NO. 26-180

IN THE
Supreme Court of the United States

EDWARD ALLYN HUDACKO,

Petitioner,

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA, ET AL.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BRIEF OF NC VALUES INSTITUTE AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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INTEREST OF *AMICUS CURIAE*[1]

Amicus curiae respectfully urges this Court to grant the Petition and reverse the Ninth Circuit ruling.

NC Values Institute, formerly known as the Institute for Faith and Family, is a North Carolina nonprofit corporation that works in various arenas of public policy to protect faith, family, and freedom, including parental rights. See https://ncvi.org.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

Transgender ideology is invading American life at an alarming rate. This case is another variation on that theme, another permutation with potentially tragic results. Like numerous other current cases, this one involves parental rights to be informed and to make medical decisions on behalf of their children. In this case, parental authority is split between the mother, who has custody, and the father, whose rights have been restricted. But parental rights are fundamental, and each individual parent must be considered in situations where the parents are split, as they are here.

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[1] Counsel of record for all parties received notice at least 10 days prior to the due date of *amicus curiae*'s intention to file this brief. *Amicus curiae* certifies that no counsel for a party authored this brief in whole or in part and no person or entity, other than *amicus*, its members, or its counsel, has made a monetary contribution to its preparation or submission.

This case is complicated by a custody order that allows great latitude to the *child* to receive gender identity treatments recommended by certain medical providers. The order grants sole medical decision-making authority to the mother but requires the written consent of *both* parents before the child may receive "gender identity related surgery." *Hudacko v. Regents of Univ. of Cal.*, 2025 U.S. App. LEXIS 27380, at *8 (9th Cir. 2025). This provision ostensibly protects the parental rights of the father (Petitioner Hudacko), but he was excluded from discussions and had no voice in the ultimate decision for his child to receive a "gender affirming" implant. The Ninth Circuit granted qualified immunity to the UCSF medical providers, despite the abundant precedent that "clearly establishes" the fundamental nature of parental rights, because the court wasn't certain the implant qualified as "surgery."

ARGUMENT

I. THE UCSF MEDICAL PROVIDERS ARE NOT ENTITLED TO QUALIFIED IMMUNITY.

In America today, any reasonably educated member of the general public would understand the nation's robust commitment to parental rights. And any person with a modicum of common sense—and even minimal exposure to current events—would be aware of the raging, contentious debate over transgender ideology, particularly where minor children are concerned. Yet the Ninth Circuit found it reasonable for the UCSF medical providers (state

actors) to presume that the "gender-affirming implant procedure" performed on Hudacko's child did not fall within the "any gender identity related surgery" that required his signature. Based on that questionable assumption, they excluded Hudacko from discussions about the implant. Nevertheless, the court concluded the providers were entitled to qualified immunity.

"A government official sued under §1983 is entitled to qualified immunity unless the official violated a statutory or constitutional right that was *clearly established* at the time of the challenged conduct." *Carroll v. Carman*, 574 U.S. 13, 16 (2014) (emphasis added). To be "clearly established," the right must be clear enough that "a reasonable official would understand that what he is doing violates that right." *Ibid*., quoting *Anderson v. Creighton*, 483 U.S. 635, 640 (1987). "[E]xisting precedent" must place the constitutional question "beyond debate." *Carroll*, 574 U.S. at 16, quoting *Ashcroft v. al-Kidd*, 563 U.S. 731, 741 (2011), so that officials have "breathing room" to make decisions that are reasonable even though mistaken. *Id*. at 743.

Courts must consider whether "any reasonable official *in the defendant's shoes* would have understood that he was violating it." *Plumhoff v. Richard,* 572 U.S. 765, 778-779 (2014). Reasonableness is determined under the "totality of the circumstances," which may include "earlier facts and circumstances" relevant to the government official's understanding and response. *Barnes v. Felix*, 605 U.S. 73, 73-74 (2025). *Plumhoff* involved a dangerous high speed car chase that ended in two

deaths. The reasonableness of the officer's actions was impacted by critical earlier facts, including a car zig-zagging down a busy roadway at high speed to flee from police. 572 U.S. at 778-779.

