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SENATE BILL DRS55047-NB-40A

Short Title: Medical Treatment for Minors Act. (Public)

Sponsors: Senators Krawiec, Burgin, and Corbin (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH GOVERNING PROVISIONS FOR THE TREATMENT OF
3 GENDER DYSPHORIA FOR PERSONS UNDER EIGHTEEN YEARS OF AGE.

4 Whereas, gender dysphoria is an extremely complex and challenging mental health
5 disorder; and

6 Whereas, patients seeking gender transition procedure often suffer from significant
7 mental and social stressors; and

8 Whereas, it is in the State's interest to protect minor patients from permanent harm;
9 Now, therefore,

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article
12 to read:

13 "Article 1M.

14 "Minor Protection Act.

15 **"§ 90-21.140. Definitions.**

16 The following definitions apply in this Article:

17 (1) Biological sex. – The biological indication of male and female in the context
18 of reproductive potential or capacity, such as sex chromosomes, naturally
19 occurring sex hormones, gonads, and nonambiguous internal and external
20 genitalia present at birth, without regard to an individual's psychological,
21 chosen, or subjective experience of gender.

22 (2) Cross-sex hormones. – Testosterone or other androgens given to biological
23 females in amounts that are larger or more potent than would normally occur
24 naturally in healthy biological sex females, and estrogen given to biological
25 males in amounts that are larger or more potent than would normally occur
26 naturally in healthy biological sex males.

27 (3) Department. – The Department of Health and Human Services.

28 (4) Gender. – The psychological, behavioral, social, and cultural aspects of being
29 male or female.

30 (5) Gender reassignment surgery. – Any medical or surgical service that seeks to
31 surgically alter or remove healthy physical or anatomical characteristics or
32 features that are typical for the individual's biological sex, in order to instill or
33 create physiological or anatomical characteristics that resemble a sex different
34 from the individual's biological sex, including a genital or non-genital gender
35 reassignment surgery as defined in this section.



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- 1 (6) Gender transition. – The process in which a person goes from identifying with
2 and living as a gender that corresponds to his or her biological sex to
3 identifying with and living as a gender different from his or her biological sex,
4 and may involve social, legal, or physical changes.
- 5 (7) Gender transition procedure. – Any medical or surgical service, including,
6 without limitation, genital gender reassignment surgery and non-genital
7 reassignment surgery, physician's services, inpatient and outpatient hospital
8 services, or prescribed drugs related to gender transition that seeks to do any
9 of the following:
- 10 a. Alter or remove physical or anatomical characteristics or features that
11 are typical for the individual's biological sex.
- 12 b. Instill or create physiological or anatomical characteristics that
13 resemble a sex different from the individual's biological sex,
14 including, without limitation, medical services that provide
15 puberty-blocking drugs, cross-sex hormones, or other mechanisms to
16 promote the development of feminizing or masculinizing features in
17 the opposite biological sex.
- 18 For the purposes of this definition, the term "gender transition procedure" shall
19 not include any of the following: (i) services to persons born with a medically
20 verifiable disorder of sex development, including a person with external
21 biological sex characteristics that are unresolvedly ambiguous, such as those
22 born with 46 XX chromosomes with virilization, 46 XY chromosomes with
23 under-virilization, or having both ovarian and testicular tissue; (ii) services
24 provided when a physician has otherwise diagnosed a disorder of sexual
25 development that the physician has determined through genetic or
26 biochemical testing that the person does not have normal sex chromosome
27 structure, sex steroid hormone production, or sex steroid hormone action; (iii)
28 the treatment of any infection, injury, disease, or disorder that has been caused
29 by or exacerbated by the performance of gender transition procedures,
30 whether or not the gender transition procedure was performed in accordance
31 with State and federal law or whether or not funding for the gender transition
32 procedure is permissible under this Article; (iv) breast reduction procedures
33 for a female patient causing a physical disorder; or (v) any procedure
34 undertaken because the individual suffers from a physical disorder, physical
35 injury, or physical illness that would, as certified by a physician, place the
36 individual in imminent danger of death or impairment of major bodily
37 function unless surgery is performed.
- 38 (8) Genital gender reassignment surgery. – A gender reassignment surgery
39 performed for the purpose of assisting an individual with a gender transition,
40 including, without limitation, any of the following:
- 41 a. Surgical procedures such as penectomy, orchiectomy, vaginoplasty,
42 clitoroplasty, or vulvoplasty for biologically male patients or
43 hysterectomy or ovariectomy for biologically female patients.
- 44 b. Reconstruction of the fixed part of the urethra with or without a
45 metoidioplasty.
- 46 c. Phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or
47 testicular prostheses for biologically female patients.
- 48 (9) Health care provider. – A person who is licensed, certified, or otherwise
49 authorized by the laws of this State to administer health care in the ordinary
50 course of the practice of his or her profession.
- 51 (10) Minor. – An individual who is younger than 18 years of age.

