

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

EMMA KOE, individually and on behalf of her minor daughter, AMY KOE; HAILEY MOE, individually and on behalf of her minor daughter, TORI MOE; PAUL VOE; ANNA ZOE, individually and on behalf of her minor daughter, LISA ZOE; TRANSPARENT, on behalf of its members,

Plaintiffs,

v.

CAYLEE NOGGLE, in her official capacity as Commissioner of the Georgia Department of Community Health; GEORGIA DEPARTMENT OF COMMUNITY HEALTH'S BOARD OF COMMUNITY HEALTH; NORMAN BOYD, ROBERT S. COWLES III, DAVID CREWS, RUSSELL

SUBRAHMANYA BHAT,
WILLIAM BOSTOCK, KATHRYN
CHEEK, RUTHIE CRIDER, DEBI
DALTON, CHARMAINE
FAUCHER, AUSTIN FLINT,
SREENIVASULU GANGASANI,
JUDY GARDNER, ALEXANDER S.
GROSS, CHARLES E. HARRIS,
JR., J. JEFFREY MARSHALL,
MATTHEW W. NORMAN, BARBY
J. SIMMONS, in their official
capacities as members of the Georgia
Composite Medical Board; DANIEL
DORSEY, in his official capacity as
the Executive Director of the Georgia
Composite Medical Board,

Defendants.

COMPLAINT

I. PRELIMINARY STATEMENT

1. This Action is a federal constitutional challenge to Georgia Senate Bill 140 (hereafter “S.B. 140,” the “Health Care Ban,” or the “Ban”), a law passed during the 2023 Georgia legislative session that prohibits medical providers from treating gender dysphoria in minors with hormone therapy, thereby denying transgender youth access to established and medically necessary care. S.B. 140, 157th Gen. Assemb., Reg. Sess. (Ga. 2023). The Health Care Ban was passed despite opposition from transgender youth, parents, advocacy groups, medical

providers, and medical organizations in Georgia. Governor Brian Kemp nevertheless signed S.B. 140 into law on March 23, 2023, and it takes effect on July 1, 2023.

2.

II. JURISDICTION AND VENUE

6. This civil and constitutional action arises under the United States Constitution and 42 U.S.C. § 1983.

7. This Court has subject matter jurisdiction pursuant to Article III of the United States Constitution and 28 U.S.C. §§ 1331, 1343, and 1367.

8. This Court is authorized to issue declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202, Rules 57 and 65 of the Federal Rules of Civil Procedure, and the general legal and equitable powers of this Court.

9. This Court has personal jurisdiction over Defendants because Defendants are domiciled in Georgia and the denial of Plaintiffs' rights guaranteed by federal law occurred within Georgia.

10. Venue in this District is proper pursuant to 28 U.S.C. §§ 1391(b)(1)–(2) because one or more Defendants reside in this District and because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this judicial district and division.

III. THE PARTIES

A. Plaintiffs

11. Plaintiff Emma Koe is the mother of Plaintiff Amy Koe, a 12-year-old girl who is transgender, for whom she also appears in this case as her next friend.

Emma and Amy Koe are both residents of Atlanta, Georgia. Because of concerns about their privacy and safety, both Plaintiffs are proceeding pseudonymously. Koe Motion to Proceed Under Pseudonyms, filed concurrently herewith.

12. Plaintiff Hailey Moe is the mother of Plaintiff Tori Moe, a 12-year-old girl who is transgender, for whom she also appears in this case as her next friend. Hailey and Tori Moe are both residents of the Atlanta, Georgia, metropolitan area. Because of concerns about their privacy and safety, both Plaintiffs are proceeding pseudonymously. Moe Motion to Proceed Under Pseudonyms, filed concurrently herewith.

13. Plaintiff Paul Voe is the father of Mia Voe, an 11-year-old girl who is transgender. Paul and Mia Voe are residents of the Athens, Georgia, metropolitan area. Because of concerns about their privacy and safety, Plaintiff Paul Voe and his daughter Mia are proceeding pseudonymously. Voe Motion to Proceed Under Pseudonyms, filed concurrently herewith.