As this Court's precedents unambiguously demonstrate, a reasonable official would understand that parental rights are clearly established and encompass decisions about a child's medical care—especially in the context of novel procedures virtually certain to cause irreparable harm. A similar and "particularly contentious constitutional question" came to this Court's attention recently in a school context—"whether a [state actor] violates parents' fundamental rights when, without parental knowledge or consent, it encourages a student to transition to a new gender or assists in that process." *Parents Protecting Our Child., UA v. Eau Claire Area Sch. Dist.*, 145 S. Ct. 14, 14 (2024) (Alito, J., dissenting from denial of certiorari) (cleaned up). Three Justices subsequently recognized it is both "troubling . . . and tragic" when state actors "purposefully interfere with parents' access to critical information about their children's gender-identity choices." *Lee v. Poudre Sch. Dist. R-1*, 146 S. Ct. 26, 26 (2025) (statement by Alito, J., joined by Thomas & Gorsuch, JJ.).

Regardless of the custody order, the UCSF medical providers "purposefully interfere[d] with [Hudacko's] access to critical information about [his] child[]'s gender-identity choices." This is both "troubling . . . and tragic." Even as a noncustodial parent with restricted parental rights, Hudacko is

still a parent who deserved to be included in such a major medical decision with life-altering, potentially tragic consequences.

Any *reasonable* person—particularly a medical provider—would understand that excluding Hudacko entirely violated his parental rights, a fundamental liberty that is "clearly established" "beyond debate" by abundant legal precedent in this Court. Hudacko's parental rights have been severely restricted ("stripped . . . of almost all," *Hudacko*, at *5) but not terminated. The medical providers blithely ignored his remaining rights and are not entitled to qualified immunity. Their conduct is particularly troubling in the context of intense disagreement about the legitimacy and efficacy of so-called "gender-affirming" (really sex-rejecting) medical treatments.

II. IT IS "CLEARLY ESTABLISHED" "BEYOND DEBATE" THAT PARENTAL RIGHTS ARE INALIENABLE AND FUNDAMENTAL, AS RECOGNIZED BY DECADES OF JURISPRUDENCE.

This case presents a grave threat to time-honored fundamental parental rights to the care, custody, and control of their children, including decisions about their medical care. Parental rights are "perhaps the oldest of the fundamental liberty interests recognized by this Court." *Troxel v. Granville*, 530 U.S. 57, 65 (2000). As this Court recently acknowledged, the question "how best to help minors" struggling with gender identity or sexual orientation is presently a subject of "fierce public debate." *Chiles v. Salazar*, 146

S. Ct. 1010, 1029 (2026) (quoting *Tingley v. Ferguson*, 144 S. Ct. 33 (2023) (Thomas, J., dissenting from denial of certiorari)). This case must be examined under the spotlight of that debate. Any "reasonable person" – indeed, any person not living under a rock – would be aware of both the "fierce public debate" and the relevance of parental involvement.

There is abundant precedent on point showing indisputably that "the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children." *Troxel*, 530 U.S. at 66. Due process rights to life, liberty, and property encompass "not merely freedom from bodily restraint but also the right of the individual to . . . marry, establish a home and bring up children, to worship God . . . ." *Meyer v. Nebraska,* 262 U.S. 390, 399 (1923). These rights to establish a family are "essential." *Ibid*.; *see Troxel*, 530 U.S. at 65.

In upholding a child labor law, this Court explained that "the family itself is not beyond regulation in the public interest" but simultaneously reaffirmed the paramount importance of parental rights: "It is cardinal with us that the custody, care and nurture of the child reside *first in the parents*, whose primary function and freedom include preparation for obligations *the state can neither supply nor hinder*." *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) (emphasis added).

