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Doctor records in broad VUMC transgender clinic inquiry

New records filed in federal court outline the information the Attorney General's Office is seeking from Vanderbilt University Medical Center. Those documents extend beyond patient medical records.



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Key Points

Tennessee first demanded specific patient records in November

In March, Tennessee issued a new demand for a wide range of documents, including the names of anyone referred to Vanderbilt's trans health clinic

The Tennessee Attorney General's office says the demands are part of a "run-of-the-mill" fraud probe, though political opponents and LGBTQ advocates say its an effort to intimidate the community

The Tennessee Attorney General's office is using a powerful legal tool to seek a list of anyone who was referred to Vanderbilt University Medical Center's transgender health clinic in recent years, in addition to demanding comprehensive medical records for a number of specific patients.

The office on Tuesday confirmed it was investigating potential medical billing fraud related to VUMC's transgender care, which has become a lightning rod in an increasingly contentious Tennessee political battle over transgender rights.

VUMC confirmed to The Tennessean on Tuesday it was obligated to provide the medical records, which the attorney general's office said were part of a probe focused only on VUMC and certain providers, not patients themselves.

It's unclear whether the medical center has turned over the additional documents.

Several Tennessee families and the Department of Justice are currently fighting the state in federal court over its new law banning gender-affirming treatments for minors, a law passed in the wake of a fall Vanderbilt controversy over the medical center's transgender health clinic.

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Those documents show the broad sweep of information Tennessee officials are seeking, beyond the medical records, a disclosure that has alarmed Tennessee LGBTQ advocates over privacy concerns.

The Attorney General's Office, for instance, in March sought nearly a decade's worth of emails sent to and from an email address for a VUMC LGBTQ program not specifically affiliated with its transgender care clinic, among other documents.

Chris Sanders, executive director of LGBTQ advocacy group Tennessee Equality Project, said he was disturbed to learn of the AG's "vast, sweeping" request for information, including requesting emails from the facility's general LGBTQ program.

"I'm pretty sure I've emailed them over the years so my emails would be in there, too," he said.

Sanders said the issue speaks to the "very rational fear" in the LGBTQ community of being targeted in Tennessee.

"This program was started to address barriers to health care for LGBTQ people and now with an arm of the government coming in and inspecting every inch of it, that in turn creates another barrier for LGBTQ people seeking health care," he said. "If you knew a hostile government was viewing all interactions with your healthcare provider you'd think twice. That's the dynamic this is perpetuating."

The attorney general's declined to answer specific questions, responding in a statement that the office "does not publicize fraud investigations to preserve the integrity of the investigative process." VUMC did not immediately respond to requests for comment on Wednesday morning.

After the publication of The Tennessean's story, the attorney general's office issued a lengthy statement that it began an investigation into VUMC's billing practices after learning a "doctor publicly described her manipulation of medical billing codes to evade coverage limitations on gender-related treatment."

The office described the use of CIDs and the inquiry as a "run-of-the-mill" fraud investigation, though the office declined to answer specific questions regarding its demands

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"We understand patients are concerned that VUMC produced their records to this Office, especially when those patients received abrupt notice without any context," the attorney general's office said in a statement. "To reiterate, this investigation is directed solely at VUMC and related providers and *not* at patients or their families. The records have been and will continue to be held in the strictest confidence, as is our standard practice and required by law."

The Tennessee House Democratic Caucus sharply criticized Attorney General Jonathan Skrmetti in a statement on Wednesday.

"Given the specialty areas General Skrmetti is targeting, his actions give the appearance that he is improperly weaponizing and abusing the broad CID powers of the Attorney General's office to carry out an intimidation campaign against one of our state's preeminent healthcare facilities and its providers and patients for the purpose of promoting his own radical political agenda or that of an extremist faction within his political party," Clemmons said.

AG uses powerful investigative tool

CIDs are an investigative power granted to Tennessee's attorney general that don't require a subpoena or judge's sign-off and are issued before lawsuits or formal civil actions are filed.

An initial CID, signed by Skrmetti on Nov. 2, compelled VUMC to provide all medical records and insurance superbills related to a specific list of VUMC patients associated with its transgender care clinic. The names and dates of birth of the patients appear to be listed in the document, though they were redacted from the version reviewed by The Tennessean.

It's unclear how Skrmetti's office first identified the patients to center the request around. The office has not answered a Tennessean inquiry into how it identified the patients included in the CID.