14. Plaintiffs Anna and Scott Zoe are the parents of Plaintiff Lisa Zoe, a 10 year old girl who is transgender,

are proceeding pseudonymously. Zoe Motion to Proceed Under Pseudonyms, filed concurrently herewith.

15. Plaintiff TransParent (“TransParent”) is a community-based support and resource organization that serves parents and caregivers of transgender children. TransParent has 19 chapters in 11 states, including a chapter in Decatur,

21. Defendant Russell Crutchfield, Ed.D., is a board member and the Secretary of the Georgia Department of Community Health. Defendant Crutchfield is sued in his official capacity.

22. Defendant Roger Folsom is a board member and the Vice Chairman of the Georgia Department of Community Health. Defendant Folsom is sued in his official capacity.

23. Defendant Nelva Lee, Ph.D., is a board member of the Georgia Department of Community Health. Defendant Lee is sued in her official capacity.

24. Defendant Mark Shane Mobley is a board member of the Georgia Department of Community Health. Defendant Mobley is sued in his official capacity.

25. Defendant Cynthia Rucker, D.N.P., RN-BC, NE-BC, is a board member of the Georgia Department of Community Health. Defendant Rucker is sued in her official capacity.

26. Defendant Anthony Williamson is a board member of the Georgia Department of Community Health. Defendant Williamson is sued in his official capacity.

27. The Georgia Composite Medical Board comprises 16 members (i.e., 15 voting members and one ex-officio member) appointed by the Governor and

32. Defendant Ruthie Crider, M.D., is a member of the Georgia Composite Medical Board. Defendant Crider is sued in her official capacity.

33. Defendant Debi Dalton

organization of over 18,000 endocrinology researchers and clinicians, advises practitioners that the terms “biological sex” and “biological male or female” are imprecise and should be avoided.

50. For most people, their gender identity aligns with their natal sex. But for people who are transgender, their gender identity differs from their natal sex. A boy who is transgender is someone whose natal sex is female while persistently, consistently, and insistentlly identifying as male. A girl who is transgender is someone whose natal sex is male while persistently, consistently, and insistentlly identifying as female.

51. Gender identity emerges early in life for transgender and non-transgender people alike. Most people develop a strong sense of their gender identity by the onset of puberty, though it can also occur much earlier. Some

6 transgender people becile w peidentif

of profound harm, including dramatically increased rates of suicidal ideation and suicide.

56. The World Professional Association for Transgender Health (“WPATH”) has published widely accepted standards of care for the treatment of gender dysphoria, most recently in S

, which was published in the International Journal of Transgender Health.³ The WPATH standards of care offer medical providers evidence-based guidance on how to effectively treat gender dysphoria, which most often entails treatment that enables a transgender person to live more fully in alignment with their gender identity. This treatment is sometimes referred to as “transition-related medical care” or “gender-affirming care.”

57. The Endocrine Society has also promulgated a standard of care and clinical guidelines in line with the WPATH standards of care that are specific to the provision of hormone therapy for treating gender dysphoria in minors and adults. Wylie C. Hembree et al.,

, 102 J. Clinical Endocrinology & Metabolism 3869 (2017).

³ E. Coleman et al.,

, 23 Int’l J. Transgender Health (2022).

58. Both of these standards of care have been adopted by major medical and mental health associations in the United States, such as the American Medical Association, the American Academy of Pediatrics, the American Association of Child and Adolescent Psychiatrists, the Pediatric Endocrine Society, the American Psychiatric Association, the American Psychological Association, and the Endocrine Society.

59. The precise treatment for gender dysphoria depends on each patient's particular needs, and the general medical standards of care differ based on the person's age and development.