Parental rights are not created by statute or even constitutions but are natural, inalienable rights

uniformly recognized by courts throughout American history. Even in dissenting from the analysis of the other justices in *Troxel*, Justice Scalia vigorously affirmed that the "right of parents to direct the upbringing of their children is among the unalienable Rights with which the Declaration of Independence proclaims all Men . . . are endowed by their Creator." *Troxel*, 530 U.S. at 91 (Scalia, J., dissenting) (internal quotation marks omitted). The sex transitioning of children, facilitated with secrecy by a growing number of public officials—and now through the efforts of medical doctors aligned with *one* of a child's *two* parents—assaults these fundamental rights so severely as to essentially obliterate them. The doctors openly flout Due Process while surreptitiously providing dangerous "gender-affirming care" that is virtually guaranteed to cause irreparable harm.

History reveals "a founding generation that believed parents to have complete authority over their minor children and expected [them] to direct the development of those children." *Brown v. Entertainment Merchants Ass'n*, 564 U.S. 786, 834 (2011) (Thomas, J., dissenting). "[E]xtensive precedent" establishes beyond doubt that the Due Process Clause protects fundamental parental rights "to make decisions concerning the care, custody, and control of their children." *Troxel*, 530 U.S. at 66. "[P]arents—not the State—have primary authority" for these decisions. *Mirabelli v. Bonta*, 607 U.S. 492, 497 (2026), citing *Pierce v. Society of Sisters*, 268 U.S. 510, 534-535 (1925); *Meyer*, 262 U.S. at 399-400. These precedents encompass "the right *not to be shut out* of participation in decisions regarding their

children's mental health." *Mirabelli*, 607 U.S. at 497, citing *Parham v. J. R.*, 442 U.S. 584, 602 (1979) (emphasis added). Hudacko has unquestionably been "shut out of participation" in critical decisions about his child's medical care.

A. Parental rights fit comfortably within judicial definitions of "fundamental" rights.

"Marriage and procreation are fundamental to the *very existence and survival* of the race." *Skinner v. Oklahoma,* 316 U.S. 535, 541 (1942) (emphasis added). *Skinner* struck down a sterilization requirement, stressing the potentially "far-reaching and devastating effects" of depriving the individual of "a basic liberty." *Ibid.* The often repeated language used to recognize fundamental rights easily applies to the parental rights at stake in this case—"deeply rooted in this Nation's history and tradition," *Moore v. East Cleveland,* 431 U.S. 494, 503 (1977) (plurality opinion); "so rooted in the traditions and conscience of our people as to be ranked as fundamental," and "implicit in the concept of ordered liberty," such that "neither liberty nor justice would exist if they were sacrificed," *Palko v. Connecticut*, 302 U.S. 319, 325, 326 (1937). *See Washington v. Glucksberg*, 521 U.S. 702, 720-721 (1977) (discussing the criteria to recognize fundamental rights beyond those enumerated in the Bill of Rights). "Relevant here, the doctrine of substantive due process has long embraced a parent's right to raise her child, which includes the right to participate in significant decisions about [his]

child's mental health." *Mirabelli*, 607 U.S. at 499 (Barrett, J., concurring).

B. Each individual parent retains these fundamental rights, regardless of custody or other separation.

Each individual's due process rights to life, liberty, and property encompass "not merely freedom from bodily restraint but also the right . . . to marry, establish a home and bring up children, to worship God . . . ." *Meyer,* 262 U.S. at 399. These rights to establish a family are "essential." *Ibid*.; *see Troxel*, 530 U.S. at 65. As noted in a child custody dispute, a parent's "right to the care, custody, management and companionship" of his or her children is a "right[] more precious . . . than property rights" and even more important than financial support from a former spouse. *May v. Anderson*, 345 U.S. 528, 533 (1953). In *May*, a state "where [the] mother [wa]s neither domiciled, resident nor present" could not lawfully issue an ex parte decree (as requested by the father residing in another state) that would "cut off her immediate right to the care, custody, management and companionship of her minor children." *Ibid.*

Because parental rights are fundamental, the state must jump a high hurdle to remove a child from the custody of his/her parents or to terminate a parent's rights entirely. Parental rights, like other "liberties of the individual which history has attested as the indispensable conditions of an open as against a closed society . . . come to this Court with a momentum for respect lacking when appeal is made

to liberties which derive merely from shifting economic arrangements." *Stanley v. Illinois,* 405 U.S. 645, 651 (1972) (quoting *Kovacs v. Cooper*, 336 U.S. 77, 95 (1949) (Frankfurter, J., concurring)). The unwed father in *Stanley* was entitled to a fitness hearing before termination of his parental rights, after the child's mother had died. "The rights to conceive and to raise one's children have been deemed 'essential.'" *Stanley,* 405 U.S. at 651, citing *Meyer*, 262 U.S. 15 399.

