

1. Akhtar-Danesh G-G, Doumouras AG, Bos C, Flageole H, Hong D. Factors associated with outcomes and costs after pediatric laparoscopic cholecystectomy [published online January 17]. *JAMA Surg.* doi:10.1001/jamasurg.2017.5461
2. Kelley-Quon LI, Nguyen N, Upperman JS. Considering the ability of general surgeons to add value to pediatric surgery [published online January 17]. *JAMA Surg.* doi:10.1001/jamasurg.2017.5474
3. Salazar JH, Goldstein SD, Yang J, et al. Regionalization of pediatric surgery: trends already underway. *Ann Surg.* 2016;263(6):1062-1066. doi:10.1097/SLA.0000000000001666

## Trends in Insurance Coverage for Gender-Affirming Surgeries

**To the Editor** Canner et al<sup>1</sup> reported that the number of gender-affirming surgeries performed in the United States has been increasing since 2000. To conduct this research, the authors identified hospitalizations for gender-affirming surgical procedures by the presence of diagnosis codes for either transsexualism or gender identity disorder within the discharge record. However, in the 2000s, clinicians avoided using these codes because insurance companies commonly implemented blanket exclusion policies prohibiting reimbursement for gender-affirming services. Instead, clinicians would often use a broader category of codes, such as unspecified endocrine disorder or unspecified disorder of genital organs, when caring for transgender individuals to prevent burdensome and invasive disputes between insurers and patients.

The avoidance of codes specifically related to gender dysphoria dissipated with the passage of the Affordable Care Act in 2010 and its associated section 1557, which prohibits insurance companies from using categorical exclusion policies for gender-affirming services.<sup>2</sup> While we agree with Canner et al<sup>1</sup> that more gender-affirming surgeries are being performed of late, the upward trend they report may also reflect a shift by clinicians to use more accurate billing codes, as insurance companies are now required to reimburse for these services.

However, the watershed legal protections expanding access to gender-affirming care in the United States are being threatened. In 2016, the District Court for the Northern District of Texas issued an injunction on behalf of 8 states and the Franciscan Alliance, a Catholic medical group, prohibiting the US Department of Health and Human Services (HHS) from enforcing provisions in section 1557 related to transgender medical care because they violate these entities' religious beliefs

protected by the Religious Freedom Restoration Act.<sup>3</sup> Additionally, a proposal to roll back and rewrite section 1557 to exclude transgender care has been drafted by HHS and is currently under review by the US Department of Justice.<sup>4</sup>

The study by Canner et al<sup>1</sup> also emphasizes the importance of collecting uniform sexual orientation, sex at birth, and gender identity data within the medical record and on a national level to help guide research and policy. These efforts have been curtailed within the current political administration; the US Census Bureau recently removed lesbian, gay, bisexual, and transgender-related data elements from the upcoming census, and HHS has eliminated these questions from 2 surveys of elderly or disabled individuals.<sup>5</sup> Given the current political environment, it is imperative that the medical community advocate on behalf of our transgender patients to ensure that gender-affirming medical and surgical care remain protected by federal law.

Justin D. Arnold, MMSc

Amy E. Nelson, JD

Erin M. Loubier, JD

**Author Affiliations:** George Washington University School of Medicine and Health Sciences, Washington, DC (Arnold); Legal Services, Whitman-Walker Health, Washington, DC (Nelson, Loubier).

**Corresponding Author:** Justin D. Arnold, MMSc, George Washington University School of Medicine and Health Sciences, 2300 I St NW, Ross Hall, Washington, DC 20037 (jarnold@gwu.edu).

**Published Online:** July 18, 2018. doi:10.1001/jamasurg.2018.2120

**Conflict of Interest Disclosures:** None reported.

**Editorial Note:** This letter was shown to the corresponding author of the original article, who declined to reply on behalf of the authors.

1. Canner JK, Harfouch O, Kodadek LM, et al. Temporal trends in gender-affirming surgery among transgender patients in the United States [published online February 28, 2018]. *JAMA Surg.* doi:10.1001/jamasurg.2017.6231
2. Nondiscrimination in health programs and activities. Fed Regist. 2016;81(96):31375-31473. To be codified at 45 CFR §92.
3. *Franciscan Alliance Inc v Burwell*, 227 F Supp3d 660, 2016 WL 7638311 (ND Tex 2016).
4. Motion to remand to agency, *Franciscan Alliance Inc v Price*, No. 7:16-cv-00108 (ND Tex 2017).
5. Fernandes P. The census won't collect LGBT data. that's a problem. *New York Times*. <https://www.nytimes.com/2017/05/10/opinion/the-census-wont-collect-lgbt-data-thats-a-problem.html>. Published May 10, 2017. Accessed May 21, 2018.