60. The standards of care for a minor with gender dysphoria who has not yet reached puberty do not include any medical interventions and, instead, are limited to supporting "social transition," which means allowing a transgender child to live and be socially recognized in accordance with their gender identity. Social transition can include adopting a name, pronouns, hairstyle, and clothing consistent with the person's gender identity.

61. Under the standards of care and clinical guidelines, medical interventions may become necessary and appropriate as transgender youth reach puberty. The standards of care direct pediatric endocrinologists and other providers treating transgender patients to work in close consultation with qualified mental

health professionals experienced in diagnosing and treating gender dysphoria, as well as with patients and their parents, to determine whether medical treatment is appropriate.

62.

65. If determined to be medically necessary and appropriate for a transgender minor with gender dysphoria to undergo puberty in alignment with their gender identity, hormone therapy is initiated to enable them to do so.

66. Under the Endocrine Society's Clinical Guidelines, hormone therapy is appropriate for transgender minors if:

- A qualified mental health professional has confirmed:

persistence of gender dysphoria;
any coexisting psychological, medical, or social problems that could interfere with treatment (e.g., that may compromise treatment adherence) have been addressed, such that the adolescent's environment and functioning are stable enough to start sex hormone treatment;
the adolescent has sufficient mental capacity to estimate the consequences of this (partly) irreversible treatment, weigh the benefits and risks, and give informed consent to this (partly) irreversible treatment.

- And the adolescent:

has been informed of the partly irreversible effects and side effects of treatment (including potential loss of fertility and

agrees with the indication for sex hormone treatment;
has confirmed that there are no medical contraindications to
hormone treatment.

67. If a minor receives puberty-blocking treatment, they do not develop the secondary sex characteristics of their natal sex. If a minor's gender dysphoria persists and certain other guidelines are met, they can then receive hormone treatment in accordance with their gender identity so they go through puberty around the same age as their peers. Hormone treatment results in developing the secondary sex characteristics that match their gender identity. However, for youth who have already gone through natal puberty, puberty-blocking treatment is not a prerequisite for hormone treatment. Hormone therapy may be medically necessary and appropriate treatment for people with gender dysphoria who have undergone natal puberty.

70. The medical treatment for transgender minors with gender dysphoria is effective. It can substantially reduce lifelong gender dysphoria. Longitudinal studies have shown that transgender minors with gender dysphoria who receive essential medical care, including puberty blockers and hormones, show levels of mental health and stability consistent with non-transgender minors. Lily Durwood et al., *J. Am. Acad. Child & Adolescent Psychiatry* 116 (2017); Kristina Olson et al., *Pediatrics* 137 (2016). In contrast, transgender youth suffering from gender dysphoria who do not receive appropriate medical care are at risk of serious harm, including increased rates of major depression, suicidal ideation, and suicide.

C. Georgia’s Health Care Ban for Transgender Minors, S.B. 140

71. On March 21, 2023, the Georgia General Assembly passed the Health Care Ban, which prohibits health care providers in the state of Georgia from treating transgender minors with hormone therapy.

72. The Health Care Ban further directs the Georgia Composite Medical Board to “adopt rules and regulations regarding the prohibitions” and specifies that “[a] licensed physician who violates this Code section shall be held administratively accountable to the board for such violation.” S.B. 140 §§ 3(b), (c).

73. In passing the Ban, the General Assembly ignored guidance from more than 500 Georgia medical providers—including pediatricians, psychiatrists, endocrinologists, and other health care providers—opposed to S.B. 140.⁴ Those providers underscored the benefi

reputable data which demonstrate that youth who need but do not receive gender-affirming care are at serious risk of harm, including the risk of major depression, suicidal ideation, developing a suicide plan, and dying by suicide. Austin, note 2 (“Data from the U.S. Transgender Survey indicate that 82% of transgender individuals have considered killing themselves and 40% have attempted suicide. . . . Within the transgender population, suicidality is highest among young people.”).