Hudacko does not have custody of his child and his parental rights have been severely limited—but not wholly terminated. Even where parents "have not been model parents," or "blood relationships are strained," or they have "temporarily lost custody to the State," fundamental parental rights "do not evaporate." *Santosky v. Kramer,* 455 U.S. 745, 753 (1982). Due Process is required and the state must present "clear and convincing evidence" to "completely and irrevocably" terminate a natural parent's rights. *Id.*, 455 U.S. at 747-748. When the state intervenes "to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures." *Id.* at 753-754. Choices about raising children "are among associational rights . . . sheltered by the Fourteenth Amendment against the State's unwarranted usurpation, disregard, or disrespect." *M.L.B. v. S.L.J.*, 519 U.S. 102, 116 (1996). These rights are ranked as "of basic importance in our society." *Boddie v. Connecticut*, 401 U.S. 371, 376 (1971). In *M.L.B.*, where the mother lacked funds to pay the costs of the record she needed to appeal a decision terminating her parental rights, this Court

held that, "Mississippi may not deny M.L.B., because of her poverty, appellate review of the sufficiency of the evidence on which the trial court found her unfit to remain a parent." *M.L.B.*, 519 U.S. at 107. Parental rights were "sufficiently strong to require the state to pay those costs." *Ibid*.

C. Parental rights are increasingly threatened by the proliferation of transgender ideology.

There is hardly a more contentious "matter of public concern" than gender identity, "a controversial [and] sensitive political topic[] . . . of profound value and concern to the public." *Janus v. AFSCME, Council 31*, 585 U.S. 878, 913 (2018) (cleaned up). It is not the business of *any* government official to coerce *any* person's viewpoint on this matter. Yet the onslaught of transgender ideology in American society has reached epidemic proportions, with seemingly endless permutations in attempted coercion. Ideological disagreement and attempts at compulsion occur in many different contexts. Following are a few examples.

Secret sex transitioning in public schools. Transgender rights are exalted at the expense of those who reject the ideology. This trend is nowhere more evident than in the alarming multitude of public school policies that facilitate gender transitions for minor schoolchildren. These policies demand the use of a child's preferred name and pronouns without parental consent or even knowledge, typically requiring school personnel to actively deceive

parents. The lawsuits filed by shocked, angry parents are legion. There are legal challenges throughout the country. Examples abound—sadly. Parents in Maryland sued their local Board of Education over the schools' secret social transitioning of children to the opposite sex and deliberately withholding that information from parents. The School Board had adopted "Gender Identity" guidelines specifically providing that parents were *not to be informed* when a child identified as transgender, and furthermore, that school personnel had to take affirmative steps to hide that information from parents by reverting to given names (and correct pronouns) when communicating with them. The Fourth Circuit held that the parents did not allege sufficient injuries to establish legal standing. *John & Jane Parents 1 v. Montgomery Cnty. Bd. of Educ.*, 78 F.4th 622 (4th Cir. 2023), *cert. denied* WL 2262333 (May 20, 2024).

Professional counseling. *Chiles v. Salazar* addressed the free speech rights of professional counselors speaking with minors who want to overcome same-sex attractions or live in accordance with their biological sex. This Court rightly held that Colorado's ban on "sexual orientation change efforts" was unconstitutional as applied, based on the law's blatant viewpoint discrimination. A counselor could *affirm* a young client's preferred, non-biological "gender identity" but could not assist a client whose goal was to accept and live consistently with his/her birth sex.

