Amendment to HB 619-FN

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

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

CHAPTER 332-M

PROHIBITING GENDER SURGERY ON MINORS

332-M:1 Definitions. In this chapter:

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

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

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

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

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

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

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

(d) “Genital gender reassignment surgery” does not include:

(1) Services to persons born with a medically verifiable disorder of sex development, including a person with external biological sex characteristics that are ambiguous, such as those born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or having both ovarian and testicular tissue;
(2) Services provided when a physician has otherwise diagnosed a disorder of sexual
development that the physician has determined through genetic or biochemical testing that the
person does not have normal sex chromosome structure, sex steroid hormone production, or sex
steroid hormone action;

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

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

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

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

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

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

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

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

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

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

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

332-M:3 Prohibition on Use of Public Funds for Genital Gender Reassignment Surgery on
Minors.
I. Public funds shall not be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual that provides genital gender reassignment surgery to an individual under 18 years of age.

II. Health care services furnished in the following situations shall not include genital gender reassignment surgery to an individual under 18 years of age:
   (a) By or in a health care facility owned by the state or a county or local government; or
   (b) By a physician or other health care professional employed by state or a county or local government.

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

332-M:4 Enforcement.

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

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

III. A person shall bring a claim for a violation of this chapter no later than 2 years after the day the cause of action accrues.
   (b) An individual under 18 years of age may bring an action during their minority through a parent or next friend, and may bring an action in their own name upon reaching majority at any time from that point until 20 years after reaching the age of majority.

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

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

VI. (a) The attorney general shall bring action to enforce compliance with this chapter.
   (b) This chapter does not deny, impair, or otherwise affect any right or authority of the attorney general, the State of New Hampshire, or any agency, officer, or employee of the state, acting under any law other than this chapter, to institute or intervene in any proceeding.

332-M:5 Insurance Coverage.

I. No insurer that issues or renews a policy for health insurance under RSA 415, health service corporation under RSA 420-A, or health maintenance organization under RSA 420-B shall include reimbursement for genital gender reassignment surgery for a person under 18 years of age.
II. No insurer that issues or renews a policy for health insurance under RSA 415, health service corporation under RSA 420-A, or health maintenance organization under RSA 420-B shall be required to provide coverage for gender transition procedures.

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

332-L:1 Definition.

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

II. Conversion therapy shall not include:

(a) Counseling that provides assistance to a person undergoing gender transition or detransition; or

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

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

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

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

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