76. The General Assembly passed the bill despite the testimony of transgender people who shared their painful, personal experiences with gender dysphoria and explained the critical need for access to medical care.

77. The General Assembly passed the bill despite the testimony of parents who pleaded for the legislature not to interfere with the health and well-being of their children by depriving them of the medical care they need to thrive and, sometimes, survive.

78. On March 23, 2023, Governor Brian Kemp signed the Health Care Ban into law.

79. The Ban goes into effect on July 1, 2023.

D. The Health Care Ban Created by S.B. 140

80. S.B. 140 amends two separate Titles of the Official Code of Georgia Annotated. S.B. 140, 157th Gen. Assemb., Reg. Sess. (Ga. 2023).

81. The Health Care Ban prevents health care professionals from providing

primary or secondary sexual characteristics; or (2) Hormone replacement therapies.” S.B. 140 § 2(a); S.B. 140 § 3(a).⁵

83. The primary difference between the two amendments is their applicability to health care providers. The amendment to Title 31 applies to hospitals and related institutions, whereas the amendment to Title 43 applies to physicians licensed by the Georgia Composite Medical Board. S.B. 140 § 2(a); S.B. 140 § 3(a).

2. The Health Care Ban Has Exceptions

84. The amendment to Title 43 provides limited exceptions for:

(1) Treatments for medical conditions other than gender dysphoria or for the purpose of sex reassignment where such treatments are deemed medically necessary; (2) Treatments for individuals born with a medically verifiable disorder of sex development, including individuals born with ambiguous genitalia or chromosomal abnormalities resulting in ambiguity regarding the individual’s biological sex; (3) Treatments for individuals with partial androgen insensitivity syndrome; and (4) Continued treatment of minors who are, prior to July 1, 2023, being treated with irreversible hormone replacement therapies.

S.B. 140 § 3(b).

⁵ Because Plaintiffs are not seeking surgical procedures, this challenge is limited to S.B. 140’s prohibition on “[h]ormone replacement techniques,” S.B. 140 § 2(a)(2).

85. The amendment to Title 31 incorporates the same exceptions by reference to the amendment to Title 43. S.B. 140 § 2(b) (citing Code Section 43-34-15).

3. The Health Care Ban Imposes Harsh Penalties for Violations

86. The amendment to Title 31 provides that the Department of Community Health “shall establish sanctions, by rule and regulation, for violations of this Code section up to and including the revocation of an institution’s permit issued pursuant to Code Section 31-7-3.” S.B. 140 § 2(c). As of filing this Complaint, the Georgia Department of Community Health has not yet established relevant sanctions for these violations.

87. After S.B. 140’s effective date, health care institutions will be forced to choose between withholding medically necessary treatment for their minor transgender patients, on one hand, and facing still unknown sanctions on the other.

In addition, O.C.G.A. § 31-5-8 (2022) states that any person violating (h)-8.3 (a)-4.4Tw 0.248 05

88. The amendment to Title 43 provides that “[a] licensed physician who violates this Code section shall be held administratively accountable to the [Georgia Composite Medical Board] for such violation.” S.B. 140 § 3(c). Thus, licensed physicians will be faced with the impossible choice of withholding medically necessary treatment from their transgender patients or facing administrative sanctions by the Georgia Composite Medical Board, including revocatio

adopting a girl's hairstyle, clothing, pronouns, and name. Amy's mental health has improved dramatically since coming out; she has become more confident, come into her own, and resolved sleeping issues.

91. Amy has been diagnosed with gender dysphoria and has received care from several medical providers, including a psychologist, psychiatrist, pediatrician, and pediatric endocrinologist. Amy has begun puberty-blocking medication at the recommendation of her providers. Amy has expressed that she is ready to go through female puberty and wants to look like her mother when she gets older, as opposed to looking more like her father.

