

ATTORNEY GENERAL GUIDANCE:

Information for Massachusetts Healthcare Providers Regarding Gender-Affirming Care

The Office of the Attorney General of Massachusetts has received inquiries from healthcare providers about the impact of executive orders and federal policies on transgender youth who seek gender-affirming care in the Commonwealth. It is important to note that no federal law or executive action prohibits healthcare providers from continuing to provide gender-affirming healthcare services to transgender youth under 19 years of age, nor from protecting the privacy of their patients as required by law. The Attorney General's Office will continue to closely monitor relevant executive orders, federal rulemaking, and legislation, and will update this guidance as needed.

This guidance is not legal advice or a formal legal opinion of the Attorney General. A healthcare provider or organization should consult with legal counsel about specific questions and concerns and to determine how the considerations discussed below affect a particular healthcare environment.

Questions & Answers

Is gender-affirming care barred by the federal actions?

No, there is no federal law that bans the provision of gender-affirming care. On January 28, 2025, President Trump issued an Executive Order entitled "Protecting Children from Chemical and Surgical Mutilation" (the "January 28 Executive Order") that targets gender-affirming care for youth under 19. The January 28 Executive Order does not (and cannot) ban the provision of gender-affirming care in Massachusetts.

Additionally, on February 25, 2025, the U.S. Department of Health & Human Services' Office of Civil Rights ("OCR") rescinded its 2022 guidance on gender-affirming care, civil rights, and privacy ("the February 25 OCR Recission"). The February 25 OCR Recission does not impact the ability to provide gender-affirming care in Massachusetts, where gender-affirming care is protected under state law.



Can patients still access gender-affirming care in Massachusetts?

Yes. Massachusetts law expressly protects access to gender-affirming healthcare services.¹ Neither the January 28 Executive Order nor the February 25 OCR Rescission changes state law. Patients can still access gender-affirming care either in person or via telehealth in Massachusetts.

What obligations do healthcare providers have with respect to transgender patients in light of the federal actions?

Massachusetts law continues to bar discrimination against transgender patients in healthcare. Under Massachusetts law, patients are entitled to access supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative or supportive nature relating to the treatment of gender dysphoria. The denial of that care is contrary to Massachusetts law and may run afoul of Massachusetts anti-discrimination statutes.

Do the federal actions make gender-affirming care illegal under the female genital mutilation statute?

Consistent with the [statement](#) issued by Attorney General Campbell, there is no connection between “female genital mutilation” and gender-affirming care, and no federal law makes gender-affirming care unlawful. The Western District of Washington recently agreed that there was “no credible threat of prosecution” under that statute for providing gender-affirming care and noted that the federal government itself confirmed “that the Executive Order does not expand the criminalized conduct under that statute.” *Washington et al. v. Trump*, 2:25-cv-00244, Dkt. No. 233 (Order Granting in Part and Denying in Part Preliminary Injunction) at n.1.

Do the federal actions strip federal funding for medical institutions or providers who provide gender-affirming care?

While the January 28 Executive Order purports to strip federal funding for research and education grants, that provision is currently blocked by court orders. As such, federal funding for research and education grants remains available in Massachusetts. There have been no disruptions to Medicaid or Medicare funding for gender-affirming care, and gender-affirming care remains covered by MassHealth. People who are experiencing funding disruptions can contact the Attorney General's Office.

¹Mass Gen. Laws c. 12, § 11 I ½(b)

Do these obligations extend to any state-regulated health insurers?

Yes. Massachusetts law prohibits state-regulated health insurance plans from refusing enrollment, unenrolling, or withholding coverage from individuals based on their gender identity or gender dysphoria.² This means that transgender residents cannot be denied health insurance coverage for seeking medically necessary treatment that would be accessible to the cisgender population.

Moreover, MassHealth is committed to ensuring that transgender and gender-diverse members have access to all MassHealth-covered benefits without unlawful discrimination. As such, MassHealth providers remain protected and can seek reimbursement when providing eligible gender-affirming care to MassHealth members. More information about eligibility for gender-affirming care services can be found [here](#).

Can patients still access care if they are on Medicaid?

Yes. Though the January 28 Executive Order mentions Medicaid funding in Section 5, as of the date of this guidance, there has been no federal action taken to revoke Medicaid coverage for gender-affirming care.

Does Massachusetts law protect providers providing gender-affirming care?

Yes. Massachusetts enacted a law in 2022, often referred to as the "Shield Law," identifying protections for legally protected healthcare, including gender-affirming care. The Shield Law protects people, including providers, from the consequences of civil and criminal actions in other states that restrict or criminalize gender-affirming care or reproductive healthcare. These protections apply to providers who are located in Massachusetts and generally prohibit state courts, police officers, and other law enforcement officials from cooperating with out-of-state investigations into, or prosecutions of, gender-affirming care. The Shield Law also includes protections against extradition, licensure consequences, impacts to medical malpractice insurance premiums, and more. Frequently Asked Questions about the Shield Law can be found [here](#).

If you are a provider of gender-affirming care who has specific legal questions about your ability to provide such care, you should consult with a lawyer regarding the specific nature of your questions.

What protections does Massachusetts have in place to protect providers of gender-affirming care?

Massachusetts has a number of civil and criminal laws that protect providers from threats, intimidation, and harassment. If you believe you have been the subject of such conduct, you can fill out a civil rights complaint form, which can be accessed through this [link](#). Finally, Massachusetts offers a program that allows providers of gender-affirming care to have their personal information kept private through the Registry of Motor Vehicles ("RMV"). For more information on the confidential plates program, please contact reprojustice@mass.gov.

What information do healthcare providers need to produce if asked for patient information by law enforcement?

Protected Health Information ("PHI") held by a healthcare provider is protected by federal and state privacy laws, including the Health Insurance Portability and Accountability Act (HIPAA) and the Shield Law. As noted above, law enforcement agencies and officials are prohibited from complying with out-of-state investigations into the provision of gender-affirming healthcare and cannot solicit information from healthcare providers for that purpose. In addition, healthcare providers must comply with federal and state privacy requirements that apply in the particular circumstance and should consult their organization's internal policies and procedures, which may include requiring law enforcement to obtain a court order, warrant, subpoena, or summons and which may be more protective of patient privacy. Neither the January 28 Executive Order nor the February 25 OCR Rescission impacts the HIPAA Privacy Rule to Support Reproductive Health Care Privacy (the "Privacy Rule"), which prohibits the use or disclosure of PHI by a covered healthcare provider, plan, or clearinghouse for the purpose of a criminal, civil, or administrative investigation or the imposition of related liability. The Privacy Rule's definition of "reproductive healthcare" is broad enough to encompass gender-affirming care.