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June 21st, 2023

The Honorable Jason Stephens
Speaker
Ohio House of Representatives
Ohio Statehouse
Columbus, Ohio 43215

Dear Speaker Stephens and Members of the Ohio House of Representatives—

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.

Our organizations have participated in good faith throughout debate on HB 68 in committee and we are appreciative of the attention that Chairman Lipps and members of the Public Health Policy Committee gave to our witnesses. Nevertheless, we feel that HB 68 *as reported by committee* is a deeply flawed bill. In addition to placing severe restrictions on evidence-based gender-affirming care, the bill also includes the text of HB 6 (Save Women's Sports Act), which targets a small number of transgender kids who are playing sports in Ohio.

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.

House Bill 68 Erodes Parental Rights and Harms Children

In addition to the many qualified witnesses who spoke on behalf of hospitals, physicians, and healthcare providers against HB 68, there were also several parents who testified or submitted written remarks. 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 all 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 last month, "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.

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.

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.

Further, it is ironic that the Ohio House of Representatives is planning to vote on HB 68 on the same day you will consider HB 73, legislation sponsored by State Representatives Jennifer Gross and Mike Loychik to protect the off-label prescribing of FDA-approved drugs. In her written comments on HB 73, Rep. Gross even remarked that, "Prescribing off-label drugs has been an accepted medical practice for decades.....Healthcare providers undergo extensive education to obtain licensure and this licensure indicates their ability to give sound medical advice." It is confounding to see the House simultaneously support a bill that recognizes the ability of healthcare providers to give advice and prescribe drugs off-label and then pass a bill to ban evidence-based care on the grounds that providers should not be giving clinical advice or using drugs off-label for transgender children.

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.

Proponents Frequently Use Misinformation to Push House Bill 68

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. One witness even held himself out as an 'interested party' despite clearly being a proponent; this witness also openly misled lawmakers about his interest in this issue. 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. You heard directly from Ohio physicians, healthcare providers, hospital executives and parents who are your constituents and spoke truthfully with respect and passion for the process.

In closing, we want to remind the committee 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 Psychiatric Physicians Association
Ohio Chapter of the American Academy of Pediatrics
Ohio Chapter, American College of Surgeons
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
Academy of Medicine of Cleveland and Northern Ohio