- 1 (11) Non-genital gender reassignment surgery. – A gender reassignment surgery
2 performed for the purpose of assisting an individual with a gender transition,
3 including, without limitation, any of the following:
4 a. Surgical procedures for biologically male patients, such as
5 augmentation mammoplasty, facial feminization surgery, liposuction,
6 lipofilling, voice surgery, thyroid cartilage reduction, gluteal
7 augmentation, hair reconstruction, or various aesthetic procedures.
8 b. Surgical procedures for biologically female patients, such as
9 subcutaneous mastectomy, voice surgery, liposuction, lipofilling,
10 pectoral implants, or various aesthetic procedures.
11 (12) Pediatric psychiatrist. – A physician who has completed a child and adolescent
12 psychiatry residency and certification exam and specializes in the diagnosis
13 and the treatment of disorders of thinking, feeling, or behavior affecting
14 children, adolescents, and their families, using knowledge of biological,
15 psychological, and social factors in working with patients.
16 (13) Physician. – An individual licensed to practice medicine under Article 1A of
17 Chapter 90 of the General Statutes.
18 (14) Puberty-blocking drugs. – Gonadotropin-releasing hormone analogues or
19 other synthetic drugs used in biological males to stop luteinizing hormone
20 secretion and therefore testosterone secretion, or synthetic drugs used in
21 biological females which stop the production of estrogens and progesterone,
22 when used to delay or suppress pubertal development in children for the
23 purpose of assisting an individual with a gender transition.
24 (15) Public funds. – State, county, or local government monies, in addition to any
25 department, agency, or instrumentality authorized or appropriated under State
26 law or derived from any fund in which such monies are deposited.

27 **"§ 90-21.141. Limitations of certain practices and health care services.**

28 (a) Notwithstanding any other provision of law, it shall be unlawful for any physician or
29 other health care provider to provide gender transition procedures to any individual under 18
30 years of age, except as provided in this section. A physician or other health care provider shall
31 not refer any individual under 18 years of age to any health care provider for gender transition
32 procedures. Any counseling or treatment rendered under this Article shall not be via telehealth
33 and must be rendered through face-to-face encounters.

34 (b) It shall not be unlawful for a physician to perform a gender transition procedure to an
35 individual under 18 years of age, if all of the following conditions are satisfied:

- 36 (1) Prior to the gender transition procedure, at least two physicians, including a
37 pediatric psychiatrist who has performed a standard psychiatric clinical
38 evaluation inclusive of differential diagnosis must certify and document in
39 writing that the patient suffers from a condition that would benefit from a
40 gender transition procedure. The certifying pediatric psychiatrist shall not be
41 employed by the same practice or institution as the certifying physician.
42 (2) Both parents must sign the standardized consent form provided by the
43 physician performing the gender transition procedure.
44 (3) The patient under 18 years of age must sign the standardized consent form
45 provided by the physician performing the gender transition procedure.
46 (4) For the duration of six months preceding the gender transition procedure, the
47 patient must receive regular care consisting of at least monthly appointments
48 from a pediatric psychiatrist.
49 (5) The physician and the pediatric psychiatrist must separately document in
50 writing the need for ongoing therapy every six months.

