KRIEG DEVAULT

Insights

Federal Court of Appeals Lifts Stay of Indiana's Prohibition on Gender Transition Services to Minors

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The Seventh Circuit Court of Appeals recently issued an order permitting enforcement of Indiana's recently passed prohibition on gender transition procedures for minors. The Indiana Legislature enacted Indiana Code § 25-1-22 (the "Act") that was scheduled to become effective July 1, 2023. The Act prohibits physicians and other medical practitioners from providing medical or surgical gender transition procedures to minors and aiding or abetting another physician or provider in the provision of such services. However, on June 16, 2023, the United States District Court in Indianapolis issued an order preliminarily enjoining enforcement of the Act, pending further litigation in the class-action lawsuit before it entitled *K.C. v. The Individual Members of the Medical Licensing Board of Indiana*, No. 1:23-cv-00595-JPH-KMB. However, on February 27, 2024, the Court of Appeals stayed the lower court's preliminary injunction following briefing and oral arguments. While the Court of Appeals provided no additional explanation, it indicated that an opinion and judgment would be forthcoming.

The *K.C.* case was filed in April of 2023 on behalf of four minor children, their parents, and a family medicine physician. They sought a preliminary injunction against various State officials and requested that the Court prohibit enforcement of the Act. They argued that it violated their equal protection and due process rights under the Fourteenth Amendment, First Amendment free speech rights, and various Medicaid provisions in 42 U.S.C. §§18116 and 1396d(a). On June 16, 2023, the District Court granted the injunction in part but denied it as it related to the ban on gender reassignment surgeries, finding that Plantiffs lacked standing to challenge this part of the ban because these procedures are not provided to minors in Indiana.

Since the Court of Appeals lifted the stay on enforcement of the Act on February 27, 2024, nothing currently prohibits State officials from enforcing the Act. Appellees have filed a motion to reconsider and request for en banc consideration, however, and the Court specifically requested briefing from Appellants related to the grace period originally set forth in Indiana Code §25-1-22-13(d) for those minors receiving gender transition hormone therapy prior to enactment of the Act. Uncertainty regarding the existence of any grace period going forward raises important clinical questions about minors whose care was continued under the stay of enforcement, but who now must cease receiving care under the Act, and you should consult with legal counsel before determining how the Court's recent decision applies to any specific situation.

If you have any questions regarding your compliance with this law, please contact Stephanie Eckerle, Julie Rosenwinkel or Brandon Shirley.

Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.