Thursday, November 8, 2018

An Open Letter Regarding the U.S. Department of Health and Human Services Proposal to Establish a Legal Definition of Sex under Title IX

To:
Alex M. Azar II, Secretary, U.S. Department of Health and Human Services
Roger Severino, Director of the Office for Civil Rights, U.S. Department of Health and Human Services
U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

John M. Gore, Acting Assistant Attorney General, U.S. Department of Justice
Alyssa Lareau, Trial Attorney, Federal Coordination and Compliance Section, U.S. Department of Justice
David Knight, Trial Attorney, Disability Rights Section, U.S. Department of Justice
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Office of the Assistant Attorney General, Main
Washington, D.C. 20530

Copied:
Governor John Bel Edwards
Dr. Rebekah Gee, Secretary of Louisiana Department of Health
Louisiana Attorney General Jeff Landry
Speaker Taylor Barras, Louisiana House of Representatives
President John Alario, Louisiana State Senate

We are writing in response to the report¹ published by The New York Times on Sunday, October 21 regarding a U.S. Department of Health and Human Services (HHS) proposal to establish a narrow legal definition of sex under Title IX, a proposal which will affect an estimated 20,900² Louisianans whose sex has been determined to be contrary to that which was assigned at birth. We are organizations and individual providers who serve all Louisianans accessing medical and behavioral

²The Williams Institute at UCLA School of Law: How Many Adults Identify as Transgender in the United States
health care, including transgender Louisianans, who are more likely than cisgender (non-transgender) adults to report poor health and lack of health insurance coverage. As medical and behavioral health care providers, we strive to achieve healthier outcomes for all Louisiana families, especially those who face disparate rates of poor health and have less access to healthcare.

Some transgender people experience serious emotional distress, in part due to incongruence between the sex they are assigned at birth and their gender identity. This distress can have far-reaching consequences for their health and everyday lives, and is medically diagnosed as “gender dysphoria.” Not all transgender people have gender dysphoria. Being transgender is not considered a medical condition, and many transgender people do not experience anxiety or distress as a result of the difference between their gender identity and their sex assigned at birth. Yet for those who do experience gender dysphoria, the established treatment protocol is to pursue social and/or medical transition – the process of changing their gender expression in order to conform their expression to their gender identity – by changing their name and pronouns, the way they dress, and often taking medications and/or undergoing surgery(ies) to physically change their body. All major medical organizations in the United States recognize that living according to one’s gender identity is an effective, safe and medically necessary treatment for many people who have gender dysphoria.

It's important to remember that while being transgender is not in itself an illness, many transgender people need to deal with physical and mental health problems because of widespread discrimination and stigma. These kinds of experiences can be challenging for anyone, and for some people, it can lead to anxiety disorders, depression, and other mental health conditions. But these conditions are not caused by having a transgender identity: they're a result of the familial and societal rejection often faced by transgender people. Many transgender people – especially transgender people who are accepted and valued in their communities – are able to live healthy and fulfilling lives.

It has been widely documented that discrimination is a significant factor in poor health outcomes for transgender Americans, especially transgender children and youth. A study published by the American Academy of Pediatrics found that more than half of transgender male teens reported attempting suicide in their lifetime, while 29.9 percent of transgender female teens said they attempted suicide. Among non-binary youth, 41.8 percent of respondents stated that they had attempted suicide at some point in their lives. The 2015 U.S. Transgender Survey (USTS), the largest survey examining the experiences of transgender people in the United States, found that among respondents in Louisiana, 25 percent reported losing a job in their lifetime because of their gender identity and expression, and 32 percent reported experiencing some form of housing discrimination in the previous year, such as being evicted from their home or denied a home or apartment because of being transgender. Among the most alarming findings, 85 percent of those who were “out” or perceived as transgender at some point between kindergarten and Grade 12 (K–12) experienced some form of mistreatment, such as being verbally harassed, prohibited from dressing according to their gender identity, disciplined more harshly, or physically or sexually assaulted because people thought they were transgender. All of these factors almost certainly contribute to the additional finding that 37% of respondents experienced serious psychological distress in the month before completing the survey (based on the Kessler 6 Psychological Distress Scale).

