

EXECUTIVE ORDER NO. 326

WHEREAS, New Jersey's Constitution and statutes espouse the fundamental principles of fairness and equal treatment of all New Jersey residents; and

WHEREAS, New Jersey's community of residents who are lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, or otherwise do not identify as heterosexual or cisgender ("LGBTQIA+") can experience inequality in our health care system, particularly when seeking care related to sexual orientation, gender identity, and gender expression; and

WHEREAS, as one of the first states in the country to explicitly prohibit discrimination based on sexual orientation, gender identity, and gender expression, New Jersey seeks to address societal barriers to equality faced by the LGBTQIA+ community; and

WHEREAS, P.L.2017, c.176 prohibits health insurers from denying or limiting coverage, or denying a claim, for services due to a covered person's gender identity or expression or on the basis that the person is a transgender person, including any health care services related to gender transition if coverage is available for those services when not related to gender transition; and

WHEREAS, P.L.2017, c.117 further provides that a carrier offering a health benefits plan in this State shall provide coverage and payment for health care services delivered to a covered person through telemedicine or telehealth on the same basis as and at a provider reimbursement rate that does not exceed the provider reimbursement that is applicable when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered under the plan when delivered in person; and

WHEREAS, it has been a priority of my Administration to ensure that members of the LGBTQIA+ community are safe, protected, and welcome in New Jersey; and

WHEREAS, in July 2018, I signed Senate Bill No. 705 (P.L.2018, c.60) creating the Transgender Equality Task Force, which was charged with preparing a report and recommendations for advancing transgender equality in New Jersey; and

WHEREAS, in June 2019, I was honored to support LGBTQIA+ New Jerseyans by flying the Pride flag from Drumthwacket for the first time in the State's history; and

WHEREAS, in my first term, I was proud to sign Senate Bill No. 478 (Second Reprint), the "Babs Siperstein Law" (P.L.2018, c.58), which allows individuals to amend the gender marker on their birth certificate without having to undergo the prior law's requirement of gender-affirmation surgery; and

WHEREAS, in corresponding legislation, I signed Senate Bill No. 493 (First Reprint) (P.L.2018, c.59), allowing individuals to honor their deceased loved ones by recording the appropriate gender identity on the decedent's death certificate; and

WHEREAS, in March 2021, I signed Senate Bill No. 2545 (P.L.2021, c.33), establishing a "Bill of Rights" for LGBTQIA+ seniors and prohibiting long-term care facilities from engaging in discriminatory practices against residents or prospective residents based on a person's actual or perceived sexual orientation, gender identity, gender expression, intersex status, or human immunodeficiency virus (HIV) status; and

WHEREAS, in December 2022, I was proud to name Allison Chris Myers as the first transgender person to serve as a Cabinet member in New Jersey history; and

WHEREAS, despite the progress our State has made, members of the LGBTQIA+ community, particularly transgender and non-binary individuals, or individuals whose gender identity, expression, or behavior is different from those typically associated with their assigned sex at birth, face considerable challenges in accessing

health care, including stigmatization, discrimination, and a lack of medical professionals trained in providing culturally competent health care services to LGBTQIA+ individuals; and

WHEREAS, according to the 2015 U.S. Transgender Survey, an anonymous online survey of over 27,000 adults identifying as transgender, one third of survey respondents who saw a health care provider in the year preceding the survey reported having a negative experience related to being transgender, such as verbal harassment, refusal of treatment, or having to educate the provider in order to get appropriate care; and

WHEREAS, the New Jersey Transgender Equality Task Force echoed these sentiments in its 2019 report, highlighting the need to address certain gaps and disparities in LGBTQIA+ health care, including access to gender-affirming health care services as described below, and increased education and public awareness to help patients and providers understand their legal rights and responsibilities related to gender-affirming health care; and

WHEREAS, gender-affirming health care is a patient-centered, holistic approach to care designed to align certain aspects of a person's gender identity, expression, or behavior through an array of medical, non-medical, and mental health care services; and

WHEREAS, the importance of gender-affirming health care is well documented by numerous professional and governmental organizations, including the American Medical Association, the American Psychological Association, the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry, the American Academy of Pediatrics, the Endocrine Society, the Society for Adolescent Health and Medicine, the World Health Organization, the World Professional Association for Transgender Health, the Centers for Disease Control and Prevention, and the U.S. Department of Health and Human Services; and

WHEREAS, according to these and other health organizations, gender-affirming health care services are crucial to the overall health and well-being of transgender and non-binary individuals, particularly transgender and non-binary youth and other individuals whose gender identity, expression, or behavior is different from those typically associated with their assigned sex at birth; and

WHEREAS, despite the scientifically proven benefits of gender-affirming health care, a number of states have recently imposed barriers to such care by enacting laws that subject health care professionals to civil or criminal liability for providing gender-affirming health care, or that target parents for seeking such care for their children; and

