

To: Oregon Public Employee Benefits Board Members
From: ACLU, CAP, NARAL, PPAO, SEIU Local 49
Re: Providence's Track Record on Transgender and Gender Non-binary Care
Date: September 14, 2020

On behalf of ACLU of Oregon, Cascade AIDS Project, NARAL Pro-Choice Oregon, Planned Parenthood Advocates of Oregon and SEIU Local 49, we are pleased to see the Board take up the important (and related) issues of health equity and quality services for transgender and gender non-binary (TGNB) individuals through PEBB plans. We specially wanted to share some information related to transgender care that is relevant given PEBB's contracting decisions. Care for this vulnerable and marginalized community is an important issue, as nationally one in five TGNB patients has been denied access or treatment in a clinician's office, 30% have experienced disrespect and harassment, and nearly half have had to teach their clinicians about the care they need.¹

Our organizations have been working in coalition to ensure equal access to care, including for transgender and gender non-binary individuals for years. We worked to pass Oregon's Reproductive Health Equity Act which bans discrimination against those who identify as transgender or gender-nonconforming so that all people who can become pregnant have access to reproductive health care. We have also defended the Affordable Care Act countless times, including its rules explicitly protecting transgender individuals (which are currently being undermined by the Trump administration.)

In this and other work, we uncovered troubling information regarding access to TGNB care in Oregon. When Providence recently attempted to merge with Oregon's largest Medicaid insurer, CareOregon, our organizations (and others) reacted to the proposal with serious reservations. Concerns were even voiced by several members of Oregon's federal delegation.² Fears were expressed not only about Providence's track record on reproductive care, but also on end-of-life options and care for transgender and gender non-binary individuals. While the transaction ultimately failed to proceed, a number of brave and concerned individuals came forward to share their stories during the process.

We thought it prudent to share this information with you to inform your discussion during the Board meeting on September 15. As you know, Providence plays a large role in the insurance and provider landscape in our state, but this is especially true within PEBB. PEBB has the opportunity to promote inclusive care for its members, setting a standard that others can follow and help pave the path for inclusive care for all Oregonians who presently face barriers.

We ask that PEBB use its role as a major purchaser to:

- Ensure that all PEBB members, including those who are transgender or gender non-binary, have access to quality care; and,
- Demand norms and accountability that ensure all of PEBB's service providers are working toward achieving health equity.

Patient, provider stories, and our independent research demonstrate that:

- Despite some updates to policy, Providence has a disturbing track record of failing to provide quality care for TGNB patients. This has resulted in care being denied and/or delayed for Providence plan participants and Providence patients.

¹ <https://www.aamc.org/news-insights/we-need-more-transgender-and-gender-nonbinary-doctors>

² <https://www.merkley.senate.gov/imo/media/doc/CareOregon%20and%20Providence%20Affiliation%20Letter.pdf>

- Providence’s poor record of care and seemingly institutionalized resistance to gender affirming care has increased barriers to accessing critical services. TGNB-focused providers report challenges contracting with Providence, reluctance to refer patients to Providence facilities, and parents have faced obstacles to receiving adequate care for their transgender children.

We outline our specific findings below.

Despite some recent updates to policy, Providence has a disturbing track record of failing to provide quality care for TGNB patients.

Insurance member denied care, out of sync with recommended best practices

We received a story from a transgender patient who told us about their battle to get a gender-affirming surgery while insured by Providence. After a positive consultation with a surgeon regarding a top surgery, they were informed that they just needed to get insurance authorization before moving forward. In January of 2016, they received word from PHP that the surgery authorization had been denied because they had not been on testosterone for a full year. At that time, WPATH guidelines did not require or suggest this one-year requirement.³ The person shared:

"I felt like they denied the care because they have a conservative view. They wanted trans people to look a certain way, like the way to be trans is to look like a cisgender person...to be denied the surgery sent me into a tailspin emotionally and mentally. It took five months to gather the courage to appeal. I doubted myself and doubted being deserving of care."

In June 2016, they appealed their case, citing the WPATH guidelines. In August, they received a letter stating the insurance plan had changed its policy, adopted WPATH guidelines, and the surgery could proceed. There was no acknowledgement of the harm or impact that the denial and delay of care caused. They wondered, "Would they have told me if I had not appealed? It's a horrific model if they were waiting for me to ask again."

