Testimony of Andrew Cox in opposition to Kansas Senate Bill 63

I want to begin my testimony by stating that I, Andrew Cox, am opposed to Kansas Senate Bill 63 on scientific, constitutional, and moral grounds. I believe that if enacted, this bill will result in the increased suffering and reduction of civil rights for thousands of people within the State of Kansas. I also believe that the vague language in several sections could compromise the jobs of thousands of educators within the State of Kansas. As such I aim to do the following within my testimony.

1. Establish that Gender-Affirming Care whether for adults or minors is supported by relevant medical institutions.
2. Establish that Gender-Affirming Care whether for adults or minors is both beneficial and potentially lifesaving care.
3. Establish that SB 63 violates key precedent laid out by the Supreme Court regarding both patient decision-making and parental authority.
4. Establish that SB 63 will interfere with the ability of employees of the State of Kansas to carry out their jobs.

Point 1

To firmly establish my arguments, I will provide some quotes from some of the most renowned medical institutions in the country.

“THEREFORE BE IT FURTHER RESOLVED that APA recognizes the efficacy, benefit and medical necessity of gender transition treatments for appropriately evaluated individuals and calls upon public and private insurers to cover these medically necessary treatments;” (American Psychological Association, *APA RESOLUTION on Transgender, Gender Identity, and Gender Expression Non-Discrimination,*)

“Whereas, The denial of these otherwise covered benefits for patients suffering from GID represents discrimination based solely on a patient’s gender identity; and
Whereas, Delaying treatment for GID can cause and/or aggravate additional serious and expensive health problems, such as stress-related physical illnesses, depression, and substance abuse problems, which further endanger patients’ health and strain the health care system; therefore be it

RESOLVED, That the AMA support public and private health insurance coverage for 15 treatment of gender identity disorder" (American Medical Association House of Delegates, *Resolution: 122 (A-08)*)

"The American College of Physicians recommends that public and private health benefit plans include comprehensive transgender health care services and provide all covered services to transgender persons as they would all other beneficiaries." (American College of Physicians, *Lesbian, Gay, Bisexual, and Transgender Health Disparities: Executive Summary of a Policy Position Paper from the American College of Physicians*)

"Experts who work with transgender children, adolescents and adults generally agree on some important points. First, transgender adolescents and adults rarely regret gender transition, and the process (including social and/or medical changes) substantially improves their well-being. Second, some children express a strong transgender identity from a young age and grow into transgender adults who can live happily and healthily in their authentic gender. Third, discouraging or shaming a child's gender identity or expression harms the child's social-emotional health and well-being, and may have lifelong consequences." (American Academy of Pediatrics, *Supporting & Caring for Transgender Children*)

I would highly recommend that the members of the committee read each of the papers and resolutions that I have quoted here. In particular, I recommend that the committee read *Supporting & Caring for Transgender Children*. It is a mere 20 pages and contains invaluable information on transgender youth, which I am sure that all committee members would like to examine before pushing forth a bill that would affect the lives of thousands of such persons.

Many other institutions support Gender-Affirming care, but I do not wish to belabor this point. I do believe that the words of four of the most respected medical institutions in the entire country, including one that specializes in pediatrics, should be enough to demonstrate that the medical community supports Gender-Affirming care for minors and adults.

Point 2

Next, I would like to present the findings of a series of studies that display that Gender-Affirming care is beneficial to those who receive it, including decreasing the risk of suicide among adolescents.

“There is a significant inverse association between treatment with pubertal suppression during adolescence and lifetime suicidal ideation among transgender adults who ever wanted this treatment. These results align with past literature, suggesting that pubertal suppression for transgender adolescents who want this treatment is associated with favorable mental health outcomes.” (Turban JL, King D, Carswell JM, Keuroghlian AS. Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation. Pediatrics.)