As *Chiles* demonstrates, dissenting voices must be heard—otherwise "any professional speech that

deviates from 'current beliefs about the safety and efficacy of various medical treatments' could be silenced with relative ease." *Chiles*, 146 S. Ct. at 1029. In *Chiles*, Colorado "freely acknowledge[d]" this sort of censorship and "the dissent embrace[d]" it. *Ibid.*

Women's sports. On January 13, 2026, this Court heard oral arguments in *two* consolidated cases related to the exclusion of "transgender women"—biological *men*—from *women's* sports team. *Little v. Hecox*, Docket No. 24-38, 104 F.4th 1061 (9th Cir. 2023); *West Virginia v. B.P.J.,* Docket No. 24-43, 98 F.4th 542 (4th Cir. 2024). In its opinion on June 30, 2026, the Court affirmed that under Title IX, "schools may maintain women's and girls' sports teams for biological females." *B.P.J. v. West Virginia*, 225 L. Ed. 1040, 1047 (2026).

III. THE PARENTAL RIGHT TO MAKE MEDICAL DECISIONS FOR A CHILD IS "CLEARLY ESTABLISHED" BY JUDICIAL PRECEDENT AND "BEYOND DEBATE."

Parental rights follow the child everywhere, extending broadly to public and private life—medical care, education, religion, custody, and associations. Judicial precedent touches them all. Parental rights follow the child into the doctor's office. Courts must safeguard the rights of parents to make medical decisions for their children. These rights are critical to the health, safety, and life of children across the nation. The Ninth Circuit should have considered the fundamental nature of the rights at stake.

This Court addressed parental rights at length in *Wisconsin v. Yoder*. "The history and culture of

Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition." 406 U.S. 205, 232 (1972). *Yoder*'s rationale logically extends to the paramount interest of parents in making important decisions about their children's medical care. This is *especially* true where the decision—a transition from one sex to the other—has such obviously radical implications for the child's future.

Historically, American jurisprudence "reflects Western civilization concepts of the family as a unit with broad parental authority over minor children" and "cases have consistently followed that course." *Parham,* 442 U.S. at 602. In *Parham*, this Court upheld Georgia's statutory procedure for parents to voluntarily commit a minor to a hospital for mental health treatment, reversing the state court's conclusion that the law was unconstitutional. Common law has long recognized that "the only party capable of authorizing medical treatment for a minor in normal circumstances is usually his parent or guardian." *Newmark v. Williams*, 588 A.2d 1108, 1115-1116 (Del. 1990) (child's parents declined chemotherapy); *see* W. Posser & W. Keeton, The Law of Torts § 118 at 114-115 (5th ed. 1984).

"[T]he tradition of parental authority is not inconsistent with our tradition of individual liberty." *Bellotti v. Baird*, 443 U.S. 622, 638-39 (1979) (plurality). Under normal, non-emergency

circumstances, parents have a "liberty interest in family association to be with their children while they are receiving medical attention" and children have "a corresponding right to the love, comfort, and reassurance of their parents. . . ." *Wallis ex rel. Wallis v. Spencer*, 202 F.3d 1126, 1142 (9th Cir. 1999). The associational rights of *both* parents *and* children are especially critical in a context where medical decisions will likely have irreparable, life-altering consequences. The custody order here tends to place the parent and child in the position of "adversaries," an action "at odds with the presumption that parents act in the best interests of their child." *Parham*, 442 U.S. at 610.

A. The Custody Order undermines parental rights by granting significant independent authority to the minor child.

The Custody Order, while purportedly protecting Hudacko's right to a voice in his child's medical care, has been interpreted in a manner that seriously impedes his ability to exercise his parental rights. The child ("Minor") is authorized "to pursue the services provided by UCSF as to [Minor's] gender identity, and shall be permitted to commence hormone therapy, if recommended by UCSF," subject to the restriction on "gender identity related surgery," which required the written consent of *both* parents. *Hudacko*, at *7-8.

