

Amendment to HB 619-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Chapter; Prohibiting Gender Surgery on Minors. Amend RSA by inserting after chapter
4 332-L the following new chapter:

5

CHAPTER 332-M

6

PROHIBITING GENDER SURGERY ON MINORS

7

332-M:1 Definitions. In this chapter:

8

I. "Biological sex" means the biological indication of male and female such as sex
9 chromosomes, naturally occurring sex hormones, gonads, and non-ambiguous internal and external
10 genitalia present at birth, without regard to an individual's psychological, chosen, or subjective
11 experience of gender.

12

II. "Gender" means the psychological, behavioral, social, and cultural aspects of being male
13 or female.

14

III. "Gender transition" means the process in which a person goes from identifying with and
15 living as a gender that corresponds to his or her biological sex to identifying with and living as a
16 gender different from his or her biological sex, and may involve social, legal, or physical changes.

17

IV. "Genital gender reassignment surgery" means a procedure performed for the purpose of
18 assisting an individual with a gender transition, including without limitation:

19

(a) Surgical procedures such as penectomy, orchiectomy, vaginoplasty, clitoroplasty, or
20 vulvoplasty for biologically male patients or hysterectomy or ovariectomy for biologically female
21 patients;

22

(b) Reconstruction of the fixed part of the urethra with or without a metoidioplasty; or

23

(c) Phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular
24 prostheses for biologically female patients.

25

(d) "Genital gender reassignment surgery" does not include:

26

(1) Services to persons born with a medically verifiable disorder of sex development,
27 including a person with external biological sex characteristics that are ambiguous, such as those
28 born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or
29 having both ovarian and testicular tissue;

Amendment to HB 619-FN
- Page 2 -

1 (2) Services provided when a physician has otherwise diagnosed a disorder of sexual
2 development that the physician has determined through genetic or biochemical testing that the
3 person does not have normal sex chromosome structure, sex steroid hormone production, or sex
4 steroid hormone action;

5 (3) The treatment of any infection, injury, disease, or disorder that has been caused
6 by or exacerbated by the performance of genital gender reassignment surgery, whether or not the
7 genital gender reassignment surgery was performed in accordance with state and federal law or
8 whether not funding for the genital gender reassignment surgery is permissible under this chapter.

9 V. “Health care professional” a person who is licensed, certified, or otherwise authorized by
10 the laws of this state to administer health care in the ordinary course of the practice of his or her
11 profession.

12 VI. “Physician” means a person who is licensed to practice medicine in this state.

13 VII. “Public funds” means state, county, or local government monies, in addition to any
14 department, agency, or instrumentality authorized or appropriated under state law or derived from
15 any fund in which such moneys are deposited.

16 332-M:2 Prohibition of Genital Gender Reassignment Surgery on Minors.

17 I. A physician or other health care professional shall not provide genital gender
18 reassignment surgery to any individual under 18 years of age.

19 II. A physician or other health care professional shall not refer any individual under 18
20 years of age to any health care professional for genital gender reassignment surgery.

21 III. A physician or other health care professional is not prohibited from providing any of the
22 following procedures which are not genital gender reassignment surgeries to an individual under 18
23 years of age:

24 (a) Services to persons born with a medically verifiable disorder of sex development,
25 including a person with external biological sex characteristics that are ambiguous, such as those
26 born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or
27 having both ovarian and testicular tissue;

28 (b) Services provided when a physician has otherwise diagnosed a disorder of sexual
29 development that the physician has determined through genetic or biochemical testing that the
30 person does not have normal sex chromosome structure, sex steroid hormone production, or sex
31 steroid hormone action;

32 (c) The treatment of any infection, injury, disease, or disorder that has been caused by or
33 exacerbated by the performance of genital gender reassignment surgery, whether or not the genital
34 gender reassignment surgery was performed in accordance with state and federal law or whether not
35 funding for the genital gender reassignment surgery is permissible under this chapter.

36 332-M:3 Prohibition on Use of Public Funds for Genital Gender Reassignment Surgery on
37 Minors.

Amendment to HB 619-FN
- Page 3 -

1 I. Public funds shall not be directly or indirectly used, granted, paid, or distributed to any
2 entity, organization, or individual that provides genital gender reassignment surgery to an
3 individual under 18 years of age.