“In this prospective cohort of 104 TNB youths aged 13 to 20 years, receipt of gender-affirming care, including puberty blockers and gender-affirming hormones, was associated with 60% lower odds of moderate or severe depression and 73% lower odds of suicidality over a 12-month follow-up.” (Tordoff DM, Wanta JW, Collin A, Stepney C, Inwards-Breland DJ, Ahrens K. Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care. *JAMA Netw Open*. 2022;5(2):e220978. doi:10.1001/jamanetworkopen.2022.0978)

“We conducted a secondary analysis of the 2015 U.S. Transgender Survey, a cross-sectional non-probability sample of 27,715 transgender adults in the U.S. Using multivariable logistic regression adjusting for potential confounders, we examined associations between access to GAH during early adolescence (age 14–15), late adolescence (age 16–17), or adulthood (age ≥18) and adult mental health outcomes, with participants who desired but never accessed GAH as the reference group…This study found that transgender people who accessed GAH during early or late adolescence had a lower odds of past-month suicidal ideation and past-month severe psychological distress in adulthood, when compared to those who desired but did not access GAH, after adjusting for a range of potential confounding variables.” (Turban JL, King D, Kobe J, Reisner SL, Keuroghlian AS (2022) Access to gender-affirming hormones during adolescence and mental health outcomes among transgender adults. PLoS ONE 17(1): e0261039. https://doi.org/10.1371/journal.pone.0261039)

“For each time period of GAH initiation examined (early adolescence, late adolescence, and adulthood), access to GAH was associated with lower odds of past-year suicidal ideation and past-month severe psychological distress. When we compared participants who accessed GAH during adolescence (ages 14–17) with those who accessed GAH during adulthood (18+), participants who accessed GAH earlier had better mental health

outcomes, including lower odds of past-year suicidal ideation, past-month severe psychological distress, past-month binge drinking, and lifetime illicit drug use. These results argue against waiting until adulthood to offer GAH to transgender adolescents and suggest that doing so may put patients at greater mental health risk."(Turban JL, King D, Kobe J, Reisner SL, Keuroghlian AS (2023) Correction: Access to gender-affirming hormones during adolescence and mental health outcomes among transgender adults. PLOS ONE 18(6): e0287283.)

"A total of 27 studies, pooling 7928 transgender patients who underwent any type of GAS, were included. The pooled prevalence of regret after GAS was 1% (95% CI <1%–2%). Overall, 33% underwent transmasculine procedures and 67% transfemenine procedures. The prevalence of regret among patients undergoing transmasculine and transfemenine surgeries was <1% (IC <1%–<1%) and 1% (CI <1%–2%), respectively. A total of 77 patients regretted having had GAS. Twenty-eight had minor and 34 had major regret based on Pfäfflin's regret classification. The majority had *clear regret* based on Kuiper and Cohen-Kettenis classification." (Bustos VP, Bustos SS, Mascaro A, Del Corral G, Forte AJ, Ciudad P, Kim EA, Langstein HN, Manrique OJ. Regret after Gender-affirmation Surgery: A Systematic Review and Meta-analysis of Prevalence.)

The findings of these studies are clear. Gender-affirming care decreases the risk of depression and suicide in both adults and adolescents. It also is correlated with more positive effects if done during late adolescence as opposed to adulthood. Many people have a genuine concern that those who undergo Gender-Affirming Care might regret the decision. However, the cited study of over 7900 individuals found that less than 1% felt any regret after receiving hormone therapy. This is a minuscule amount for any kind of procedure, let alone one with all the benefits provided by Gender-Affirming Care.

Point 3

Senate Bill 63 is blatantly unconstitutional, forgoing the rights of the patient to make medical decisions with their doctor, as well as the rights of the parents to make medical decisions for their child. Now some might bring up Jacobson v. Massachusetts (1905), in which the Supreme Court ruled that the state of Massachusetts could require people to be vaccinated for smallpox. However, using this to argue that the state has a right to restrict Gender-Affirming Care for minors ignores a key part of that ruling.

“In every well ordered society charged with the duty of conserving the safety of its members the rights of the individual in respect of his liberty may at times, under the pressure of great dangers, be subjected to such restraint, to be enforced by reasonable regulations, as the safety of the general public may demand"

Note that the court only rules that liberty may be overruled in the interest of the general public, specifically their safety. The threat of a man spreading smallpox by refusing a vaccination is clear. Now I must ask, who is being harmed by Gender-Affirming Care? Given that Gender-Affirming Care is endorsed by nearly every major medical institution in the United States, it is quite clearly not those receiving it. Nor is anything relating to Gender Dysphoria or Gender affirming care communicable. The only logical conclusion that one could come to is that transgender people themselves are a threat to public safety, which I’m sure was unintentional on the part of those who composed this bill.