Children lack the maturity to make their own medical decisions, particularly where irreparable harm is threatened. Medical decisions require

evaluating the risks and benefits of a proposed treatment and then either giving or withholding informed consent. A child lacks the "maturity, experience, and capacity for judgment" required in "making life's difficult decisions." *Parham,* 442 U.S. at 602. The law presumes that "parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions." *Ibid*. "Simply because the decision of a parent is not agreeable to a child or . . . involves risks does not automatically transfer the power to make that decision from the parents to some agency or officer of the state." *Id.* at 603. The UCSF medical providers violated this principle, usurping Hudacko's rights as a parent to even be heard concerning his child's decision to seek a procedure of such magnitude.

It is difficult to imagine a more critical application of parental rights than basic medical decisions necessary to preserve a child's life and health. In *United States v. Skrmetti*, Tennessee concluded that minors lack "maturity to fully understand and appreciate the life-altering consequences" of the prohibited procedures. 605 U.S. 495, 541 (2025), citing Tenn. Code Ann. §68-33-101(h). This Court upheld the Tennessee law at issue, which enables the "*nonconsenting parent* of an injured minor to sue a healthcare provider for violating the [state] law" that prohibited certain medical treatments for minors. *Skrmetti*, 605 U.S. at 507 (emphasis added). The law, which expressly protects the rights of a "*nonconsenting* parent," removed certain conditions—"gender dysphoria, gender identity disorder, and

gender incongruence—from the range of treatable conditions." *Id*. at 519. "Mounting evidence" supports the conclusion that children are unable to provide informed consent to "irreversible sex-transition treatments." *Id*. at 547 (Thomas, J., concurring). A child's "lack of maturity" and "underdeveloped sense of responsibility" can lead to "impetuous and ill-considered actions and decisions." *Ibid*., citing *Roper v. Simmons*, 543 U.S. 551, 569 (2005) (internal quotation marks omitted). The voices of a "growing number of detransitioners" echo the commonsense conclusion that children are unable to comprehend and consent to sex transition treatments. *Skrmetti*, 605 U.S. at 542 (Thomas, J., concurring).

Skrmetti is a landmark victory, not only for general parental rights to make medical decisions—but specifically as related to the gender identity issues presented in this case. It is imperative that courts respect the rights of *either one of a child's parents* to be informed and consent when a child asks to socially transition or requests "gender-affirming" treatments. These are the first steps on a journey likely to end in deep regret and disaster. "The law's concept of the family rests on the presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions." *Parham,* 442 U.S. at 602. In *Parham*, this Court upheld Georgia's statutory procedure for parents to voluntarily commit a minor to a hospital for mental health treatment, reversing the state court's conclusion that the law was unconstitutional. A child "lacks the maturity, experience, and capacity for judgment" required to

make such a difficult decision. *Ibid*. In *Planned Parenthood v. Casey*, this Court upheld laws requiring parental notification or consent prior to a minor's obtaining an abortion, "based on the quite reasonable assumption that minors will benefit from consultation with their parents and that children will often not realize that their parents have their best interests at heart." 505 U.S. 833, 895 (1992), *overruled on other grounds by Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022).

B. Even social transitioning is treated by courts as medical treatment.

Courts consistently recognize even *social* transitioning as a "medically necessary component" of gender dysphoria treatment. *Janiah v. Meeks*, 584 F. Supp. 3d 643, 678 (S.D. Ill. 2022) (prisoner's "housing in a facility matching one's gender identity and access to gender-affirming clothing and other items"); *Edmo v. Corizon, Inc.*, 935 F.3d 757, 770 (9th Cir. 2019) ("[t]reatment options" for gender dysphoria include "changes in gender expression and role," such as "living part time or full time in another gender role, consistent with one's gender identity"); *Lamb v. Norwood*, 899 F.3d 1159, 1161 (10th Cir. 2018) (same). "Treatment" typically includes "a social transition in which the person adopts a new name, pronouns, appearance, and clothing" combined with surgical interventions. *Tirrell v. Edelblut*, 748 F. Supp. 3d 19, 25-26 (D.N.H. Sept. 10, 2024) (girls' sports); *Clark v. Quiros*, 2024 U.S. Dist. LEXIS 132251, *13 (D. Conn. July 26, 2024) (prisoner) (noting "four broad categories" of "gender affirming

