

Written-Only Opponent Testimony, HB 68  
Stephanie L. Ash, MSW, LSW, Esq.  
steph@stephanieash.net

Senate Government Oversight Committee

Chair Roegner, Vice Chair Antani, Ranking Member Hicks-Hudson, and members of the Senate Government Oversight Committee, thank you for the opportunity to provide written testimony. My name is Stephanie Ash (she/her) and I serve as the Region 3 (Cleveland area) Director on the National Association of Social Workers (NASW) Ohio Chapter Board and am a member of the Social Work Criminalization Task Force. I hold dual licensure in Ohio as both a licensed social worker and licensed attorney and write today using my unique expertise in both professions to voice my strong opposition to HB 68.

I have read and analyzed gender-affirming care bans for youth in all 22 states passing laws nationwide from 2021 to the present day [1]. Out of the 22 states that currently have bans on gender-affirming care for youth, 13 states do not mention mental health care or behavioral health professionals in their statute and 4 states specifically exclude mental health professionals from their ban on gender-affirming care [2]. None of the gender-affirming care bans around the country put limits on mental health care like those proposed in HB 68 and this should give Ohio lawmakers pause.

The language in HB 68 not only changes established informed consent practices, requires social workers to act against our Code of Ethics, and negatively impacts the therapeutic relationship, but it also codifies different processes for cisgender youth and trans and gender diverse (TGD) youth to receive mental health services. Under HB 68, social workers would not be permitted to diagnose gender dysphoria in accordance with evidence-based standards of practice and using their years of training and experience. Instead, we would be required to receive 1) consent for a gender dysphoria diagnosis and 2) consent to provide treatment from all custodial parents and guardians. This dual-consent process is unprecedented in the practice of social work and compels social workers to violate our professional ethics and discriminate between cisgender and TGD youth.

Further, after my analysis, I believe this dual-consent process based on whether a minor is cisgender or not violates the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, which requires laws that discriminate on gender to serve an important government objective and be substantially related to achieving that objective. I also believe that provisions in HB 68 would be unlikely to pass constitutional muster due to violations of the Due Process Clause of the Fourteenth Amendment and aiding and abetting restrictions on freedom of speech (i.e., referrals from social workers) guaranteed by the First Amendment of the United States Constitution. Federal courts around the nation agree [3].

Before HB 68 was voted out of the Ohio House Public Health Policy Committee on June 14, 2023, Chair Scott Lipps (R – Franklin) remarked that HB 68 “is our attempt to manage risk” [4]. I urge you to consider the substantial risk of restricting the ethical practice of social work more closely. Social workers adhere to the NASW Code of Ethics which requires us to follow evidence-based practice, uphold individual self-determination, enhance client well-being, fight against discrimination, and protect the confidentiality of our clients. Gender-affirming care for mental health professionals is simply person-centered care and is completely reversible. We use the name and pronouns TGD youth ask us to use, explore their thoughts and feelings, and help them develop better communication skills to talk with their friends and family. We meet TGD youth where they are.

HB 68 threatens a loss of licensure for “unprofessional conduct” that is not considered unprofessional by our Code of Ethics. If social workers do what is required by HB 68, we can lose our license for not following our ethical code. If social workers follow our Code of Ethics, we can lose our license since HB 68 requires us to act unethically. Passage of this bill means that social workers **cannot act at all** without risk of losing their license. I would personally forego any professional license that required me to act against my personal and professional values. I know I am not the only one.

For example, in 2022, Texas Governor Greg Abbott directed social workers at the Department of Family and Protective Services to investigate parents of transgender youth for child abuse [5]. Instead of complying with the order, social workers resigned. This will happen in Ohio if social workers are forced to act against our ethical code and will create even larger shortages of behavioral health professionals who work with our youth.

Given the legal, ethical, and workforce ramifications on social workers and our clients, I urge you to stop HB 68 from becoming law in its entirety, or at the very least, strike the provisions regarding mental health from the bill. The mental health requirements in this bill mean that social workers cannot practice ethically without risking their licensure and this is unacceptable. Instead of imposing limits on our practice, I urge you to keep TGD youth safe by passing laws protecting them from discrimination and hate, encouraging inclusive educational environments and after-school sports, and allocating more funding for mental health services.

#### References:

[1] States passing bans: Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Carolina, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, and West Virginia.  
States with injunctions on their bans: Alabama, Arkansas, Florida, Indiana, and Montana.

[2] States not mentioning mental health care in their bans: Arizona, Arkansas, Georgia, Idaho, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, North Dakota, South Dakota, and Tennessee. States specifically excluding mental health from their bans: Alabama, Indiana, North Carolina, and Oklahoma.

[3] Federal courts supporting my argument: United States District Court, Eastern District of Arkansas, Central Division; United States District Court for the Northern District of Florida, Tallahassee Division; United States District Court, Southern District of Indiana, Indianapolis Division; and the United States District Court, Middle District of Alabama, Northern Division.

[4] *Ohio House Public Health Policy Committee*, The Ohio Legislature, 135th General Assembly. (2023, 1:57:15). <https://ohiochannel.org/video/ohio-house-public-health-policy-committee-6-14-2023>

[5] Klibanoff, E. (2022, April 11). *Distraught over orders to investigate trans kids' families, Texas child welfare workers are resigning*. The Texas Tribune. <https://www.texastribune.org/2022/04/11/texas-trans-child-abuse-investigations/>