



House Criminal Jurisprudence
House Bill 85 – Representative Mary Gonzalez Testimony by Celia Neavel, MD
March 18, 2019

Testimony submitted on behalf of:
Texas Pediatric Society
People's Community Clinic
Texas Medical Association

Good afternoon Chairman Collier and Committee Members,

My name is Dr. Celia Neavel, and I am a practicing adolescent medicine physician. I am here testifying on behalf of Texas Pediatric Society, People's Community Clinic – a federally qualified health center in east Austin – and the Texas Medical Association. I appreciate the opportunity to testify in full support of House Bill 85.

This is an especially important piece of legislation to me because of the population of patients I serve. I mainly care for teens and young adults aged 10-24. I supervise an interdisciplinary team of physicians, nurses, health educators, medical assistants, and social workers. I also am involved with two other nonprofits in an initiative to train other clinics to be youth-friendly so more adolescents seek and access quality medical care. The passage of HB 85 is necessary to ensure physicians across Texas can provide best-practice, ethical, and compassionate care to all our youth.

As you know, physicians are mandated reporters of child abuse and neglect according to the Texas Family Code, and we take this responsibility seriously. The definition of abuse includes an offense under Section 21.11 of the Texas Penal Code relating to indecency with a child. There are several affirmative defenses associated with this section of statute, including an age range between the individuals not to exceed three years, but only if they are of the opposite sex. In essence, physicians are forced to report relationships between same-sex individuals, unlike with their opposite-sex peers. Mandated reporting exposes LGBTQ+ adolescents to prosecution under Texas Penal Code §21.11, while their peers in "opposite-sex" relationships may qualify for the affirmative defense.

My clinic complies with current law as best we can. This forces me – an adolescent medicine physician who cares deeply for my patients – into an ethical quandary. Do I provide the same compassionate, understanding care to my LGBTQ+ patients as I do to my heterosexual patients, but then have to report the youth to Child Protective Services (CPS)? The former is my ethical responsibility as a physician; the latter is my obligation under state law. When I report, my patients are pushed down a path with the CPS system, potentially traumatizing to youth and their families, and using up the precious bandwidth of our states' CPS intake system. Intake workers are often in disbelief when I and other clinic staff provide the

reason for our reporting. The harm to the patient-physician relationship can be immeasurable. Any trust we've developed with these traditionally disenfranchised youth may evaporate along with any desire they had to seek early, preventive health care.

In addition to interfering with the patient-physician relationship, current law creates an administrative burden on our medical staff. Whoever receives the information from a patient must report. It takes valuable time away from actual patient care. As a nonprofit that accepts public health funds, we must go through thorough chart reviews to ensure compliance with Department of State Health Services Rider 24 and Health and Human Services Commission Rider 215 from the 85th legislature. Recipients of public health funds strive to comply with all child abuse reporting guidelines and requirements. Clinics such as mine that receive public health funding to serve low-income patients are disproportionately burdened in having our charts reviewed and these laws enforced. As our patients are mostly low-income people of color, enforcement of these laws falls heaviest on them.

The current inclusion of "opposite sex" in the affirmative defense for indecency with a child creates an undue time, financial, and ethical burden on physicians, other caring professionals, and the CPS system. HB 85 will go a long way toward ensuring the patient-physician relationship is not compromised and we are able to provide the best possible care to all Texas youth.