



Written by [Michael Tennant](#) on July 8, 2024

Federal Judge Calls Halt to Forcing Doctors to Bow to Biden's Gender Ideology

A federal judge in Mississippi dealt yet another blow to the Biden administration's ongoing attempts to redefine "sex" as "gender identity," issuing a [nationwide injunction](#) Friday against a Department of Health and Human Services (HHS) rule that would have forced most doctors and hospitals to provide gender-transition treatments regardless of their own opinions or state laws.

Judge Enjoins HHS

In response to a lawsuit brought by 15 states, U.S. District Judge Louis Guirola, Jr. preliminarily enjoined HHS from enforcing its rule and placed a stay on the rule's effective date. The rule will remain on hold until the case is decided.



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"Today a federal court said no to the Biden administration's attempt to illegally force every health care provider in America to adopt the most extreme version of gender ideology," Tennessee Attorney General Jonathan Skrmetti said in a [statement](#). Tennessee is one of the plaintiffs in the case.

The Biden administration has consistently sought to expand Title IX's prohibition of sex discrimination in federally funded educational programs to include discrimination on the basis of "sex stereotypes, sexual orientation, gender identity, and sex characteristics." In May, HHS issued a rule stating that since the Affordable Care Act (ACA) conditions federal healthcare funding on compliance with Title IX's antidiscrimination policy, the agency would henceforth require any entity receiving federal healthcare dollars to abide by the administration's novel interpretation of that policy.

Far-reaching Consequences

With Uncle Sam's fingers in practically every corner of the healthcare system, this was tantamount to imposing the administration's dangerous, unscientific — and, to many, morally repugnant — gender ideology on every healthcare provider in the country. Doctors and hospitals would be forced to provide cross-sex hormones, puberty blockers, and sex-change surgery and to allow transgender patients to enter formerly sex-segregated areas. States, meanwhile, would have to pay for such treatments via federally funded programs such as Medicaid and the Children's Health Insurance Program (CHIP). Doctors' medical judgments and state laws prohibiting these treatments for minors would have to give way to Washington bureaucrats' whims.

HHS tried to argue that doctors and states could avoid prosecution if they had "a legitimate nondiscriminatory reason for denying care or coverage to a transgender person," but considering who would determine what constituted a "legitimate" reason, Guirola wasn't buying it.

In fact, the judge rejected all of the administration's arguments, which relied primarily on court



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decisions on unrelated matters.

The Supreme Court's recent [decision](#) overturning courts' deference to regulatory agencies played a key role in Guirola's opinion. Now, he wrote, "courts must interpret words included in a statute 'consistent with their ordinary meaning ... at the time Congress enacted the statute.'"

Title IX Background

Determining how the word "sex" was understood in 1972, when Title IX was enacted, turned out to be quite simple. After all, only in the last decade or so has anyone thought it meant anything other than "male" or "female" as determined by chromosomes. At the time the law was passed, the Supreme Court, in separate opinions, opined that "sex ... is an immutable characteristic determined solely by the accident of birth" and that "the two" — [not 74](#) — "sexes are not fungible." Moreover, in 2022, the 11th Circuit Court of Appeals ruled that Title IX's use of "sex" "meant biological sex"; otherwise, the law's specific exceptions for sex-segregated sports, bathrooms, etc., would be rendered meaningless.

Quoting other Supreme Court decisions, Guirola observed that "Title IX condition[s] federal funding on a recipient's promise not to discriminate, in what amounts essentially to a contract between the Government and the recipient." However, he added, "there can, of course, be no knowing acceptance of the terms of the putative contract if a State is unaware of the conditions imposed by the legislation or is unable to ascertain what is expected of it." Since the states "would have had no way of knowing that sex discrimination would be interpreted as including transgender discrimination when they accepted federal funding and developed their healthcare programs," the administration was essentially altering the terms of a contract *ex post facto*, which is forbidden.

(It is, as always, worth noting that the HHS rule in question could not even have been promulgated in the absence of such unconstitutional laws as Title IX and the ACA, which courts have upheld.)

Do the States Have Standing?

Naturally, the Biden administration argued that the states had no standing to sue and could not show they would be harmed by the imposition of the rule. Guirola, citing testimony from state officials, made short work of those contentions, noting that the states would incur "either nonrecoverable compliance costs or the loss of federal funds" if the rule were allowed to take effect. On the other hand, putting the rule on hold "will not harm either HHS or the public interest because it will merely preserve the status quo."

Mississippi Attorney General Lynn Fitch, whose state is party to the lawsuit, praised Guirola's decision. "Injecting gender identity into our state's medical system is a dangerous pursuit of a political agenda from the Biden administration. Medical professionals should not be forced to provide gender transition surgeries or drugs against their judgment and hospitals should not be prohibited from providing women-only spaces for patients," Fitch told [Magnolia Tribune](#). "I am proud to lead the multistate effort with Tennessee Attorney General Jonathan Skrmetti to stop the Biden administration and push back on this reckless rule."

The administration is undoubtedly much less pleased. Guirola's ruling constituted its third [such defeat](#) in the [last month](#).



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