal penalties for failure to report such child abuse."

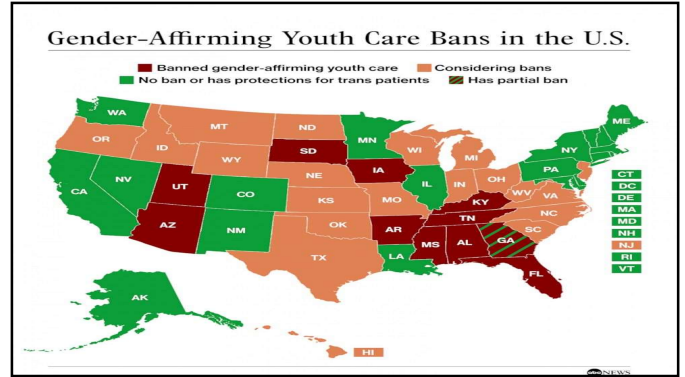
Texas isn't alone. Last year, 34 states introduced 147 anti-transgender bills. A bill in Idaho would make providing gender-affirming care a felony punishable by life in prison. Alabama is advancing legislation that would make it a crime for clinicians to prescribe puberty blockers, hormones, or recommend surgery for gender affirmation. Arkansas passed a ban on gender-confirming treatment that is now temporarily blocked by a judge. This trend should be on the radar for bioethicists. It is harmful for children and families, poses ethical conflict for clinicians, and is a potential human rights violation.

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Table. Enacted Legislation Limiting Gender-Affirming Care <sup>a</sup> in Youth			
State	Legal action <sup>b</sup>	Date	Punishment
Arkansas	Statute Ark. Code Ann. § 20-9-1502	April 2021	Professional discipline, loss of licensure, state enforcement actions, private lawsuits
Texas	Opinion (Interpretation of existing law)	February 2022	Parents may be imprisoned and children may be removed to foster care
Arizona	Statute SB 1138 (Prohibits surgery but not drug therapy)	March 2022	Loss of professional license
Alabama	Statute Alabama SB 184	April 2022	Up to 10-y prison sentence for health care professionals

Idaho is one of at least 13 states to enact a law restricting or banning gender-affirming care for minors, and nearly two dozen more are considering similar bills. Under Idaho's new law, physicians will face up to 10 years in prison if they provide hormones, puberty blockers or other gender-affirming care to people under age 18.

© 2020 Lepore, C., Alstott, A., & McNamara, M. (2022). Scientific misinformation is criminalizing the standard of care for transgender youth. *JAMA pediatrics*, 176(10), 965-966. Page 5



GOOD QUESTION | **Good Question: What is gender-affirming care?** | Children's MINNESOTA

WCCO NEWS | BY JEFF WAGNER | APRIL 4, 2023 | 10:17 PM | CBS MINNESOTA

"In broad strokes, gender-affirming care is any type of medical or mental health support that allows a child or adolescent to feel affirmed in their gender identity," Miller said.

Gender-affirming care can include "medical, surgical, mental health, and non-medical services for transgender and non-binary people," as stated by the United States Department of Human and Health Services (HHS).

Why might someone seek gender-affirming care?

"For a lot of the patients I see, they may be teenagers who are coming in with really significant symptoms of gender dysphoria, so feeling really uncomfortable in their bodies," Miller said.

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HEALTH

## Where gender-affirming care for youth is banned, intersex surgery may be allowed

Updated April 11, 2023 - 2:08 PM ET ©  
Heard on Morning Edition  
By Jojo Macaluso

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Politics and Government

## What is gender-affirming health care? 'Trans refuge' bill would help kids get it

Nicole Ki and Sam Stroozas March 2, 2023 4:13 AM

"It's knowing for a kid in a family that they can go to a place where everyone there has experience working with kids and families who are transgender and gender-diverse, and knows how to support their family in terms of the questions they're having, conflict within their family and knows how to support their kids in their school system," said Goepferd.