care" —"mental healthcare, social transition, medical or somatic treatments, and surgical interventions"); *Pinson v. Hadaway*, 2020 U.S. Dist. LEXIS 170246, *2 (D. Minn. July 13, 2020) ("social transition, hormone therapy, psychotherapy, or surgery"); *Porter v. Allbaugh*, 2019 U.S. Dist. LEXIS 83633, *3 n. 3, citing *Lamb*, 899 F.3d at 111 (in addition to hormones, surgeries, and psychotherapy, current treatments include "social transition . . . dressing and grooming oneself as well as taking on gender roles consistent with one's gender identity").

C. The irreparable harm caused by sex transition procedures is increasingly well established and known.

The dangers of sex transitioning procedures are increasing known and well publicized. The harm perpetrated by these treatments is particularly egregious because it involves radical procedures with irrevocable, life-altering complications. "The current use of puberty blockers and sex-reassignment surgery is an unethical human experimentation on our most vulnerable members of society." Claudia Bihar, *Let Them Be Children: How the Law Should Support Parents in Protecting Their Children From the Harmful Effects of Gender Affirming Treatment*, 21 Ave Maria L. Rev. 108, 119-120 (Spring 2023). The experiment is not warranted by "reflexive deference to currently prevailing professional views"—such deference does "not always end well." *See, e.g., Buck v. Bell,* 274 U.S. 200, 207 (1927) (coerced sterilization—"[t]hree generations of imbeciles are enough").

A Sixth Circuit asylum case, *Abay v. Ashcroft*, concerned "female genital mutilation," an excruciating practice "'nearly universal' in Ethiopia and to which an estimated 90% of women are subjected." 38 F.3d 634, 636 (6th Cir. 2004). This procedure is "extremely painful, permanently disfigures the female genitalia, and exposes the girl or woman to the risk of serious, potentially life-threatening complications, including bleeding, infection, urine retention, stress, shock, psychological trauma, and damage to the urethra and anus." *Id.* at 638 (cleaned up). Such bodily mutilation is eerily similar to the transgender procedures that cause permanent, irreparable damage. In *Abay*, a mother and minor daughter sought asylum in the United States to escape the practice. The Sixth Circuit credited their "well-founded fear" and overturned an immigration judge's denial of their claim. *Id.* at 636.

The U.S. Department of Health and Human Services ("HHS") sounded the alarm in issuing the following Declaration:

> Sex-rejecting procedures for children and adolescents are neither safe nor effective as a treatment modality for gender dysphoria, gender incongruence, or other related disorders in minors, and therefore, fail to meet professional recognized standards of health care. For the purposes of this declaration, "sex-rejecting procedures" means pharmaceutical or surgical interventions, including puberty blockers, cross-sex

> hormones, and surgeries such as mastectomies, vaginoplasties, and other procedures, that attempt to align an individual's physical appearance or body with an asserted identity that differs from the individual's sex.

Declaration of the Secretary of the Department of Health and Human Services, RE: Safety, Effectiveness, and Professional Standards of Care for Sex-Rejecting Procedures on Children and Adolescents (Dec. 18, 2025). Prior to the Declaration, HHS released its final, comprehensive peer reviewed report, *Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices* ("HHS Report") (Nov. 19, 2025).

This Declaration is comprehensive as to the procedures it covered and most assuredly would include the implant at issue in this case.

The Declaration is authorized by 42 CFR § 1001.2, which vests the HHS Secretary with legal authority to declare a "treatment modality *not* to be safe and effective" (emphasis added). The Regulation further provides that "when the Department has declared a treatment modality not to be safe and effective, practitioners who employ such a treatment modality will be deemed not to meet professionally recognized standards of health care." Although the Declaration does not recommend a particular treatment, the Report "points to psychotherapy (talk therapy) as a noninvasive alternative to sex-rejecting procedures." *See* HHS Report, 256.

