

Long Time Limits In Trans Care Laws Expand Doctors' Liability

By **Mark Payne**

Law360 (September 23, 2025, 4:57 PM EDT) -- Last year, Louisiana lawmakers enacted a transgender care ban for minors that allows a plaintiff to sue up to 12 years after they legally become an adult.

In Oklahoma, a doctor who performs gender-affirmation surgery on a child in violation of a 2023 law can be prosecuted for a felony until the patient turns 45 years old.

Earlier this month, U.S. Department of Justice officials proposed federal legislation that would allow parents and their children who receive transgender care the ability to sue for more than two decades after the child becomes an adult.

Lengthy statutes of limitations have become a common, though not universal, feature of a wave of gender-transition bans and proposals across the nation. Proponents argue they're appropriate for claims involving harm to children, particularly for legal violations with consequences that may take years or even decades to be revealed.

Legal experts say they also open a massive window of potential liability for providers that dwarfs those for medical malpractice claims and many other kinds of legal liability.

"The lengthy proposed statutes of limitations may reflect an attempt to redress potential future harm that only manifests later in life," said Jon Brollier, a member of Epstein Becker Green who represents hospitals in tort disputes. "Or they may reflect political animus against this category of medical treatment."

The issue of long statutes of limitations was raised earlier this month by the Trump administration, which has launched a broad, multipronged effort to halt gender-transition care, particularly involving minors.

As part of that effort, DOJ officials are petitioning Congress to pass a federal ban on "chemical or surgical mutilation" on children that includes a private right of action.

"The Department of Justice has heard from far too many families who have been devastated by mutilative medical procedures that fly in the face of basic biology," Attorney General Pam Bondi said in a statement.

The DOJ Bill

The proposal, known as the Victims of Chemical or Surgical Mutilation Act, comes at the request of a January order from the Trump administration that it was against federal policy to fund gender-affirming care through Medicaid, Medicare or military insurance programs.

Trump also directed the DOJ to work with Congress on legislation to create a legal mechanism for parents and children who received gender-affirming care to sue doctors and other providers.

The bill argues that because gender-affirming care decisions are often made for children by parents and medical providers, and the harm may not be determined until much later, there should be plenty of time to bring claims seeking compensatory and punitive damages.

The proposal includes a statute of limitations of 25 years from the date of the 18th birthday of a person who received transition care, or within four years of paying for detransition treatment, whichever comes later.

The proposal raised the possibility that doctors could face claims even if the procedures were done before the law was enacted.

In that scenario, "there is limited deference to prevailing standards of care to the extent they contradict the intent of this act and it is shown that the healthcare professional or physician knew or should have known that such standards of care were in serious, scientific, and medical dispute at the time of the chemical or surgical mutilation," the proposal states.

The bill would also prohibit doctors and patients from agreeing to waive future liability.

"As a practical matter, if the law contains a private cause of action, then it would be reasonable to expect more frequent lawsuits about the prohibited conduct, whereas a law that does not contain a private cause of action would rely on governmental agencies to police the prohibited conduct," Brollier said.

The legislation sends a clear message, according to Scott Memmott, a partner at Morgan Lewis & Bockius LLP who focuses on healthcare.

"It likely is intended ... to deter healthcare professionals and entities that furnished services in the past from continuing to provide them in the future by making their exposure to the liability of compensatory and perhaps punitive damages effectively unlimited in time," he said.

Memmott added that banned conduct under the proposed federal law could create liabilities for a whole range of healthcare providers as well as staff.

"The prohibited conduct is extremely broad and includes knowingly planning or coordinating gender-affirming care, prescribing medications, administering medications, and authorizing or directing such care, including by a supervising physician or facility representative," he said. "This presumably would create exposure to liability for schedulers all the way up to hospital department heads and other administrators."

Elana Redfield, a lawyer and the federal policy director at the Williams Institute at the UCLA School of

Law, which focused on sexual orientation and gender identity law, noted that many laws have far shorter statutes of limitations.

In the majority of states, for example, medical malpractice claims must be filed within two, three or four years.

Under federal law, a prosecution for a non-capital offense must begin within five years of the offense, although a number of serious crimes — including espionage, terrorism, and sexual crimes against minors — have no limit.

"Instituting a statute of limitations for this kind of civil proceeding that's so long leaves the medical provider open to liability for what could amount to the full extent of their professional career, or beyond," Redfield said.

Actions in Other States

Twenty-seven states have laws that aim to limit or ban gender-affirming care for minors, many with extensive time frames.

For example, in Arkansas, the gender-affirming care ban, or the SAFE Act, would allow minors to file a civil claim against a doctor for 15 years after they turn 18.

Mississippi's transgender care ban for minors, known as the Regulate Experimental Adolescent Procedures Act, has a 30-year statute of limitations to file a civil lawsuit.

Not all states have lengthy time limits or include different time frames for different potential defendants. Tennessee's ban, for example, includes a statute of limitations of two years for claims against doctors. Children can bring lawsuits up to 20 years after they turn 18.

A number of states with gender-affirming care bans in place outline penalties and professional disciplinary action but do not explicitly refer to statutes of limitations.

"While many states in general do extend malpractice or tort statutes of limitations for injuries sustained by minors, that extension is typically no more than two years after the individual reaches the age of majority, which is usually age 18," said Jennifer F. Skeels, a healthcare partner at Hall Render Killian Heath & Lyman PC.

Skeels said many providers have simply stopped offering this kind of care due to the state restrictions and mounting federal pressure.

"In states that restrict the provision of gender-affirming care, and especially the provision of gender-affirming care to minors, extension of the statute of limitations is used as an additional means of chilling providers' willingness to furnish this care," Skeels said.

The federal legislative push presents new challenges for providers in states where gender-affirming care is still legal, according to the Williams Institute's Redfield.

Last year, the Williams Institute conducted a study of 133 healthcare providers in states where transgender care for minors isn't banned. Doctors in those states noted an uptick in patients coming

from states with care bans. Doctors also said they're receiving an increase in threats online and over the phone.

"It just adds an unbearable load to the amount of stress that they're already enduring," Redfield said.

--Editing by Haylee Pearl.

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