

July 25, 2017

Citing Today’s Report by Human Rights Watch and interACT, Lambda Legal Renews Call to End Non-Emergency Genital Surgeries on Intersex Infants and Children

To the American Medical Association, American Psychological Association, American Academy of Pediatrics, American Academy of Family Physicians, Association of American Medical Colleges, American College of Surgeons, North American Society for Pediatric and Adolescent Gynecology, Pediatric Endocrine Society, and Societies for Pediatric Urology:

We write today in concert with the release of the path-breaking report by Human Rights Watch and interACT, *“I Want To Be Like Nature Made Me”*: *Medically Unnecessary Surgeries on Intersex Children in the US*, to amplify the urgent call to protect intersex people’s health and human rights.¹ The report documents how early, medically unnecessary genital surgery does not help intersex children — rather it harms them. Surgeries performed on intersex infants and children before they can make their own decisions commonly result in scarring; nerve damage; loss of sexual sensation and function, including but not limited to inability to experience orgasm; diminished reproductive capacity or sterilization; the need for lifelong hormonal therapy; irreversible physical alteration to impose a sex assignment that the individual may later reject; and psychological trauma, including repeated traumatic examinations and viewing that many intersex people have linked to psychic damage and post-traumatic stress.

As prominent medical associations committed to respecting patients’ rights and autonomy, there are concrete steps you can take to better the lives of intersex people. We ask that you now adopt policies and procedures to end surgeries on intersex infants and children without their own free, informed and valid consent, except in emergency situations, e.g., infants unable to void urine or born with organs outside the body. Taking these steps will provide important leadership for the nation’s doctors and other medical professionals and researchers, consonant with sound medical ethics, and will help to safeguard the endangered fundamental rights of intersex people, including their rights to individual dignity, autonomy and health. To put it bluntly, rampant surgeries on children that traumatize them, sterilize them or impair their sexual functioning and pleasure are anathema to medical ethics and the most basic rule that doctors “first, do no harm.”

We note that the American Medical Association’s proposed resolution recommends that people with “differences of sex development [DSD]” should be treated in a way that “respects the rights of the patient to participate in decisions and, *except when life-threatening circumstances require emergency intervention*, defers medical or surgical intervention until the child is able to participate in decision making.”² Such an approach aligns with the guidance issued last month by three former U.S. surgeons general,³ as well as legal, ethical and human rights norms articulated

¹ Human Rights Watch/interACT, *“I Want To Be Like Nature Made Me”*: *Medically Unnecessary Surgeries on Intersex Children in the US* (July 2017), available at <https://www.hrw.org/node/306688/>.

² *Supporting Autonomy for Patients with Differences of Sex Development (DSD)* (Resolution 3-A-16) (2016), available at <https://assets.ama-assn.org/sub/meeting/documents/i16-bot-07.pdf> (emphasis added).

³ M. Joycelyn Elders, David Satcher & Richard Carmona, *Re-Thinking Genital Surgeries on Intersex Infants* (2017), available at <http://www.palmcenter.org/wp-content/uploads/2017/06/Re-Thinking-Genital-Surgeries-1.pdf>.

by leading medical and human rights agencies.⁴ The AMA and other medical associations must take this position to ensure that intersex people's health and human rights are protected.

Lambda Legal works nationwide to advance and defend the civil rights of lesbians, gay men, bisexuals, transgender people and everyone living with HIV. Central to our work is advocacy against the devastating impact — from stigma and discrimination, to harassment and violence — perpetrated through gender-norming, including attempts to make any person conform to binary, gendered stereotypes about how they should look or behave and how their bodies should appear. We therefore oppose the gender-norming surgeries, with their physical and emotional sequelae, to which many intersex infants and children are commonly subjected without their consent.

As a case in point, we draw your attention to the experience of Dana Zzyym, the plaintiff in Lambda Legal's case *Zzyym v. Tillerson*, 2016 WL 7324157 (D. Colo, Nov. 22, 2016), who was born intersex. Like many other intersex children, by age five, Dana had been subjected to several irreversible, invasive, painful, and medically unnecessary surgeries designed to make Dana's body conform to sex stereotypes. The surgeries failed, and they resulted in permanent scarring and damage. Like many intersex people subjected to such surgeries as children, Dana experienced shame, stigma, and trauma, as well as physical pain caused by attempts to erase intersex traits from a body that was not stereotypically "male" or "female." We call upon the medical profession to ensure that other intersex children are spared similar medical ordeals.

We look forward to working together, with intersex people and intersex rights advocates, with Human Rights Watch and interACT, and with you, to end wrongful surgeries on intersex children and promote policies that address intersex people's true health needs. Please do not hesitate to contact us as you move forward to address this issue.

Sincerely,



Hayley Gorenberg
Deputy Legal Director
hgorenberg@lambdalegal.org
212-809-8585 ext. 269



Yuvraj Joshi
Law Fellow
yjoshi@lambdalegal.org
212-809-8585 ext. 248

⁴ See, e.g., Interagency Statement, World Health Organization, *Eliminating forced, coercive and otherwise involuntary sterilization* (2014), available at http://www.who.int/reproductivehealth/publications/gender_rights/eliminating-forced-sterilization/en/.