- 1 (6) The patient must receive ongoing care from a pediatric psychiatrist until the
2 patient attains the age of majority.
- 3 (c) A physician or other health care provider shall not be prohibited from providing any
4 of the following procedures to a minor:
- 5 (1) Services to persons born with a medically verifiable disorder of sex
6 development, including a person with external biological sex characteristics
7 that are unresolvedly ambiguous, such as those born with 46 XX
8 chromosomes with virilization, 46 XY chromosomes with under-virilization,
9 or having both ovarian and testicular tissue.
- 10 (2) Services provided when a physician has otherwise diagnosed a disorder of
11 sexual development that the physician has determined through genetic or
12 biochemical testing that the person does not have normal sex chromosome
13 structure, sex steroid hormone production, or sex steroid hormone action.
- 14 (3) The treatment of any infection, injury, disease, or disorder that has been
15 caused by or exacerbated by the performance of gender transition procedures,
16 whether or not the gender transition procedure was performed in accordance
17 with State and federal law or whether or not funding for the gender transition
18 procedure is permissible under this Article.
- 19 (4) Any procedure undertaken because the individual suffers from a physical
20 disorder, physical injury, or physical illness that would, as certified by a
21 physician, place the individual in imminent danger of death or impairment of
22 major bodily function unless surgery is performed.
- 23 (d) Notwithstanding any provision of this Article, a physician or health care provider may
24 provide health care services, treatments, or procedures that directly treat a physical disorder,
25 injury, or illness that does not put the individual in imminent danger of death or impairment of
26 major bodily function, if the physical disorder, injury, or illness is for the purposes of gender
27 transition.
- 28 (e) A State, county, or local health care facility, physician, or health care provider shall
29 not perform gender transition procedures for a minor, except as provided in this Article.
- 30 (f) Nothing in this Article shall be construed to require a physician or health care provider
31 to perform a gender transition procedure.
- 32 **"§ 90-21.142. Limitation on use of State funds for gender transition procedures.**
- 33 Public funds shall not be directly or indirectly used, granted, paid, or distributed to any entity,
34 organization, or individual that provides gender transition procedures to a minor.
- 35 **"§ 90-21.143. Standardized consent form.**
- 36 (a) The Department shall develop and maintain a standardized consent form for parents
37 to sign prior to a gender transition procedure under this Article. The Department shall also
38 develop and maintain a standardized consent form for a patient under 18 years of age to sign
39 prior to a gender transition procedure.
- 40 (b) The minor and the minor's parents must sign the consent form at least 30 days before
41 the first treatment of the gender transition procedure and at every subsequent medical visit for
42 treatment.
- 43 (c) The consent form must comply with all of the following:
- 44 (1) Printed in justified typeface and be printed in at least 14-point sized font.
- 45 (2) Contain the following statement:
- 46 "If your child begins one (1) of these treatments, it may actually worsen the
47 discordance and thus increase the likelihood that your child will need
48 additional and more serious interventions to address the worsening condition.
49 For example, if your child begins socially transitioning or taking puberty
50 blockers, that treatment may significantly increase the likelihood that your
51 child's discordance will worsen and lead to your child eventually seeking

1 cross-sex hormones or even surgery to remove some of your child's body
2 parts. Sweden, Finland, and the United Kingdom have conducted systematic
3 reviews of evidence and conclude that there is no evidence that the potential
4 benefits of puberty blockers and cross-sex hormones for this purpose
5 outweigh the known or assumed risks.

6 Medical authorities in Sweden, Finland, Norway, and the United Kingdom
7 have since recommended psychotherapy as the first line of treatment for youth
8 gender dysphoria with drugs and surgeries reserved as a measure of last resort.
9 Medical authorities in France have advised great caution when prescribing
10 hormones for gender dysphoria.

11 There are people who underwent gender transition treatments as minors and
12 later regretted that decision and the physical harm that these treatments
13 caused, and the total percentage of people who experience this regret is
14 unknown. Some estimate that the rate is below two percent (2%), but that
15 estimate is based on studies done on adults who transitioned as adults or on
16 minors who transitioned under highly restrictive and controlled conditions.

17 Sometimes gender transition treatments have been proposed as a way to
18 reduce the chances of a minor committing suicide due to discordance between
19 the minor's sex and his or her perception, but the rates of actual suicide from
20 this discordance remain extremely low. Furthermore, as recognized by health
21 authorities in Europe, there is no evidence that suicidality is caused by
22 unaffirmed gender or that gender transition treatments are causally linked to a
23 reduction in serious suicidal attempts or ideations."

