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NEWS FOR IMMEDIATE RELEASE

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AG Kaul Joins Multistate Lawsuit Challenging Federal Attempt to Limit Access to Gender-Affirming Care

MADISON, Wis. – Attorney General Josh Kaul is announcing that Wisconsin joined a coalition of states earlier this week in suing to block the Secretary of the U.S. Department of Health and Human Services (HHS) from enforcing a declaration that attempts to limit access to gender-affirming care for young people.

AG Kaul and the coalition argue that this declaration violates federal statutes by unlawfully changing medical standards without going through the notice and comment process and undermining states' long-standing authority to regulate medicine.

“Secretary Kennedy must not be permitted to exercise major influence by decree over what health care is available,” said AG Kaul. “Allowing the HHS secretary to do so could have sweeping consequences for access to quality, evidence-based health care.”

On December 18, HHS published a document that the agency called a “declaration,” claiming that certain forms of gender-affirming care are “unsafe and ineffective.” In the declaration, Secretary Kennedy claimed to give HHS the power to exclude health care providers and institutions from the Medicare and Medicaid programs for providing health care for transgender adolescents. The agency also announced two proposed rules that would completely bar gender-affirming care providers and associated hospitals from participating in Medicare and Medicaid and ban payments for transgender health care through Medicaid. These rules have not yet gone into effect.

AG Kaul and the coalition argue that HHS is attempting to use the declaration to circumvent basic legal requirements for policy changes. Federal law requires agencies to provide the public with notice and an opportunity to comment before making significant changes to health care policy. Instead, HHS issued what it arbitrarily called a declaration and attempted to make it effective nationwide immediately, without consulting doctors, patients, or states. The coalition contends that this is an overreach by the federal government, as HHS does not have the authority to take such an action. For generations, states, not the federal government, have been responsible for regulating the practice of medicine. By attempting to impose a single nationwide standard and threatening to punish providers who adhere to evidence-based care, HHS is unlawfully interfering in decisions that should be made by families and their doctors.

For patients, this declaration creates fear and uncertainty about whether ongoing care could suddenly be taken away. For doctors and hospitals, it threatens penalties for providing evidence-based, medically necessary care. For states, it puts Medicaid programs at risk – programs that millions of people depend on for everyday and lifesaving care. States rely on broad networks of providers to deliver essential health services. By threatening to disqualify providers who offer gender-affirming care, the federal government is forcing doctors to choose between abandoning their patients or risking their livelihoods.

AG Kaul and the coalition are asking the court to rule the HHS declaration unlawful and block its enforcement.

Joining AG Kaul in filing this lawsuit are the attorneys general of California, Colorado, Connecticut, Delaware, the District of Columbia, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington, and the Governor of Pennsylvania.