<https://www.mprnews.org/story/2023/03/02/what-is-genderaffirming-health-care-trans-refuge-bill-would-help-kids-get-it>

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TABLE 2 The Process of Gender Affirmation May Include ≥ 1 of the Following Components

Component	Definition	General Age Range <sup>a</sup>	Reversibility <sup>b</sup>
Social affirmation	Adopting gender-affirming hairstyles, clothing, name, gender pronouns, and restrooms and other facilities	Any	Reversible
Puberty blockers	Gonadotropin-releasing hormone analogues, such as leuprolide and histrelin	During puberty (Tanner stage 2-3) <sup>b</sup>	Reversible <sup>c</sup>
Cross-sex hormone therapy	Testosterone (for those who were assigned female at birth and are masculinizing); estrogen plus androgen inhibitor (for those who were assigned male at birth and are feminizing)	Early adolescence onward	Partially reversible (skin texture, muscle mass, and fat deposition); irreversible once developed (testosterone Adam's apple protrusion, voice changes, and male pattern baldness; estrogen breast development); unknown reversibility (affect on fertility)
Gender-affirming surgeries	"top" surgery (to create a male-typical chest shape or enhance breasts); "bottom" surgery (surgery on genitals or reproductive organs), facial feminization and other procedures	Typically adults (adolescents on case-by-case basis) <sup>d</sup>	Not reversible
Legal affirmation	Changing gender and name recorded on birth certificate, school records, and other documents	Any	Reversible

**To cite:** Rafferty J. AAP COMMITTEE ON PSYCHOSOCIAL ASPECTS OF CHILD AND FAMILY HEALTH, AAP COMMITTEE ON ADOLESCENCE, AAP SECTION ON LESBIAN, GAY, BISEXUAL, AND TRANSGENDER HEALTH AND WELLNESS. Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents. *Pediatrics*. 2018;142(4):e20181537

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## Ethical Issues for GAC in Youth

- **Beneficence**
  - Maximizing treatment benefit
- **Non-maleficence**
  - Minimizing harm
- **Autonomy**
  - Capacity, assent/consent
- **Justice**
  - access

(WPATH).<sup>7-9</sup> A central part of the debate is harm: is more harm done by providing GAC, or by watchful waiting, an approach that advocates observing a child's gender journey to see how the child's gender identity and expression evolve?<sup>10-12</sup> Proponents

**To cite:** Kimberly LL, Folkers KM, Friesen P, et al. Ethical Issues in Gender-Affirming Care for Youth. *Pediatrics*. 2018;142(6):e20181537

Karrington, B., 2022. Defining Desistance: Exploring Desistance in Transgender and Gender Expansive Youth Through Systematic Literature Review. *Transgender Health*, 7(3), pp.189-212.

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## Balancing Act

<p>Harm from waiting VS Harm from being wrong</p> <ul style="list-style-type: none"> <li>• Epistemic and ethical risk             <ul style="list-style-type: none"> <li>– As the ethical risks increase so should your level of certainty</li> <li>– Certainty that the harms have equipoise- other considerations</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Social transition</li> <li>• Puberty blockers             <ul style="list-style-type: none"> <li>– Reversible, uncertain and potential risks</li> <li>– Risk in incongruent puberty</li> </ul> </li> <li>• Hormones</li> <li>• Surgery</li> </ul>
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## Other Considerations

- Open future
- Supported decision (autonomy)
- Persistence

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## Regret and Desistance

A REUTERS SPECIAL REPORT

### Why detransitioners are crucial to the science of gender care

### Defining Desistance: Exploring Desistance in Transgender and Gender Expansive Youth Through Systematic Literature Review

Baer Karrington, MSPH, MD<sup>1</sup>

Karrington, B., 2022. Defining Desistance: Exploring Desistance in Transgender and Gender Expansive Youth Through Systematic Literature Review. *Transgender Health*, 7(3), pp.189-212.

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## WPATH

International Journal of Transgender Health  
ISSN 1940-0848 (print) / journal homepage: <https://www.wpathonline.com/ijth>

Standards of Care for the Health of Transgender and Gender Diverse People, Version 8

- “Given the emerging nature of knowledge regarding adolescent gender identity development , an individualized approach to clinical care is considered both ethical and necessary.”