4 II. Health care services furnished in the following situations shall not include genital gender
5 reassignment surgery to an individual under 18 years of age:

6 (a) By or in a health care facility owned by the state or a county or local government; or

7 (b) By a physician or other health care professional employed by state or a county or
8 local government.

9 III. The New Hampshire Medicaid program shall not reimburse or provide coverage for
10 genital gender reassignment surgery to an individual under 18 years of age.

11 332-M:4 Enforcement.

12 I. Any referral for or provision of genital gender reassignment surgery to an individual
13 under 18 years of age is unprofessional conduct and is subject to discipline by the appropriate
14 licensing entity or disciplinary review board with competent jurisdiction in this state.

15 II. A person may assert an actual or threatened violation of this chapter as a claim or
16 defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive
17 relief, declaratory relief, or any other appropriate relief.

18 III.(a) A person shall bring a claim for a violation of this chapter no later than 2 years after
19 the day the cause of action accrues.

20 (b) An individual under 18 years of age may bring an action during their minority
21 through a parent or next friend, and may bring an action in their own name upon reaching majority
22 at any time from that point until 20 years after reaching the age of majority.

23 IV. Notwithstanding any other provision of law, an action under this chapter may be
24 commenced, and relief may be granted, in a judicial proceeding without regard to whether the person
25 commencing the action has sought or exhausted available administrative remedies.

26 V. In any action or proceeding to enforce a provision of this chapter, a prevailing party who
27 establishes a violation of this chapter shall recover reasonable attorneys' fees.

28 VI.(a) The attorney general shall bring action to enforce compliance with this chapter.

29 (b) This chapter does not deny, impair, or otherwise affect any right or authority of the
30 attorney general, the State of New Hampshire, or any agency, officer, or employee of the state, acting
31 under any law other than this chapter, to institute or intervene in any proceeding.

32 332-M:5 Insurance Coverage.

33 I. No insurer that issues or renews a policy for health insurance under RSA 415, health
34 service corporation under RSA 420-A, or health maintenance organization under RSA 420-B shall
35 include reimbursement for genital gender reassignment surgery for a person under 18 years of age.

Amendment to HB 619-FN
- Page 4 -

1 II. No insurer that issues or renews a policy for health insurance under RSA 415, health
2 service corporation under RSA 420-A, or health maintenance organization under RSA 420-B shall be
3 required to provide coverage for gender transition procedures.

4 2 Prohibiting Conversion Therapy on Minors; Definition. Amend RSA 332-L:1 to read as
5 follows:

6 332-L:1 Definition.

7 **I.** In this chapter, "conversion therapy" means ~~[practices or treatments that seek]~~ **attempts**
8 **to compel a person through words, actions, or both** to change an individual's sexual orientation
9 or gender identity, including efforts to change behaviors or gender expressions or to eliminate or
10 reduce sexual or romantic attractions or feelings toward individuals of the same gender.

11 **II.** Conversion therapy shall not include:

12 **(a)** Counseling that provides assistance to a person undergoing gender transition~~[-]~~ or
13 **detransition; or**

14 **(b)** Counseling that provides acceptance, support, and understanding of a person or
15 facilitates a person's coping, social support, and identity exploration and development, including
16 sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual
17 practices, as long as such counseling does not seek to change an individual's sexual orientation or
18 gender identity~~[-]~~; **or**

19 **(c)** ~~Counseling which neither affirms nor denies any particular gender identity~~
20 **or sexual expression in order to permit an exploration of potential diagnosable conditions,**
21 **including but not limited to gender incongruence and conditions unrelated to sex and/or**
22 **gender such as trauma, autism spectrum disorders, or mental illness, without bias towards**
23 **intervention to either change or retain any particular gender identity or sexual expression;**
24 **or**

25 **(d)** ~~Counseling to assist a person in achieving a specified gender identity or~~
26 **sexual expression requested in writing by the patient.**

27 3 Effective Date. This act shall take effect January 1, 2025.

2023-2359h

AMENDED ANALYSIS

This bill prohibits gender transition care for minors under 18 years of age and changes the definition of conversion therapy.

UNAPPROVED