According to the report by The New York Times, the memo in question reads, “Sex means a person’s status as male or female based on immutable biological traits identifiable by or before birth. The sex listed on a person’s birth certificate, as originally issued, shall constitute definitive proof of a person’s sex unless rebutted by reliable genetic evidence.” This definition of sex contradicts the irrefutable fact of the existence of not only transgender people, but also intersex people, who

3 The Williams Institute at UCLA School of Law: Demographic Characteristics and Health Status of Transgender Adults in Select US Regions
4 Diagnostic and Statistical Manual of Mental Disorders, 5th Edition: DSM-5 - definition of gender dysphoria
6 2015 U.S. Transgender Survey Report
are born with atypical sex characteristics. An estimated 1 in 2,000 infants are born with atypical sex characteristics\(^7\), although this figure does not take into account those who have atypical sex characteristics not noticeable at birth. While intersex conditions are not the same as transgender identity, in both cases, a patient’s gender identity is understood by the professional medical and behavioral health community to be determinant of their sex.

Beyond our concerns regarding the memo’s scientific inaccuracy, we wish to make clear our position that the adoption of a definition like the one above would do great harm to transgender and intersex people. We urge you to instead adopt policies to ensure that transgender and intersex people can be more meaningfully included in society without fear of discrimination and the poor health outcomes that result.

Sincerely,

Institutional Signers:
Tulane University School of Medicine
National Association of Social Workers - Louisiana Chapter
Louisiana Public Health Institute
Crescent Care
CareSouth Medical and Dental
Ochsner Pride Employee Resource Group
Metro Health, Baton Rouge
New Orleans Advocates for GLBT Elders (NOAGE)
The Philadelphia Center, Shreveport
Louisiana AIDS Advocacy Network, Inc
Red Stick Mental Health
Brotherhood Incorporated
Conquest Counseling

Individual Providers:
Dr. Gina Sequeira, MD, Pediatrician
Cody M. Smith, Licensed Professional Counselor
Deepa Panchang, Nurse Practitioner
Shamyra Howard, Licensed Clinical Social Worker
Annalise Pardew, Nationally Registered Paramedic
Veronica Magee-Jackson, Deputy Director of Brotherhood Incorporated
Dr. Aimee Aysenne, MD, MPH, Neurologist
Chris A. Miciotto, LCSW, Executive Director of The Philadelphia Center
Syria Jackson, Substance Abuse Counselor
Carla Gilless, Licensed Practical Nurse
Capi A. Landreneau, Licensed Clinical Social Worker, Certified Group Psychotherapist