In its "Ethical Analysis and Conclusions," the Declaration concludes that because these "medical interventions pose unnecessary, disproportionate risks of harm, healthcare providers should refuse to offer them even when they are preferred, requested, or demanded by patients," citing HHS Report, 15. The Report also concluded that the procedures fail to show evidence of improved mental health, and there is increasing recognition that they pose a plausible risk of serious harms—cancer, cardiac disease, sexual dysfunction, infertility, etc. HHS Report, 227-228. Sex-rejecting procedures violate the corresponding "duties of nonmaleficence and beneficence" – practitioners must do no harm *and* must provide a benefit.

The Declaration, citing the HHS Report, states that:

> U.S. medical associations played a key role in creating a perception that there is professional consensus in support of pediatric medical transition. This apparent consensus, however, is driven primarily by a small number of specialized committees, influenced by WPATH. *It is not clear that the official views of these associations are shared by the wider medical community, or even by most of their members*. There is evidence that some medical and mental health associations have *suppressed dissent* and *stifled debate* about this issue among their members.

HHS Report, 15 (emphasis added). Contrary to this alleged consensus, the Declaration concluded that the "standards of care recommended by certain medical organizations are unsupported by the weight of evidence and threaten the health and safety of children with gender dysphoria."

Specifically, "certain medical organizations" include the World Professional Association for Transgender Health (WPATH) and the Endocrine Society (ES). There has been a "substantial increase in gender dysphoria diagnoses among young people" and an increase in sex-rejecting medical interventions following endorsements by these two organizations. Such endorsements "demonstrate significant variation in methodological rigor and quality," and "current medical evidence does not support a favorable risk/benefit profile for these procedures." HHS Declaration.

International concerns about transgender procedures have also escalated. Pediatric medical interventions increased substantially following the 2006 publication of the "Dutch Protocol" in *The European Journal of Endocrinology*. But now, the HHS Declaration notes "growing international concern regarding hormonal and surgical interventions for pediatric gender dysphoria among countries conducting rigorous, independent, evidence-based evaluations." Independently commissioned reviews in Sweden, Finland, and the United Kingdom have all concluded that the risks likely exceed the benefits. The United Kingdom's Cass Review (April 2024), a four-year independent assessment of

pediatric ender medicine, is the most influential of these reviews. Denmark, Norway, and other countries have adopted conservative approaches favoring non-invasive treatment (counseling) over risky, experimental surgeries. Decl., n. 68 – 73. ASPS also notes that a number of international health systems and professional bodies have examined clinical practice assumptions, with growing uncertainty about the benefits of medical and surgical interventions.

Just recently, a landmark study released from Finland demonstrates conclusively that outcomes are far worse for those who medically transition than for those who do not. *See* "Psychiatric Morbidity Among Adolescents and Young Adults Who Contacted Specialised Gender Identity Services in Finland in 1996–2019: A Register Study" (March 26, 2026).[2] Unlike many other studies, this one included both follow-up and consistent control groups. Adolescents referred for "gender-affirming care" were significantly more likely to receive specialist-level psychiatric treatment than control groups both before (45.7% vs.15.0%) and more than two years *after* diagnosis and referral (61.7% vs. 14.6%). The increase in psychological problems during follow-up is particularly astounding, rising from 9.8% to 60.7% among men trying to appear female and from 21.6% to 54.5% among women trying to appear male. "Gender-affirming care" escalates the problems

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[2] https://onlinelibrary.wiley.com/doi/epdf/10.1111/apa.70533 (March 26, 2026) (last visited 04/13/26).

rather than solving them. Psychiatric needs do not subside after medical gender reassignment.

The risks associated with gender identity procedures are substantial.[3] The UCSF medical providers circumvented the two-parent signature requirement—a protection that provided a stronger possibility that the risks would be considered.

CONCLUSION

This Court should grant the petition and reverse the Ninth Circuit ruling.

[3] Indeed, the U.S. Dept. of Health and Human Services has just released a new report: *Wolves in White Coats: How Doctors and Hospitals Pushed and Profited from the Fraud of "Gender Medicine*" (August 13, 2026).

Respectfully submitted,

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