



**Bob Ferguson**  
**ATTORNEY GENERAL OF WASHINGTON**  
**1125 Washington Street SE – PO Box 40100 – Olympia, WA 98504-0100**

May 16, 2022

**Sent via Electronic Mail**

Washington Medical Commission  
Attn: Melanie de Leon, Executive Director

Washington State Board of Osteopathic Medicine and Surgery  
Attn: Renee Fullerton, Executive Director

Washington State Nursing Care Quality Assurance Commission  
Attn: Paula Meyer, Executive Director

Washington State Pharmacy Quality Assurance Commission  
Attn: Marlee O'Neill, Acting Executive Director

Greetings:

The Washington Medical Commission, the Washington State Board of Osteopathic Medicine and Surgery, the Washington State Nursing Care Quality Assurance Commission and the Washington State Pharmacy Quality Assurance Commission are responsible for providing licenses for medical providers in Washington state. This process generally involves a criminal background check, and convictions for certain crimes can disqualify a provider from obtaining a license to practice medicine in Washington.

As you know, many states and the United States Supreme Court are poised to restrict or eliminate the right to full access for reproductive and gender-affirming care. Over the past 50 years, Washingtonians have consistently affirmed this right. As leaders in protecting the health and safety of all residents of our state, I write to ask for your assistance in ensuring that medical providers who come to Washington to practice are not penalized for providing appropriate care in states where that care is prohibited or criminalized.

**Now is the time to send a clear message that Washington welcomes health care providers from other states who come here to provide medically appropriate care that may be criminalized where they currently practice.**

# ATTORNEY GENERAL OF WASHINGTON

May 16, 2022

Page 2

You have discretion when considering licensure applicants who have criminal convictions or other disciplinary actions. Providers and the public will both benefit from a clear statement that you will not take action or disqualify from licensure providers solely based on violation of laws criminalizing care in other states but whose care otherwise meets Washington's standard of care. I ask that you communicate that you will use your discretion to evaluate each case on its facts, consistent with your longstanding practices. A clear statement will benefit providers and the public by providing assurance that those who provide high quality essential care will not be turned away from this state.

Washington is a leader in protecting reproductive rights. In 1970, with Referendum 20, Washington was the first state to legalize abortion in the first four months of pregnancy,<sup>1</sup> under the condition that a woman seek permission from her husband. *Roe v. Wade* eliminated this requirement in 1973. In 1991, Washington voters passed Initiative 120, the Reproductive Privacy Act, which codified *Roe* in state law.<sup>2</sup> In 2018, the Legislature passed the Reproductive Parity Act, which requires insurance plans to cover abortions and abortion care if they cover maternity care.<sup>3</sup>

Notably, a leaked draft of the initial majority opinion in the U.S. Supreme Court case *Dobbs v. Jackson Women's Health* will, if adopted as drafted, overrule the federal right to abortion provided in *Roe* and allow states to decide whether to restrict or ban abortion. Many states already have abortion restrictions that will be effective immediately if *Roe* is overturned, and some of these states and others are considering more restrictive laws that would deny patients essential care.<sup>4</sup> States across the country have laws restricting or eliminating access to abortion and criminalizing anyone who provides or aids an abortion, or anyone who chooses to end their pregnancy. While the *Dobbs* case concerns the right to abortion, the far-reaching and extreme assertions in the draft opinion has deeply harmful implications for many other rights.

Additionally, Washingtonians recognize the importance of access to gender-affirming care. State law prohibits insurance companies from discrimination based on gender identity. In response to

---

<sup>1</sup> Saldanha, Alison. "The history of abortion rights in Washington state." The Seattle Times, May 5, 2022, <https://www.seattletimes.com/seattle-news/data/the-history-of-abortion-rights-in-washington-state/> (last accessed May 10, 2022).

<sup>2</sup> Saldanha, Alison. "The history of abortion rights in Washington state." The Seattle Times, May 5, 2022, <https://www.seattletimes.com/seattle-news/data/the-history-of-abortion-rights-in-washington-state/> (last accessed May 10, 2022).