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**AAP**

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OPINION | LETTERS [Follow](#)

### Academy of Pediatrics Responds on Trans Treatment for Kids

To 'affirm' a child or teen means destigmatizing gender variance and promoting the child's self-worth.

Aug 21, 2022 12:37 pm ET

There is strong consensus among the most prominent medical organizations worldwide that evidence-based, gender-affirming care for transgender children and adolescents is medically necessary and appropriate. It can even be lifesaving. The decision of whether and when to start gender-affirming treatment, which does not necessarily lead to hormone therapy or surgery, is personal and involves careful consideration by each patient and their family.

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### American Nurses Association Opposes Restrictions on Transgender Healthcare and Criminalizing Gender-Affirming Care

Oct 26th 2022

[ANA Opposes Restrictions on Transgender Healthcare | ANA \(nursingworld.org\)](#)

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**American Academy of Nursing on Policy**

### Policy brief: Protecting vulnerable LGBTQ youth and advocating for ethical health care

Laura C. Hein<sup>a,\*</sup>, Felicia Stokes<sup>b</sup>, Cindy Smith Greenberg<sup>c</sup>, Elizabeth M. Saewyc<sup>d</sup>

<sup>a</sup>Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) Health Expert Panel  
<sup>b</sup>Academy Jonas Policy Scholar, Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) Health Expert Panel  
<sup>c</sup>Child, Adolescent & Family Expert Panel  
<sup>d</sup>Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) Health Expert Panel & Child, Adolescent & Family Expert Panel

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### ANA Code of Ethics

- Position Statement
  - <https://ojn.nursingworld.org/table-of-contents/volume-24-2019/number-1-january-2019/ana-position-statement-advocacy-for->

#### Code of Ethics for Nurses with Interpretive Statements

Provision 1 of the *Code of Ethics for Nurses with Interpretive Statements* (ANA, 2015a) asserts: "The nurse practices with compassion and respect for the inherent dignity, worth, and unique attributes of every person" (p. 1). The interpretive statements that accompany this provision affirm that "the need for and right to health care is universal, transcending all individual differences" (p. 1) and that "nurses consider the needs and respect the values of each person in every professional relationship and setting" (p. 1). Nurses are expected to lead in the development, dissemination, and implementation of changes in public and health policies that support protection against discrimination due to sexual orientation, gender identity, and/or expression. The relationship that nurses create with their patients should be one of trust and compassion. Nurses should first identify and then set aside any bias or prejudice in the provision of nursing care. Interpretive Statement 1.2 instructs nurses to consider "factors such as culture, value systems, religious or spiritual beliefs, lifestyle, social support system, sexual orientation, or gender expression, and primary language when planning individual [patient], family and population-centered care" (ANA, 2015a, p. 1). However, these factors must not be used to discriminate or prohibit access to compassionate and high-quality care.

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**Trans Refuge Executive Order Signed**

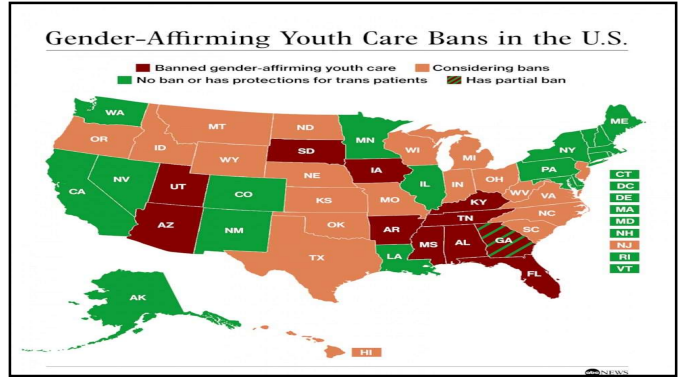
Thank You Governor Walz!

