

January 22, 2024

Division of Financial Regulation  
Department of Consumer and Business Services  
350 Winter St. NE  
Fourth Floor  
Salem, OR 97301

Subject: Comment on the HB 2002, Gender Affirming Care, Rulemaking

Providence Health Plan (PHP) offers this comment to support the Department of Consumer and Business Services (DCBS) efforts to make rules to implement HB 2002 (2023), Gender Affirming Care. PHP is supportive of the legislation and the Department's endeavor to ensure that all Oregonians have access to gender affirming care.

As a health plan, we have been an early leader supporting access to gender affirming care. Recognizing that the care needed is unique to each individual, we have made a medical policy to defer to our members' treating providers recommendations for treatment, rather than undergoing a prior authorization medical necessity review for an extensive list of procedures.<sup>1</sup> We have also offer our providers guidance around diagnosis and treatment, relying heavily on WPATH Standards of Care, which we consider the gold standard in gender affirming care.

WPATH undergoes a rigorous process to develop and update its Standards of Care. As such, the organization provides updates roughly every 10 years. SOC7, for example, was published in 2012, while the current WPATH Standards of Care, SOC8, was published in 2022. Given the lengthy time periods between updates to the SOC, we recognize that WPATH has included in SOC8 surgical procedures that are anticipated to become available prior to the publication of a future Standards of Care but that are not yet readily available. These procedures include Uterine transplantation and Penile transplantation.

Further, WPATH Standards of Care are written on a global scale, without consideration for local, regional, or national medical practice. As such, it is necessary for U.S. health care providers to interpret WPATH recommendations based upon U.S. standards of practice.

PHP is concerned that if rules were to be finalized as presently considered, where WPATH SOC 8 would be the "minimum and without limitation" accepted standard of care in Oregon then carriers would not be

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<sup>1</sup> Providence Health Plan, Medical Policy, *Gender Affirming Surgical Interventions*, pg 18-23, available at [https://www.providencehealthplan.com/-/media/providence/website/pdfs/providers/medical-policy-and-provider-information/medical-policies/mp32.pdf?sc\\_lang=en&rev=f5585933b41a4db4ba933e8841175c32&hash=2AA8326C37D8C13799DA86A0204C756F](https://www.providencehealthplan.com/-/media/providence/website/pdfs/providers/medical-policy-and-provider-information/medical-policies/mp32.pdf?sc_lang=en&rev=f5585933b41a4db4ba933e8841175c32&hash=2AA8326C37D8C13799DA86A0204C756F).

able to fully comply with the rule and patients could have a false expectation that penile or uterine transplantation, for example, would be available.

PHP recommends that DCBS continue to look to WPATH Standards of Care 8 but add a second element that must also be met in order for a treatment to meet the rule's "accepted standard of care." PHP recommends:

"Accepted Standards of Care" includes those treatments and procedures that are both currently supported by evidence-based practice standards and are described in WPATH Standards of Care Version 8.

This change to the definition will adequately account for the current state of medical practice in the United States, while also giving carriers and treatment providers the flexibility to bring these procedures to members as they become part of U.S. evidence-based practice.

We are happy to discuss this recommendation further, as needed. We are appreciative of this important work to ensure access to gender affirming care for Oregonians.

Kind regards,  
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