Samantha Rauber, Provisional Licensed Professional Counselor
Brant Passman, Clinical Mental Health Counseling Graduate Student
Michael Hickerson, Licensed Clinical Social Worker
Noel Twilbeck, Jr., MBA, CEO of Crescent Care
Shirley Lolis, Executive Director and CEO of Metro Health
Dr. Marcia Glass, MD, Internal Medicine and Palliative Medicine Physician
Lisa Guidos, Registered Nurse
Jena L. Ourso, Mental Health Care Provider
Melissa Ray, Licensed Professional Counselor
Crystal Antle, Therapist/social worker
Margot Cloutier, Licensed Clinical Social Worker
Dr. Jessica Berman, MD, Family Medicine Physician
Dana, Licensed Clinical Social Worker
Patrick Morris, Clinical Social Worker
Jessica Davis, Licensed Clinical Social Worker
Heather Kindschy, Licensed Clinical Social Worker
Anna McKeon, Dialysis Social Worker
Kaytlyn Gillis, Licensed Clinical Social Worker
Dr. Jeremy Wearn, MD, Internal Medicine Physician
Meghan, Licensed Clinical Social Worker
Carlo Cuneo, Licensed Clinical Social Worker, Certified Sex Therapist
Kathy Vilas, Licensed Clinical Social Worker
Dr. Houston Bonnyman, MD, Family Medicine Physician
Richard Jackson, Licensed Clinical Social Worker
Mark Taliancich, Licensed Professional Counselor
Victoria Townsend, Social Worker
Harry Turner, Licensed Clinical Social Worker
Amber Kimble, First Responder
Logan Kinnamon, Medical Student - Class of 2022
Logan Mumphrey, Registered Nurse
Dr. Christopher Garnett, MD, Primary Care Physician
Pamela Ives, Registered Nurse
Dr. Ryan H. Pasternak, MD, MPH, Pediatrician
Dietz, Patient Navigator
Al Loupe, Licensed Practical Nurse
Dr. Susan Abdalian, MD, Pediatrician
Matt Reese, Registered Nurse
DT Daigle, Registered Nurse
Marisa Morton, Registered Nurse
Mary Marshall Brame, Registered Nurse
Dr. Nicholas Van Sickels, MD, Chief Medical Officer, Crescent Care
Dr. Jason Halperin, MD, MPH, Infectious Disease Physician
Bruce Hinton, Physician Assistant
Teresa Maxwell, Social Worker
Dr. Allison Cragin, MD, Pediatrician
Jesse Roessler, Licensed Professional Counselor
Virginia, Social Worker
Dr. Robin Ivester, MD, Primary Care Physician
Jessica Bayles, Registered Nurse
Dr. Michele Simoneaux, MD, Pediatrician and Internist
Dr. Celeste Newby, MD, PhD, Internal Medicine
Karen Girardot, Licensed Master Social Worker, Hospice Social Worker
Doug Leyda, LCSW-BACS, Licensed Clinical Social Worker
Greg Tiritilli, Addiction Counselor
Blanche Bienvenu, Licensed Clinical Social Worker
Jane Hyde, Social Worker
Shirley Peak, Licensed Clinical Social Worker
Sho Morikawa, Medical Social Worker
Danielle Van Hoeven, RN, Critical Care RN
Brandy Le, Dietetic Technician
Dr. Catherine Jones, MD, Internal Medicine Physician
Betty Ann Burgin, Registered Nurse
Leah Talley, Epic Analyst
Alexis Hernandez, Patient Navigator
Nilmo Hernandez, Associate Clinical Research Coordinator
Dr. Kristen Shealy, MD, Internal Medicine Physician
Dr. Dana Walker, MD, Physician
Julie Alley, Social Worker
Dr. Daniel Brady, MD, Physician
Danielle Kister, Registered Nurse
Nancy Heilner, Social Worker
Dr. Ryan M. Krlin, MD, Urologist
Austin Matthews, LCSW, Health Center Director
Kristi Carnahan, RN, BSN, CEN
Nichole Capps, Registered Nurse
Meredith Miceli, Associate General Counsel at Ochsner Health System
Cory Cole, MPH Candidate, Public Health Researcher
Camilla Marchena, Health Educator
Dr. Alexis Morvant, MD, Physician
Dr. Jeff Gidday, PhD, Professor of Ophthalmology, Physiology, and Neuroscience
Dr. Penny Boyle, MD, Physician
Dr. Darien Davda, MD, Physician
Dr. Douglas Alexander, MD, Physician
Miranda Pollock, Public Health Researcher
Dr. Rachel Cox, MD, Physician
Dr. Alejandra Riera, MD, Physician
Amanda Delchamps, Social Worker
Jennifer Sato, Disaster Program Manager
Ligia Soileau, Licensed Clinical Social Worker
Dr. Kiersta Kurtz-Burke, MD, MPH, Physician
Dr. Janet Rossi, Pediatric Critical Care Physician
Deborah St. Germain, Forensic Nurse
Dr. Ross Hoffman, MD, Physician
Dana Smiles, Women's Health and Equity Program Evaluation Manager
Abby Huffman, Licensed Professional Counselor
Keanan McGonigle, Medical Student, Tulane University Medical School, Class of 2019
Dr. Gerhard S Mundinger, Plastic Surgeon
Jenn Burns, Registered Nurse
Dr. Gregory Kyle Fulton, MD, Pediatrician
Dr. Allison Alessandra, MD, Resident Physician
Dr. Fabienne Gray, MD, Physician