A second CID in March expanded the state's demand to include any communications regarding insurance claims, in addition to insurance billing codes and documentation regarding any denied claims.

The third CID significantly increased the scope of the probe, as it demanded Vanderbilt give the state a list of any patient referred to its transgender health clinic since 2015, not just patients who may have received treatment.

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The third CID also requested:

all employment contracts, compensation agreements and resumes for physicians who rendered services at VUMC;

all IRS forms, including W9s and 1099 forms, issued by VUMC since 2015 for physicians who rendered services at the center, in addition to all IRS forms issued since 2016 for physicians who rendered services "on behalf" of VUMC transgender patients;

the names of anyone referred to the center for "health care services during the relevant time period, but who did not receive hormone therapy or other transgender health services from the VUMC Center for Transgender Health, other than an initial office visit";

all documents "which contain information relating to an insufficient mental health diagnosis for services related to transgender health and gender affirming therapy";

survey submissions compiled by VUMC's Department of Plastic Surgery from patients who were evaluated for or underwent gender affirming surgery;

all documents, employment contracts and compensation agreements related to VUMC's "Trans Buddy" program, an emotional support service offered to patients from 2014 to present;

all communications sent to and from an email address associated with an umbrella LGBTQ health program at VUMC;

all communications between specific doctors and VUMC's billing department related to transgender health services;

all communications between a specific doctor and a mental health nonprofit related to a "potential gender dysphoria diagnosis" of a nonprofit patient;

a total list of employees at the center since 2015; CQ

a total list of other VUMC providers in urology, plastic surgery, mental health services, speech therapy and OBGYN who received referrals to transgender patients for gender affirmation care.

Legal experts say CIDs are powerful, but they can be challenged in court, and courts can in turn enforce compliance.

In 2021, the Tennessee Court of Appeals upheld a lower court's decision to issue sanctions against a taxpayer services company called Wall and Associates for refusing to comply with a

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Sanders said his organization and other LGBTQ groups are telling people who have had their medical records shared to explore possible legal options as they work to learn more about the situation.

VUMC notifications came after CIDS filed in court

VUMC began informing some patients in recent days that their medical records had been turned over to the AG's office in a pending investigation, according to messages reviewed by The Tennessean.

In its notice to patients, VUMC said it provided the records with the attorney general's "assurance that the records would remain confidential as required by Tennessee law."

Brandon Smith, the attorney general's chief of staff, said on Tuesday that the office "maintains patient records in the strictest confidence, as required by law" and reassured the investigation isn't targeting patients.

The CIDs were publicly filed in the federal lawsuit on June 1, attached to a series of witness declarations filed by an attorney representing the plaintiffs in the case. The filing may have been accidental, as lawyers then motioned the judge to strike the documents from the record to allow them to be refiled under seal.

The judge last week said he needed more evidence to support the motion.

After The Tennessean published details on Tuesday about the AG seeking the medical records, the plaintiffs' lawyers withdrew the motion, writing in a filing that the information they sought to seal had now become public.

VUMC controversy sparked new law now challenged by Tennessee families, DOJ

Skrmetti said last fall his office planned to investigate VUMC's practices after conservative advocates published allegations that the facility punished those who objected to its gender-affirming treatment program for children and that some treatments were used as money-making schemes.

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SKRMETT'S OFFICE AND TENNESSEE GOV. BILL LEE VOWED IN SEPTEMBER TO INVESTIGATE THE CLINIC'S PRACTICES OVER ALLEGATIONS OF "ILLEGAL" CONDUCT, THOUGH NEITHER CITED ANY CURRENT LAWS VUMC POTENTIALLY RAN AFOUL OF AT THE TIME.

The VUMC controversy led to heated debates within the General Assembly this spring, when the Republican supermajority dedicated its first piece of legislation to banning all gender transition treatment for minors.

Democrats and local families with transgender children lobbied unsuccessfully against the bill, arguing health care should remain a private decision between doctors and families.

The federal judge is now considering whether to temporarily block the law before it goes into effect on July 1, ahead of a full trial scheduled for early next year.

The law bans any treatments or procedures prescribed to treat gender dysphoria, such as puberty blockers, even though doctors could still prescribe those medications to children for other reasons. Minors currently in treatment would have to cycle off any medications used to treat gender dysphoria by next spring.

Reporter Kelly Puente contributed to this report.

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