Due to denial of care, Providence has faced multiple lawsuits

In neighboring Washington and California, Providence entities have been sued over denial of care to transgender patients. In 2017, the ACLU sued Swedish Health Services (a secular Providence subsidiary) over denial of care. As part of the settlement, Swedish was required to provide easily accessible information and staff to help transgender patients navigate the healthcare system and insurance requirements, as well as provide extra transgender-specific training for some key employees.⁴

In California, the ACLU and others sued Providence-subsidiary St. Joseph Health in 2019 over the denial of care faced by a patient seeking a gender-affirming hysterectomy named Oliver Knight. This case is still pending. In his own words, he describes his experience:

"On Aug. 30, 2017, I arrived at the hospital and they checked me in and did the surgery prep, which was extremely uncomfortable and triggering. I was given a pink gown. I asked the nurse if I could have a blue gown, but she told me I was having a "female surgery" and should wear the pink. I felt like a child all over again, sitting uncomfortably in a pink dress. But I forced myself to do it, I had been waiting so long for this."

³ WPATH produces the internationally recognized Standards of Care (SOC) which are comprehensive standards created by an interdisciplinary group of medical professionals on the treatment of transgender individuals. The most recent SOC Version 7 states that "Hormone therapy is not a prerequisite," when detailing criteria for a mastectomy.

https://www.wpath.org/media/cms/Documents/SOC%20v7/Standards%20of%20Care_V7%20Full%20Book_English.pdf

⁴ The ACLU sued Providence subsidiary Swedish Health Services in 2017 over denial of care to a transgender patient: <https://www.aclu-wa.org/cases/robbins-v-swedish-health-services>.

They hooked me up to an IV to get ready to put me to sleep. About an hour after waiting, my surgeon finally came to get me. But when I saw the look on his face, I got a terrible feeling. He told me my surgery was canceled. It was denied by the Catholic Church for ethical reasons. I didn't understand how this could be happening. The Catholic bishops didn't approve of my surgery. It seemed unreal.

I had an anxiety attack and thought about all the pre-op and mental preparedness I had to go through just to get here. I freaked out and started crying. I was given medication to calm me down. Fifteen minutes after that, the hospital staff asked me to leave. I still had booties on my feet as a nurse led me outside. I felt humiliated and queasy as I sat on the curb waiting for my roommate to pick me up.

It seems the hospital does not understand how it feels to be treated inhumanely just because your body parts do not match your soul. This surgery was important — it was meant to balance my hormones. The delay disrupted my life. I felt like the hospital's bigotry had set me back years.”⁵

Providence's poor record of care and seemingly institutionalized resistance to affirming care has increased barriers to accessing critical services.

TGNB-focused providers face challenges when contracting with Providence

Earlier this year, we also heard from two providers who faced challenges contracting with Providence. While these examples focus on PHP's Oregon Health Plan offerings, we fear they may illustrate broader patterns regarding PHP's approach to contracting for these crucial services.

One mental health therapist specializing in TGNB care shared that:

“It has been exceedingly difficult to contract, submit authorizations, and have claims paid for a specific procedure that is REQUIRED by insurers. Insurance requires TGNB people receive an assessment and letter from a mental health provider to authorize gender-affirming hormone care and surgery.”

The provider spent years (2017-2019) attempting to contract with OHP Providence as an expert therapist providing such assessments. Following the instructions laid out on Providence's website, they sent multiple emails asking for guidance on how to contract with Providence or to receive a list of contracted providers who offer such care. They told us, “Each email ended in radio silence. I submitted a grievance after these repeated attempts, as I had gotten to the point of telling OHP Providence clients that they have no resources of which I am aware, and that they should just switch CCOs.”

While the grievance eventually led to this provider getting a contract, they told us that PHP's internal processes continued to present barriers to delivering care:

“They first require a PCP referral for a mental health provider (when in fact this letter is required by insurance for the SURGERY prior authorization; the policy sets a double auth barrier for clients). They didn't have the current gender dysphoria ICD-10 code F64.0 listed in their system; and they still only pay a regular assessment rate (\$97), rather than recognize that this is a specialty area and pay a higher rate like every other medical CCO in the region (\$200). Throughout this, I was providing education to my provider rep who then had to inform upper management of these dynamics. This cost me valuable time and energy and honestly made me very disinclined to continue working with them. I can imagine the tenacity I had to do this is not something many providers wish to use for the low pay.”