92. Amy's medical providers have, together with Amy and her parents, concluded that it is medically necessary for her to begin hormone therapy. The Health Care Ban, however, will prevent Amy from accessing that care, which will have devastating physical and psychological consequences. In addition, the Health Care Ban will deprive Amy's mother, Emma Koe, of the ability to make medical decisions in the best interest of her child, and within the appropriate and necessary timeframe for Amy.

93. Tori Moe is an exceptionally bright and engaged 12 year old girl who resides with her mother Hailey Moe, her father, and her brothers, in the Atlanta,

Georgia, metropolitan area. Tori has blossomed socially and intellectually in the past few years after coming out as transgender around age nine. Tori showed signs of identifying as a girl as early as age four, such as by joyfully dressing in girls' clothing whenever possible.

94. Because Tori has been experiencing anxiety about going through male puberty, she has been seeing a therapist regularly. Tori's therapist has diagnosed her with gender dysphoria. At the recommendation of her provider team, including her pediatrician and pediatric endocrinologist, Tori currently takes puberty blocking medication.

95. Tori's medical providers continue to monitor her treatment and have, together with Tori and her parents, concluded that hormone therapy is the next step in Tori's recommended treatment plan and is expected to begin hormone therapy in the near future. The Health Care Ban will prevent Tori from obtaining any form of hormone therapy after July 1, denying her the appropriate medical care she needs and depriving Hailey of the ability to make medical decisions in the best interest of her child, and within the appropriate and necessary timeframe for Tori. If the Ban is allowed to go into effect, Tori's medical care will be disrupted, which would cause Tori extreme anxiety and distress.

96. If allowed to go into effect, the Health Care Ban will also force Hailey and her spouse to consider uprooting their family and moving out of Georgia to receive medically necessary care for Tori. Doing so would move them away from family nearby and necessitate pulling both Tori and her brothers out of their current schools and friendship groups. And because the Moe family only settled in the Atlanta area in January 2021, having to move the family again for the second time in less than three years would be a major hardship.

97. Mia Voe is a whip smart, strong-willed, well-adjusted, opinionated, and precocious 11 year old girl. She loves playing piano, reading, and learning about Greek mythology. She is also transgender. Mia, her parents, and older brother live in the Athens, Georgia, metropolitan area. While Mia socially transitioned around age five, she began showing signs of gender dysphoria as a

101. Lisa's primary care pediatrician first recognized that Lisa was a transgender girl at age six. Lisa has since seen a therapist. Lisa's pediatric endocrinologist and pediatrician have both diagnosed Lisa with gender dysphoria. She continues to receive care from her pediatrician and pediatric endocrinologist.

102. Because Lisa has not started puberty yet, she has not begun puberty-blocking medication. Her pediatric endocrinologist is monitoring her hormone levels to determine when puberty-blocking medication will be appropriate, after which she will undergo hormone therapy based on the recommendation of her providers in consultation with Lisa and her parents. If the Ban takes effect, this medically necessary treatment will not be an option for Lisa, which will have devastating physical and psychological consequences. In addition, the Health Care Ban will deprive parents Anna and Scott of the ability to develop an individualized and forward-looking medical treatment plan that is necessary to treat Lisa's gender dysphoria. a

transgender, there is a range of very complex emotions that have the potential to fracture the relationship between the parent and the child and, subsequently, damage the child's self-esteem and confidence. Parents and children often feel shame and experience isolation resulting in negative outcomes. TransParent believes that sharing the journey with peers helps build strong and confident parents and children who are empowered to live an authentic life.

107. TransParent has a chapter in Decatur, Georgia. It is the sole TransParent chapter in Georgia, and it focuses on issues facing families across the state. Most members of this local chapter live in the greater metropolitan area of Atlanta, but there are no geographical limitations for membership. These members include parents who are directly impacted by S.B. 140.

108. If the Health Care Ban goes into effect, S.B. 140 will cause immediate and irreparable harm to TransParent members in Georgia. Parents of transgender children will be deprived of their rights to

mission—building strong and confident parents and children who are empowered to live an authentic life.