WHEREAS, in light of the growing threat against gender-affirming health care in other states, it is vital that New Jersey safeguard health care professionals and patients against potential repercussions resulting from providing, receiving, assisting in providing or receiving, seeking, or traveling to obtain gender-affirming health care services; and

WHEREAS, New Jersey is a State of over 9.2 million residents with significant population density around the New York metropolitan area, the greater Philadelphia area, and the central New Jersey area; and

WHEREAS, the New York metropolitan area (New York-Newark-Jersey City) has the highest population of LGBTQIA+ adults of any metropolitan area in the United States; and

WHEREAS, it is in the public interest of the State to foster a safe and affirming healthcare environment in New Jersey and ensure that members of the LGBTQIA+ community present in New Jersey, including transgender and non-binary youth, enjoy equal access to quality health care services, regardless of their sexual orientation,

gender identity, or gender expression, and regardless of whether they are residents of New Jersey or of any other state;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Pursuant to N.J.S.A. 2A:160-14, no person shall be surrendered on demand of the executive authority of any other state, who: (i) is found in this State; (ii) was not present in the demanding state at the time of the commission of the alleged crime and has not fled therefrom; and (iii) is charged in the demanding state with providing, receiving, assisting in providing or receiving, seeking, or traveling to obtain gender-affirming health care services that are permitted under the laws of this State, including on any theory of vicarious, joint, several, or conspiracy liability.

2. All Executive Branch departments and agencies shall, to the fullest extent of their authority, pursue opportunities and coordinate to protect people or entities in New Jersey providing, receiving, assisting in providing or receiving, seeking, or traveling to obtain gender-affirming health care services.

3. The Department of Banking and Insurance, the Department of Human Services, and the Division of Pensions and Benefits on behalf of the State Health Benefits Program and School Employees' Health Benefits Program, shall provide notice to regulated and contracted entities, as applicable, reminding them of their obligations under P.L.2017, c.176, and any other applicable statute, to ensure that there is no discrimination in the provision of health services and benefits on the basis of a covered person's or prospective covered person's gender identity or expression or on the basis that a covered person or prospective covered person is a transgender person.

4. The New Jersey Department of Corrections, the Juvenile Justice Commission, and the State Parole Board shall provide notice to contracted entities reminding them of their obligation under P.L.2017, c.176, and any other applicable statute, to ensure that there is no discrimination in the provision of health care services to the State's inmate population on the basis of a person's gender identity or expression, or on the basis that a person is a transgender person.

5. No Executive Branch department or agency, officer, employee, appointee, or official, or any other person acting on behalf of an Executive Branch department or agency, shall:

- a. provide any information or expend or use time, money, facilities, property, equipment, personnel, or other resources in furtherance of any investigation or proceeding that seeks to impose civil or criminal liability or professional sanctions upon a person or entity solely for providing, receiving, assisting in providing or receiving, seeking, inquiring or responding to an inquiry about, or traveling to New Jersey to obtain gender-affirming health care services; or
- b. comply with a subpoena issued by another state, knowing that the subpoena seeks information solely because a person or entity provided, received, assisted in providing or receiving, sought, inquired or responded to an inquiry about, or traveled to New Jersey or another state to obtain gender-affirming health care services, except to comply with the Interstate Medical Licensing Compact, see N.J.S.A. 45:9-6.2, and the Nurse Licensure Compact, see N.J.S.A. 45:11A-9.

6. Paragraph 5 of this Order shall not apply if it is necessary for the State agency or person to engage in conduct otherwise prohibited by Paragraph 5 of this Order in order to comply with a valid order issued by a court with jurisdiction over the State agency or person, or to comply with applicable provisions of state or federal law.

7. Except to the extent required by any provisions of law entering New Jersey into interstate licensing compacts, a board, as defined in N.J.S.A. 45:1-16, shall not refuse to admit a person to an examination and shall not suspend, revoke, or refuse to issue or renew any certificate, registration, or license issued by the board based solely on the applicant's or the certificate, registration, or license holder's provision of, authorization of, participation in, referral for, or assistance with gender-affirming health care for a person who resides in a jurisdiction where the provision, authorization, participation, referral, or assistance is illegal, if the provision, authorization, participation, referral, or assistance would not be a basis for refusing to admit a person to an examination or for suspending, revoking, or refusing to issue or renew a certificate, registration, or license in this State.

8. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

9. For purposes of this Order, "gender-affirming health care" shall mean care that addresses a transgender or non-binary person's physical, mental, and/or social health needs and that is designed to

support and affirm a transgender or non-binary person's gender identity, including, but not limited to, mental health or psychiatric care; surgery, hormone replacement therapy, and other nonsurgical treatments intended to align aspects of a person's life with their gender identity; and other behavioral or medical interventions, treatments, and therapies designed to support and affirm an individual's gender identity.

10. This Order shall take effect immediately.

GIVEN, under my hand and seal this
4th day of April,
Two Thousand and Twenty-three,
and of the Independence of the
United States, the Two Hundred
and Forty-Seventh.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor