

# STATE OF MINNESOTA

Executive Department



## Governor Tim Walz

### Executive Order 23-03

#### **Protecting and Supporting the Rights of Minnesota's LGBTQIA+ Community Members to Seek and Receive Gender Affirming Health Care Services**

**I, Tim Walz, Governor of the State of Minnesota**, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The Minnesota Constitution explains that "Government is instituted for the security, benefit, and protection of the people." All Minnesotans have the right to be free from discrimination, including discrimination on the basis of gender identity and gender expression. Minnesota strives to be a welcoming and supportive place for LGBTQIA+ community members. We uphold the essential values of One Minnesota when all people, including members of the LGBTQIA+ community, are safe, celebrated, and able to live lives full of dignity and joy.

Throughout the course of their lives, transgender, gender diverse, non-binary, and gender queer individuals may decide to seek gender affirming health care services. This deeply personal decision is made with the guidance of medical professionals. Like all medical treatment, gender affirming care must align with standards that ensure safe, appropriate, and well-established practices. The availability of gender affirming health care services is essential to the health and wellness of LGBTQIA+ community members, and is supported by numerous major professional associations—including the American Medical Association, the Minnesota Medical Association, the American Academy of Child and Adolescent Psychiatry, the American Academy of Pediatricians, the Endocrine Society, the Society for Adolescent Health and Medicine, the American Psychological Association, the American Psychiatric Association, the World Professional Association for Transgender Health, and the Centers for Disease Control and Prevention.

While gender affirming health care services remain legal and protected in Minnesota, other states have curtailed access to, or even criminalized, this care. In those states, medical professionals providing gender affirming health care services may be subject to civil liability, criminal liability, and professional sanctions. Some states have enacted even harsher restrictions, going so far as to mandate investigations into parents seeking to help their children obtain gender affirming health care services. These actions pose a grave threat to the health of LGBTQIA+ individuals by preventing them from affirming their gender identities through safe and

scientifically proven treatments. In Minnesota, we value LGBTQIA+ community members, and we safeguard their rights. LGBTQIA+ people are entitled to respect, compassion, and a free existence as authentic versions of themselves.

We are committed to protecting access to gender affirming health care services. No one who is lawfully providing, assisting, seeking, or obtaining such services should be subject to legal liability or professional sanctions.

Nothing in this Executive Order should be construed to change Minnesota law or to require coverage of services that are not considered medically necessary. Instead, this Executive Order ensures that people in Minnesota are afforded the protections and rights provided under Minnesota law.

Today, Minnesota joins other states and a growing number of municipalities across the country that have acted in solidarity with the LGBTQIA+ community. We stand with this community by maintaining a refuge for those who seek and provide gender affirming health care services.

For these reasons, I order as follows:

1. **Definitions.** For the purposes of this Executive Order, the terms below are defined as follows:
  - a. “Gender affirming health care services” means all medical, surgical, counseling, or referral services, including telehealth services, that an individual may receive to support and affirm that individual’s gender identity or gender expression and that are legal under the laws of the State of Minnesota.
  - b. “State agencies” means the departments and agencies listed in Minnesota Statutes 2022, section 15.06, subdivision 1, in addition to the Office of Higher Education and the Department of Military Affairs.
2. **State coordination to protect gender affirming health care services.** All state agencies must, to the fullest extent of their lawful authority, pursue opportunities and coordinate with each other to protect people or entities providing, assisting, seeking, or obtaining gender affirming health care services in Minnesota.
3. **Joint administrative bulletin.** By November 1, 2023, the Minnesota Department of Health (“MDH”), the Minnesota Department of Commerce (“Commerce”), the Minnesota Department of Human Services (“DHS”), and the Minnesota Department of Human Rights (“MDHR”) will issue a joint administrative bulletin, based on their direct statutory authority, to health plan companies regarding the availability of health

insurance coverage and the provision of health insurance benefits for medically necessary gender affirming health care services.

**4. Agency actions to protect gender affirming health care services.**

a. MDH will use its powers, authorities, and duties to the fullest extent possible to take the following actions:

- i. By December 31, 2023, prepare and present a report to the Governor, Lieutenant Governor, and Legislature summarizing the literature on the scientific evidence about the safety and effectiveness of gender affirming care and its public health effects, and approaches that other jurisdictions have taken to support gender affirming health care services.
- ii. Pursuant to its authority, including but not limited to Minnesota Statutes 2022, section 62D.01, subdivision 2(b), request attestations from health maintenance organizations, county-based purchasing organizations, and any other health carrier or health plan under its jurisdiction, that they have processes in place to ensure that their contracted health providers are aware they may bill the plan for medically necessary gender affirming health care services.
- iii. Investigate and take administrative action on any complaints of unfair or deceptive acts or practices by a health maintenance organization related to the denial of medically necessary gender affirming health care services, in accordance with Minnesota Statutes 2022, sections 62D.12, subdivision 1 and 72A.19.
- iv. To the extent permissible under existing law, accept health maintenance organizations' determinations that medically necessary gender affirming health care services are comprehensive health maintenance services and therefore not a permissible exclusion under Minnesota Rules 2022, part 4685.0700, subpart 4.
- v. To the extent permissible under existing law and pursuant to its authority under Minnesota Statutes 2022, section 62D.04, refuse to approve any health maintenance organization contract or evidence of coverage that discriminates against individuals on the basis of sex, sexual orientation, gender identity, or gender expression, consistent with the joint administrative bulletin referenced in paragraph 3 of this Executive Order.