Dr. Vrishali Suman, MD, Physician
Dr. Marcus Bachhuber, MD MS, Physician
Samantha Euraque, Public Health Administrator
Barbara D. Reilly, Medical Librarian, LSUHSC-Shreveport Medical Library
Amanda Goumas, Health Program Coordinator
Dr. Barron O'Neal Jr, MD, Physician
Brittany Gosserand, Occupational Therapist
Brooke Naranjo, Nurse Practitioner
Caroline Gilchrist, Public Health Graduate Student
Jasmine Meyer, Breast and Cervical Health Program Manager
Dr. Katherine Williams, MD, Resident Physician
Dr. Catherine Hudson, MD, MPH, Physician, Fellow in Gastroenterology
Molly, Data Coordinator
Dr. Caroline V. Christopher, MD, Primary Care Physician
Dr. Stacey Lynch, MD, Physician
Dr. Allen C. Barnes, MD, Physician
Min Gu, Postdoc
Ashton Jorgensen, Graduate Assistant
Dr. Matthew Lammi, MD, Physician
Dr. Jeremy Toler, MD, Physician
Dr. Monika Lammi, MD, Physician
Edward Trapido, ScD, Epidemiologist
Christy, Licensed Clinical Social Worker
Dr. Jamie Lovitt, MD, Resident Physician
Charles Schully, Social Worker and Lawyer
Dr. Clifford Cranford, MD, Physician
Rebecca Cranford, Nurse
Dr. Adele Evans, MD, Physician
Dr. Nicholas Sells, MD, Physician
Dr. Marcella Houser, MD, Physician
Dr. Sasha Alvarado, DO, Physician
Dr. Susan McSherry, MD, Physician
Dr. Lauren Mulligan, MD, Resident Physician, Psychiatry
Dr. Meredith Clement, MD, Physician
Jasmine Davis, HIV/STI Prevention Specialist, Brotherhood Incorporated
Dr. Randi Kaufman, DrPH, Public Health Professor
Tonya Smith, HIV Prevention Counselor
Shannon Williams, MPH, Mental Health Education Coordinator
Kelsey Hudson, Clinical Psychology Intern
Alice Hiller, Occupational Therapist
Dr. Elizabeth Whitham, MD, Psychiatrist
Aimme McCauley, Educator and Registered Nurse
Melissa Ferniz Nunn, APRN, CPNP, Pediatric Nurse Practitioner
Dr. Gail Burke, MD, Physician
Kerry Auzenne, Case Manager
Dr. Dania Felipe, MD, Pediatric Endocrinologist
Chip Eakins, Advocate, The Philadelphia Center
Dr. Danielle Canter, MD, Physician
Dr. Natasha Lee, MD, Resident Physician
Johnathan Craig, Nurse
Dr. Jeff Chou, MD, Physician
Dr. Priya Patel, MD, Physician
Dr. Julius Kaplan, MD, Physician
Julia Fleckman, Public Health Researcher
Kristen Garvie, Medical Student
Lindsey Guidry, Medical Student, MS4
Louis Monnig, LSU New Orleans Medical Student
Dr. Erica Tate, MD, Physician, Tulane
Megan Fraser, Practice Facilitator
Colleen Huard, Program Manager
Will Monson, Health Care Communications Coordinator
Daniel Chan, Registered Nurse
Shane Bierma, Psychiatry Intern
Janet Brown, Epidemiologist
Mary Boyles, Emergency Room Tech
Dr. Dana Muhlfelder, MD, Physician
Craig Parton, Psychotherapist / MFT
Syd McClune, AMFT Clinic and Intern Coordinator
Julia Larson, Mental Health Professional
Steven Morphew, Mental Health Counselor (LPC)
Annie Wright, LMFT, Psychotherapist
Dr. Mary J Murphy, MD, Physician
Sandra Waguespack, RN, BSN, MSN, Retired nursing instructor
Lauren Rettig, Registered Nurse
John Eaton, Medical Student
Dr. Eileen Velez, MD, Physician
Anthony Basco, LMSW, Social Worker
Amy Aucoin, Social Worker
Dr. Abigail Nix, MD, Physician
Dr. Vinay Krupadev, MD, Physician
Jena L. Ourso, Social Worker
Dr. Dorothy Knutsen, MD, Resident Physician
Caitlin Miller, Nurse Midwife
Allison, Licensed Clinical Social Worker
Dr. Justin Tien, MD, MPH, Physician
Heather Faris, Registered Nurse
Roula AbiSamra, Public Health Professional
Dr. Jo Ann LoRusso, phD, Early Childhood Special Education Professor
Shelby Wilson, Social Worker
James L. Meadows III, Social Worker
Drue Sahuc, Mental Health Tech
Jennifer Sato, Program Coordinator / Health Care Disaster Response Manager
James M Deshotels, SJ, MSN, MPH, Nurse
Rachel Mumphrey, Licensed Clinical Social Worker
Lynn J. Friedman, Therapist
Dr. Rachel Hausmann, MD, Pediatrician
Danette Moore, Psychotherapist/Professional Counselor
Joannie Sparks, Licensed Master Social Worker
Julia Silver, Clinical Research Coordinator
Neil Hilton, Social Worker
Devin N. Leivo, MA, MS, NCC, Clinical Psychology Doctoral Student and Therapy Extern
Valarie Oliver, Mental Health Therapist
James Wright, Social Services Analyst
Dr. Jonathan Taylor, MD, Physician/Surgeon
Debra Good, Psychologist
AJ Holly Huth, Youth Services Manager
Dr. Mark Hausmann, MD, Surgeon
Warren Zimmermann, MSN, RN, Nurse Executive and Educator