OUTFRONT MINNESOTA

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Politics and Government  
 'You belong here': Minnesota House passes trans health refuge bill  
 Dana Ferguson St. Paul March 24, 2023 9:19 AM

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**WHAT DOES THIS MEAN FOR NURSES?**

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**Code of Ethics**

- Provision 1
  - The nurse practices with compassion and respect for the inherent dignity, worth, and unique attributes of every person

problems, and respect patients' or clients' decisions. Respect for patient decisions does not require that the nurse agree with or support all patient choices. When patient choices are risky or self-destructive, nurses have an obligation to address the behavior and to offer opportunities and resources to modify the behavior or to eradicate the risk.

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## Code of Ethics

- Provision 2
  - The nurse's primary commitment is to the patient, whether an individual, family, group, community, or population

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## Code of Ethics

- Provision 5
  - The nurse owes the same duties to self as to others, including the responsibility to promote health and safety, preserve the wholeness of character and integrity, maintain competence, and continue personal and professional growth

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## Personal vs Professional

- What gender affirming care
  - Using preferred name and pronouns
  - Medically affirming care (blockers, hormones)
  - Surgical intervention (mastectomy, phalloplasty, etc)
- Conscience objection vs discrimination
  - A conscience objection must be balanced with patient access to care
    - » Primary right of the patient to access care
  - Discrimination is a direct violation of provision 1 and the inherent dignity and worth of the patient

**Conscientious Objection to Providing Gender Health Care in Pediatric Training: Balancing the Vulnerability of Transgender Youth and the Vulnerability of Pediatric Residents**

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Karen L. Teelin, MD, MSEd<sup>1</sup>, Catherine D. Shubkin, MD, HECC<sup>2</sup>, and Amy E. Canuso Brown, MD, MSc, MScS, HECC<sup>1,3</sup>

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## Code of Ethics Provision 5.4

When nurses are placed in circumstances that exceed moral limits or that violate moral standards in any nursing practice setting, they must express to the appropriate authority their conscientious objection to participating in these situations. When a particular decision or action is morally objectionable to the nurse, whether intrinsically so or because it may jeopardize a specific patient, family, community, or population, or when it may jeopardize nursing practice, the nurse is justified in refusing to participate on moral grounds. Conscience-based refusals to participate exclude personal preference, prejudice, bias, convenience, or arbitrariness.

objection. Nurses are obliged to provide for patient safety, to avoid patient abandonment, and to withdraw only when assured that nursing care is available to the patient.

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## Professional vs legal

- Mandated reporting laws
  - Legal vs professional obligations
- Protecting patient and privacy vs future need
  - Shadow charts

FROM THE ETHICS INBOX

### Navigating competing ethical and civil-legal obligations

To: Ethics Advisory Board  
From: A conflicted school nurse

made by parents to forgo certain medical treatments. Changing from curative to hospice goals of care can be a very emotional and taxing experience. In this made the difficult but loving decision child's quality of life and avoid as cardiopulmonary resuscitation.

FROM THE ETHICS INBOX

### The ethics of cooperating with law enforcement

To: Ethics Advisory Board  
From: Nurse informant

Subject: Nurse obligations to cooperate with law enforcement

A nurse is a member of a society with laws. There are mandated reporting laws, and healthcare providers have a duty to warn. These responsibilities obligate the nurse to report vulnerable patients who might be experiencing or have experienced abuse and patients who might be expressly voicing intent to harm them.

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## Code of Ethics

### Provision 6

The nurse, through individual and collective effort, establishes, maintains, and improves the ethical environment of the work setting and conditions of employment that are conducive to safe, quality health care.

### Provision 9

The profession of nursing, collectively through its professional organizations, must articulate nursing values, maintain the integrity of the profession, and integrate principles of social justice into nursing and health policy.

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## Conclusion

- Gender affirming care is appropriate healthcare
- Nurses have an obligation to the patient
- Conscience objection
  - Refusing to participate in an action that might be in conflict with personally held moral or religious beliefs
- Discrimination
  - Refusing care for or refusing to care for someone due to their identity
- Know state laws
- Know your code of ethics
- Discuss conflicts with leadership

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