109. TransParent members in Georgia have experienced stigma, anxiety, and fear since the passage of S.B. 140. Georgia members of

ago, Brent came out to his mother as transgender and began to socially transition, including by adopting a boy's hairstyle and clothing. Since embracing his male gender identity and fully socially transitioning earlier this year at school, Brent's mental health has improved dramatically.

112. Brent is under the care of a psychologist who has diagnosed him with gender dysphoria. Brent's psychologist and his mother Rita regularly discuss his gender dysphoria and, together with Brent, have concluded that it will be medically necessary for him to begin hormone therapy in the near future. The Health Care Ban, however, will deprive the Soe family of the ability to pursue that medically necessary care for their child. Although Brent has expressed that he is ready to start hormone therapy, his parents have decided to wait a few more months and allow Brent to continue with psychotherapy and live in conformity with his gender identity before initiating a hormone regimen. Rita Soe and her husband are

113. Anna and Scott Zoe are also members of TransParent and have been since the Metro Atlanta Chapter's founding in 2019. Like Rita Soe, Anna and Scott Zoe joined TransParent seeking the support and counsel of fellow parents of transgender children.

V. THE HEALTH CARE BAN WILL CAUSE SEVERE HARM TO TRANSGENDER YOUTH

114. Preventing transgender minors with gender dysphoria from accessing medically necessary hormone therapy risks extreme harm to their present and future health and well-being.

115. When gender dysphoria is not treated appropriately, the results are significant and often include increased distress, major depression, anxiety, self-harm, suicidal ideation, and suicide.

116. As a result of laws like the Ban, 93% of transgender youth now worry about their ability to access gender-affirming care. Elana Redfield et al.,

, The Williams Institute

(Mar. 2023), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans->

[Youth-Health-Bans-Mar-2023.pdf](https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Youth-Health-Bans-Mar-2023.pdf). Studies demonstrate that laws like the Ban have

to strict scrutiny.

125. Defendants lack even a legitimate interest in preventing parents from ensuring their children can receive necessary medical care, much less a compelling one.

**COUNT II: DEPRIVATION OF EQUAL PROTECTION –
DISCRIMINATION ON THE BASIS OF SEX AND TRANSGENDER
STATUS**

provided to transgender youth who did not begin treatment with hormone therapy before July 1, 2023, not when provided to non-transgender youth.

130. Transgender-based government classifications are subject, at a minimum, to heightened scrutiny because they are sex-based classifications. Under the Equal Protection Clause, government classifications based on sex are subject to heightened scrutiny and are presumptively unconstitutional.

131. Moreover, because transgender people have obvious, immutable, and distinguishing characteristics, including having a gender identity that is different than their natal sex, they comprise a discrete group. Transgender people have faced historical discrimination and have been unable to secure equality through the political process, making them a suspect class.

132. As such, transgender classifications are subject at least to intermediate scrutiny.

133. The Health Care Ban does nothing to protect the health or well-being of minors. To the contrary, the Ban undermines the health and well-being of transgender minors by denying them essential medical care.

134. By excluding transgender children and their parents from accessing medically necessary and appropriate treatment, the Health Care Ban singles out and stigmatizes the Plaintiff Families, and other families who require this care in

Georgia. The Health Care Ban “impose[s] a disadvantage, a separate status, and so a stigma” upon these plaintiffs and thus violates the guarantee of equal protection by depriving plaintiffs of equal dignity, harming them in profound ways.

, 570 U.S. 744, 770 (2013).

135. The Health Care Ban is not narrowly tailored to further a compelling government interest and is not substantially related to any important governmental interest. Moreover, the Ban is not even rationally related to a governmental interest. Accordingly, the Ban violates the Equal Protection Clause of the Fourteenth Amendment.

VII. RELIEF REQUESTED

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CERTIFICATE OF SERVICE

I hereby certify that, on June 29, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. There is currently no Counsel of Record for Defendants, and so I certify that I will serve the foregoing