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CHILD & ADOLESCENT
PSYCHIATRY

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February 17, 2026

Robert F. Kennedy, Jr.
Secretary
Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244

Re: Medicare and Medicaid Programs: Hospital Conditions of
Participation: Prohibiting Sex-Rejecting Procedures for Children (CMS-
3481-P)

Submitted Electronically

Dear Secretary Kennedy:

The American Academy of Child and Adolescent Psychiatry (AACAP) appreciates the opportunity to respond to the Department of Health Human Services' (HHS) request for comments on the above-cited proposed regulation that would revise the requirements that Medicare and Medicaid certified hospitals must meet to participate in these programs. AACAP is the professional home to more than 11,000 child and adolescent psychiatrists, fellows, residents, and medical students, some of whom also treat adults and transitional age youth (ages 18-26 years). Our mission includes promoting the healthy development of children, adolescents, and families through science, education, and advocacy. We are also committed to supporting clinicians in delivering evidence-based, developmentally informed, and compassionate care. We therefore have an interest in ensuring that all adolescents, including those diagnosed with gender dysphoria, receive the optimal medical care they need and deserve.

AACAP is deeply concerned about the proposed addition of a new section to the Social Security Act at 42 CFR part 482, subpart C, that would prohibit Medicare and Medicaid participating hospitals from furnishing gender affirming medical care, including the prescription of hormone therapy and puberty blockers. Under Section 1801 of the Social Security Act, the Centers for Medicare and Medicaid Services (CMS) is not authorized to "Exercise any supervision or control over the

practice of medicine.” The policy in the proposed rule would be an unlawful use of hospital conditions of participation, which are meant to establish health and safety measures in hospitals. The CMS assertion that furnishing gender affirming medical care is not subsumed under the term “practice of medicine” is inaccurate and not supported by evidence. We therefore urge HHS to reverse course on this unprecedented and unlawful proposal.

Hospitals rely on federal funding to care for all patients, not just those who need medical care for gender dysphoria. The proposed rule would also threaten access to medical care for all citizens, including those who are not Medicare and Medicaid beneficiaries, given that the vast majority of hospitals rely on federal funding they receive through these programs to remain open. Moreover, if hospitals stop offering this care to preserve their funding, then transgender youth will lose access to life-saving medical care, which will lead to adverse mental and physical health outcomes. Hospital closures, especially in rural areas, have already increased due to the inability to cover the costs of operation,ⁱ forcing millions of Americans to travel long distances to receive hospital care, to delay medically necessary health care, or to forego medical care altogether.

We note that the mission of the HHS includes a promise to “Enhance the health and well-being of all Americans by providing for effective health and human services and by fostering sound, sustained advances in the sciences underlying medicine, public health, and social services.” The policy changes contemplated in this proposed rule would violate that promise to the American people.

In closing, our hope is that the agency will continue to work toward equitable access to medically necessary health care for all Americans and will consider the serious consequences of this policy proposal.

Sincerely,

A handwritten signature in black ink, appearing to read 'John T. Walkup, MD'. The signature is stylized and cursive.

John T. Walkup, MD
President

ⁱ [Rural Hospitals at Risk of Closing.pdf](#)