SB 63 also violates the equal protection clause of the 14th Amendment in that it attacks the rights of minors with gender dysphoria, forcing the law to apply differently to them. The bill doesn't ban any of the treatments for minors wholesale, it only bars them for minors suffering from gender dysphoria. The Supreme Court made this clear in 1996 with Romer v. Evans when they sustained the overturning of a bill denying protections to bisexuals and homosexuals.

“It identifies persons by a single trait and then denies them protection across the board.” The same can be SB 63 does a similar thing. It identifies children with gender dysphoria and then denies them the right to receive certain types of beneficial medical care. However, that is not the end of the rights that SB 63 violates. This bill also violates the rights of parents to make medical decisions for their children. This violates state law as Kansas Statute 38-122 clearly states that

“C**onsent by parent for surgery and other procedures on child.** Any parent, including a parent who is a minor, whether married or unmarried, may consent to the performance upon his or her child of a medical, surgical or post mortem procedure by a physician licensed to practice medicine or surgery.”

Parental authority to make medical decisions for their children even goes so far as allowing them to deny lifesaving procedures for their child. If parental rights extend as far as denying critical treatment to their child, then I see no reason why they should not extend to allowing beneficial treatments such as Gender-Affirming Care. The Supreme Court also

established the supremacy of parental rights to medical decisions in 1979 with Parham v. J.R.

I find it also necessary to highlight the widespread support for bodily autonomy within the State of Kansas. In the 2022 Abortion Referendum, voters overwhelmingly voted against an amendment acknowledging women had no right to an abortion. This shows that the People of Kansas do not think that the right to make medical decisions belongs to the government.

Section 4

The vague language posed in parts of the bill puts thousands of state employees, mostly teachers and counselors, at risk. Section 2. (f) reads.

“A state employee whose official duties include the care of children shall not, while engaged in those official duties, promote the use of social transitioning or provide or promote medication or surgery as provided in section 3, and amendments thereto, as a treatment for a child whose perceived gender or perceived sex is inconsistent with such child's sex.”

This wording is so vague as to constitute anything other than a clear condemnation of social or medical transitioning as a violation of this bill. What constitutes promotion? Does using a child’s preferred pronouns constitute a promotion of social transitioning? Would calling a cisgender male named Alexander ‘Alex’ constitute a promotion of social transitioning as Alex is gender neutral? The wording is vague enough that it could even allow showing a transgender person as a functioning member of society to be a promotion of transitioning. This bill has to potential to forbid any references to transgender people at all or to even exclude transgender people from teaching, as their very existence could constitute the promotion of social or medical transitioning.

Teachers are not the only ones threatened by this, consider counselors. If a student struggling with their gender identity comes to the counselor, then they would have no way to discuss options with the student or their parents. This is particularly concerning as minors struggling with their gender identity are at a significantly higher risk for suicide. A counselor could also be put in a situation where reporting something like the bullying or abuse of a trans-student could constitute a risk to their job, as support for the student could be seen as promoting social or medical transitioning.

This same risk applies to even more jobs such as social workers or other state employees who deal with children in crises, constantly being impeded out of fear of losing their jobs.

Conclusion

I have spent most of my testimony arguing this bill scientifically, constitutionally, and even logistically. However, I would like to end by arguing from my own personal and moral perspective. Members of the committee think about what this bill will do to people, to kids. You are creating an environment where kids struggling against their identity have even fewer places to turn. I am a high school student with several transgender friends. I know how hard things can be for them, and I know what they think of this act and ones like it. I know what most of my cisgender students think about it. When we look at a bill like this, we don't see people trying to help us. We see people determined to take our rights away. People who seem to willfully ignore scientific data and constitutional law. So, when you consider whether or not to vote for this bill, ask yourself these questions.

Should I vote for or against the consensus of the medical community?

Should I vote for or against something that will raise the rate of suicide among adolescents?

Should I vote for or against constitutional rights?

Should I vote for or against something that targets a minority?

Should I vote for or against something that makes life harder for teachers?

Should I vote for or against choice?