⁵ <https://www.aclu.org/blog/lgbt-rights/transgender-rights/catholic-bishops-stopped-my-surgery-because-im-transgender>

Healthcare workers reluctant to refer TGNB patients to Providence providers

In February, a community health worker in Oregon told us that they will no longer refer transgender patients to Providence for mental health services because:

“While cisgender people do fine within Providence, transgender patients do not. The last person I connected with Providence had a terrible experience getting their name and gender recognized. Providence says it is up to the facilitator and that they can’t control that. Rather than making safe space for people in need, they push it back on the community; it’s not their job to accommodate transgender people. This makes it a battle of attrition and is why I will not send people to Providence anymore.”

“I tell patients they should not go to a Providence emergency room unless you are prepared to have your gender misidentified. People are not treated with any respect. If I find out someone in our care was treated in a Providence emergency room, I get in touch with them immediately.”

Parents faced barriers and network inadequacy when seeking care for their TGNB children

A parent of a transgender child shared their perspective that, “Providence is miles behind other health systems. When it comes to transgender services, they are still living in the dark ages.” This parent also told us:

“I work for Providence but decline my employer-based insurance for my child because Providence would not be able to meet her needs as a transgendered youth...Providence doesn’t have pediatric endocrinologists, nor a system that recognizes people’s preferred pronouns and chosen name, so I pay an extra \$150 each month for her to be on a Kaiser plan. When you get care from Kaiser or OHSU your preferred name is used, even the school district gets her name right, but all our mail from Providence uses birth name. Ignoring someone’s chosen name and gender is degrading and doesn’t acknowledge them as a person.”

While we are pleased to hear that sometime in the early months of 2020 Providence updated its system to default to chosen names and preferred pronouns, it is clear there is more work to do. Another parent of a transgender child told us in February:

“Providence was not able to navigate the health issues with my transgender child appropriately. Up until now, Providence has also set extra steps for approving top surgery -- only meeting once a month, setting additional barriers. While I learned recently this ‘approval team’ step has been removed, it set up obstacles for many.”

Our own recent review of the Providence network of providers showed that there are four pediatric endocrinologists now listed on the Providence website, though none of them mention trans-inclusive care in their bios. Similarly, a search for providers who might focus on TGNB health using the suggested filter of “lesbian gay bisexual and transgender health” returned seven providers. However, none of their bios included reference to any of these topics. In addition, only one provider is listed under the suggested category “transgender hormone replacement therapy,” and his bio does not include reference to this treatment.

No health corporation should put religious views ahead of patient health; but for too long, Providence has been allowed to deny critical care for patients and subscribers. Research has consistently demonstrated that transgender individuals face higher rates of preventable diseases, substance abuse, suicide attempts and other mental health issues.⁶ Providence denying necessary care to transgender patients or providing services in a way that traumatizes or stigmatizes them is simply unacceptable for an institution that claims to be “steadfast in serving all, especially those who are poor and vulnerable.”

As PEBB moves forward in its exploration of TGNB care among insurers and providers, we recommend that it carefully consider the track record of its different plan providers. Related accountability mechanisms should recognize where individual institutions are starting from and bring them all to a place where transgender and gender non-binary PEBB plan members feel confident in their ability to access quality care, regardless of which plan they are enrolled in.

We urge the board also to consult with experts and advocates in this field of care, of which Oregon has many.

Thank you for your time and consideration,



Articles for Additional Reference

May 18, 2020 | Lund Report

[Merger of CareOregon Into Providence Off Over CareOregon's Independence, Secular Status](#)

May 15, 2020 | Willamette Week

[Providence Health Plan's Acquisition of CareOregon Will Not Move Forward](#)

April 29, 2020

[Letter from Oregon's Congressional Delegation Expressing Concerns about CareOregon Deal](#)

September 4, 2019 | Willamette Week

[The Merger of Two Health Giants Raises Questions About Access to Reproductive Health Services](#)

March 26, 2019 | Huffington Post

[Catholic Hospital Sued for Abruptly Canceling Trans Man's Gender Confirmation Surgery](#)

⁶ <https://transequality.org/issues/resources/transgender-sexual-and-reproductive-health-unmet-needs-and-barriers-to-care>, <https://www.healthypeople.gov/2020/topics-objectives/topic/lesbian-gay-bisexual-and-transgender-health>