

FACT SHEET

Nebraska's LB 574, Emergency Regulations, & Gender Affirming Care: What Do They Say?



In May 2023, Nebraska passed Legislative Bill 574 (“LB 574”), restricting the gender affirming care people under 19 can receive in Nebraska, and on October 1, 2023, Nebraska’s Chief Medical Officer released emergency regulations.

Here is what they say:

1. Under LB 574, starting October 1, 2023, health care providers generally cannot perform some “gender-altering procedures” for people under 19 in Nebraska.

This includes:

- Medical care (surgeries, physician or hospital services, prescription drugs, etc.) to:
 - Alter or remove characteristics typical for a person's biological sex; or
 - Create or instill characteristics of a sex different from a person’s biological sex.

This **does not** include:

- Continuing treatment using puberty-blocking drugs or cross-sex hormones started before October 1, 2023.
- Gender altering care for people:
 - Needing treatment from an infection, injury, or condition caused or made worse by gender-altering care;
 - With physical issues that threaten imminent danger of death or major bodily function impairment unless surgery is performed; or
 - Diagnosed with a “disorder of sex development” (such as abnormal sex chromosome / steroid structure, production, or action).
- Non-surgical care (prescriptions such as puberty blockers or cross-sex hormones) allowed by Nebraska’s Chief Medical Officer and Department of Health and Human Services via regulation (see below).

If a provider violates LB 574, they may be penalized and/or subjected to legal liability. LB 574 does NOT punish the recipient of gender affirming care or their parent(s).

2. Nebraska’s Chief Medical Officer’s emergency regulations, which became effective on October 1, 2023, allow people under 19 to access puberty-blocking drugs or cross-sex hormones if certain requirements are met. These requirements generally include (but are not limited to) the following:

Patients must:

- Experience gender nonconformity or gender dysphoria as required and meet certain requirements about their health and the impact of treatment;
- Have primarily lived as the preferred gender for at least six consecutive months (and continued to do so to receive cross-sex hormones);
- Have received at least 40 hours of therapeutic treatment in a clinically neutral context prior to receiving prescriptions;
- Have appropriate supports in place;
- Have parents/legal guardians (or self if emancipated) give informed consent;
- Wait at least seven days after giving informed consent to obtain prescriptions;

- Have injectable prescriptions administered at the prescribing provider's office; and,
- After prescriptions have started, continue therapeutic treatment for one hour every 90 days while prescriptions are being administered.

Note on the Continuing Treatment Exception: The regulations provide that a patient who began using puberty blocking drugs prior to October 1, 2023, but did not begin using cross-sex hormones prior to October 1, 2023, must comply with the regulations before receiving cross-sex hormones.

For providers:

- Document that specific requirements and findings have been met, including required medical determinations, that prerequisites to treatment have been met, the impact of treatment, details of treatment, and impact of prescriptions;
- Identify that the medication being prescribed are for the treatment of gender nonconformity or gender dysphoria;
- Provide therapeutic hours that are clinically neutral and not in a gender affirming or conversion context;
- Obtain informed consent after providing certain information to patients and their families about prescriptions, side effects, and alternatives to treatment; and,
- Complete three hours of a specified continuing education within the most recent biennial renewal period.

What's Next?

Because the emergency regulations are temporary in nature, these requirements are subject to change. Nebraska's Chief Medical Officer has stated that they expect the final regulations to be in place before the emergency regulations expire.

Nebraska's Chief Medical Officer released proposed permanent regulations on October 17th and is holding a public hearing on November 28, 2023 from 7:00am-7:00pm at the Lancaster County Event Center - Lincoln Room 4100 N 84th St. Lincoln, NE 68507. Members of the public can submit feedback in person or in writing. You can provide written comments now through no later than 11:59 p.m. the day of the hearing via mail, fax, or email, to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026 (mail), (402) 742-2382 (fax) or dhhs.regulations@nebraska.gov (email).

The proposed permanent regulations appear to be similar to the October 1st emergency regulations, with some proposed changes relating to therapeutic hours, prescription administration, and pharmacist requirements, among others. These proposed regulations are subject to change following the public hearing before going into effect.

Under LB 574, the Nebraska Department of Health and Human Services can also adopt rules as long as they don't conflict with the above.

Scan this QR code to see all the requirements in the emergency regulations



Scan this QR code to see the proposed permanent regulations



If you are or expect to be experiencing difficulty accessing or providing gender affirming care as a result of LB 574, please contact Nebraska Appleseed's Community Assistance Line at 402-438-8853 ext. 205 or neappleseed.org/gethelp to speak about your experiences and contact ACLU of Nebraska at gethelp@aclunebraska.org to speak about your rights. For 24/7 confidential crisis support, call the Trevor Project at 1-866-488-7386 or text 678-678.

For questions about your specific care, please consult with your medical provider.