<sup>3</sup> S.B. 6219, "Concerning health plan coverage of reproductive health care," 2017-18 Legislative Session, <https://app.leg.wa.gov/billsummary?BillNumber=6219&Year=2017> (last accessed May 10, 2022).

<sup>4</sup> In 2021, Texas passed S.B. 8, which provides that anyone who performs, induces, or attempts abortion is guilty of a second-degree felony if the fetus survives and a first-degree felony if the fetus dies.<sup>4</sup> A first-degree felony is punishable by up to life in prison and up to a \$10,000 fine (see <https://statutes.capitol.texas.gov/Docs/HS/pdf/HS.170A.pdf>). At least one Washington clinic has provided an abortion to a patient who traveled from Texas after S.B. 8 was enacted (see <https://www.guttmacher.org/article/2021/11/new-evidence-texas-residents-have-obtained-abortions-least-12-states-do-not-border>). In Tennessee, anyone who performs or attempts to perform an abortion is guilty of a Class C felony, punishable by between three and 15 years in prison and a fine up to \$10,000 (see <https://www.politico.com/news/2022/05/06/potential-abortion-bans-and-penalties-by-state-00030572>). Many other states have passed or are considering similar legislation that would eliminate access to abortion.

## ATTORNEY GENERAL OF WASHINGTON

May 16, 2022

Page 3

the practice of insurers classifying gender-affirming treatments as not medically necessary even when recommended by a doctor, and therefore not required to be covered, in 2021, the Legislature passed a bill<sup>5</sup> requiring insurers to cover gender-affirming care beginning in January 2022.<sup>6</sup>

Gender-affirming care is similarly under attack. For example, the Idaho House of Representatives recently passed a bill adding language to an existing law banning female genital mutilation that makes it a felony to perform gender-affirming surgery on transgender youth, punishable by up to life in prison.<sup>7</sup> The bill, which has not yet passed the Idaho Legislature, also proposes to make it illegal for parents or anyone else to take a minor across state lines for gender-affirming care.<sup>8</sup> This is unacceptable.

The Washington Medical Commission, the Washington State Board of Osteopathic Medicine and Surgery, the Washington State Nursing Care Quality Assurance Commission and the Washington State Pharmacy Quality Assurance Commission are on the front line of the fight to ensure that all Washingtonians have access to the care that they need, regardless of their identity. I also recognize your commitment to make sure that appropriate care is provided to anyone who comes to Washington seeking care that is not available in the state where they live.

I would be happy to meet with you to discuss this request. Thank you for your commitment to ensuring that all Washingtonians have access to the care they need.

Sincerely,



BOB FERGUSON  
Attorney General

RWF/jlg

---

<sup>5</sup> Santos, Melissa. "Insurers in WA must cover transgender health care under new bill." Crosscut.com, May 7, 2021, <https://crosscut.com/equity/2021/05/insurers-wa-must-cover-transgender-health-care-under-new-bill> (last accessed May 10, 2022).

<sup>6</sup> S.B. 5313, "Concerning health insurance discrimination," 2021-22 Legislative Session, <https://app.leg.wa.gov/billsummary?BillNumber=5313&Year=2021&Initiative=false> (last accessed May 13, 2022).

<sup>7</sup> Ridler, Keith. "Idaho House Oks Gender Reassignment Surgery Ban for Minors." Associated Press, March 8, 2022, <https://www.usnews.com/news/best-states/idaho/articles/2022-03-08/idaho-bill-bans-gender-reassignment-surgery-for-minors> (last accessed May 10, 2022).

<sup>8</sup> Romo, Vanessa. "A third of trans youth are at risk of losing gender-affirming care, study says." KUOW, March 21, 2022, <https://www.kuow.org/stories/a-third-of-trans-youth-are-at-risk-of-losing-gender-affirming-care-study-says> (last accessed May 10, 2022).