b. Commerce will use its powers, authorities, and duties to the fullest extent possible to take the following actions:

- i. Pursuant to its authority under Minnesota Statutes 2022, section 60A.03, subdivision 2, and section 62A.02, and by November 1, 2023,

request attestation from health plan companies that they have processes in place to affirm that their contracted health providers are aware they may bill for medically necessary gender affirming health care services.

- ii. Investigate and take administrative action on any complaints of unfair or deceptive acts or practices, in the business of insurance, related to the denial of medically necessary gender affirming health care services, in accordance with Minnesota Statutes 2022, section 72A.19.
  - iii. To the extent permissible under existing law and pursuant to its authority under Minnesota Statutes 2022, sections 62A.02 and 72A.21, refuse to approve any health plan that discriminates against individuals on the basis of sex, sexual orientation, gender identity, or gender expression, in accordance with Minnesota Statutes 2022, sections 62A.02 and 72A.21, and consistent with the joint administrative bulletin referenced in paragraph 3 of this Executive Order.
- c. DHS will evaluate the Minnesota Health Care Programs (“MHCP”) Provider Manual for consistency with current standards and recommendations for medically necessary gender affirming health care services. By September 1, 2023, DHS will update the Provider Manual if necessary to ensure that up-to-date, medically necessary gender affirming treatments are covered health services that are eligible for reimbursement by MHCP under Minnesota Rules 2022, part 9505.0210.
  - d. MDHR will use its powers, authorities, and duties, to the fullest extent possible, to file Commissioner’s charges of discrimination, investigate charges of discrimination, file complaints or civil actions, and/or seek injunctive relief when the Commissioner has reason to believe that a health care provider, insurance company, or educational institution has engaged in unfair discriminatory practices, in violation of Minnesota Statutes 2022, Chapter 363A.
5. **No assistance from state agencies to states seeking to penalize gender affirming health care services.**
- a. Except as required by court order, or by Minnesota or federal law, no state agency may provide any information or expend or use time, money, facilities, property, equipment, personnel, or other resources in furtherance of any investigation or proceeding that seeks to impose civil or criminal liability or professional sanctions upon a person or entity for:
    - i. The provision of, securing of, receipt of, or any inquiry concerning gender affirming health care services; or

- ii. Any assistance given to any person or entity that relates to the provision of, securing of, receipt of, or any inquiry concerning gender affirming health care services.
  - b. To the maximum extent permitted under the United States and Minnesota Constitutions, federal law, and Minnesota law, no state agency will enforce or recognize a judgment from another state terminating parental rights or restricting a parent or legal guardian from contacting their child solely because the parent or guardian sought to obtain or did obtain gender affirming health care services for their child.
  - c. To the maximum extent permitted under the United States and Minnesota Constitutions, federal law, and Minnesota law, no state agency will comply with a subpoena issued in another state seeking information about a person or a person's child who travels to this state for gender affirming health care services related to potential child protection matters or criminal charges against a parent, guardian, or provider for seeking, obtaining, or providing gender affirming health care services.
6. **Protection against extradition.** To the maximum extent permitted under the United States and Minnesota Constitutions, and Minnesota Statutes 2022, Chapter 629, and in consultation with the Minnesota Attorney General pursuant to Minnesota Statutes 2022, section 629.04, I will exercise my discretion to decline requests for the arrest or surrender of any person charged with a criminal violation of a law of another state where the violation alleged involves the provision of, assistance with, securing of, or receipt of gender affirming health care services, unless the acts forming the basis of the prosecution of the crime charged would also constitute a criminal offense under Minnesota law.

This Executive Order is effective fifteen days after publication in the State Register and filing with the Secretary of State. It will remain in effect until rescinded by proper authority or until it expires in accordance with Minnesota Statutes 2022, section 4.035, subdivision 3.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on March 8, 2023.



Tim Walz  
Governor

Filed According to Law:

A handwritten signature in cursive script that reads "Steve Simon". The signature is written in black ink and is positioned above a horizontal line.

**Steve Simon**  
Secretary of State

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Filed on March 8, 2023  
Office of the Minnesota  
Secretary of State, Steve Simon