24 (3) If the treatment involves puberty blockers, the consent form shall contain the
25 following additional statement:

26 "Puberty blockers are not approved for this purpose by the United States Food
27 and Drug Administration, which is the federal agency that determines which
28 drugs are safe and effective for humans to use. Claims about puberty blockers'
29 safety and efficacy are based on their use for precocious puberty, a different
30 condition in which normal puberty is allowed to resume once the patient
31 reaches the appropriate age. Studies on the benefits of using puberty blockers
32 for gender dysphoria are notoriously weak. Puberty blockers are not fully
33 reversible because, among other risks, puberty blockers may intensify a
34 minor's discordance and cause it to persist. Puberty blockers increase the risk
35 of your child being sterilized, meaning that he or she will never be able to
36 have children. Puberty blockers may also cause diminished bone density for
37 your child, increasing the risk of fracture and early osteoporosis. Puberty
38 blockers may also prevent your child from ever being able to engage in sexual
39 activity or achieve orgasm for the rest of your child's life. There is no research
40 on the long-term risks to minors of persistent exposure to puberty blockers.
41 The full effects of puberty blockers on brain development and cognition are
42 unknown."

43 (4) If the treatment involves cross-sex hormones, the consent form shall contain
44 the following additional statement:

45 "The use of cross-sex hormones in males is associated with numerous health
46 risks, such as thromboembolic disease, including, without limitation, blood
47 clots; cholelithiasis, including gallstones; coronary artery disease, including,
48 without limitation, heart attacks; macroprolactinoma, which is a tumor of the
49 pituitary gland; cerebrovascular disease, including, without limitation,
50 strokes; hypertriglyceridemia, which is an elevated level of triglycerides in the
51 blood; breast cancer; and irreversible infertility. The use of cross-sex

1 hormones in females is associated with risks of erythrocytosis, which is an
2 increase in red blood cells; severe liver dysfunction; coronary artery disease,
3 including, without limitation, heart attacks; hypertension; and increased risk
4 of breast and uterine cancers. Once a minor begins cross-sex hormones, the
5 minor may need to continue taking those hormones for many years and
6 possibly for the remainder of the minor's life. The cost of these hormones may
7 be tens of thousands of dollars. If the use of cross-sex hormones leads to
8 surgery, the total cost of transitioning may exceed one hundred thousand
9 dollars (\$100,000)."

10 (5) If the treatment involves a surgical procedure, the consent form shall contain
11 the following additional statement:

12 "The dangers, risks, complications, and long-term concerns associated with
13 these types of procedures are almost entirely unknown. There are no long-term
14 studies on either the effectiveness or safety of these surgical procedures."

15 **"§ 90-21.144. Civil remedies.**

16 (a) Notwithstanding any other provision of law to the contrary, a physician or health care
17 provider who performs a gender transition procedure is liable to the minor if the minor is injured,
18 including, without limitation, any physical, psychological, emotional, or physiological injury, by
19 the gender transition procedure, related treatment, or the effects of the gender transition
20 procedure or related treatment.

21 (b) A minor injured as provided under subsection (a) of this section, or a representative
22 of the minor, may bring a civil action against the physician or health care provider who performed
23 the gender transition procedure on the minor in a court of competent jurisdiction and seek all of
24 the following:

25 (1) Declaratory relief or injunctive relief.

26 (2) Compensatory damages.

27 (3) Punitive damages.

28 (4) Attorneys' fees and costs.

29 (c) A claim of action arising from this section must be filed within 15 years after the date
30 on which the minor attains the age of majority or the date the minor would have attained the age
31 of majority if the minor predeceases prior to that date.

32 (d) It shall be a defense to a claim filed in accordance with this section, if the physician
33 or health care provider (i) documented the minor's perceived gender during the entirety of the
34 course of treatment and the minor's perceived gender was different from the minor's biological
35 sex, (ii) the physician and pediatric psychiatrist certified in writing that the gender transition
36 procedure was the only way to treat the minor's condition, (iii) that the minor suffered from no
37 other mental health concerns or conditions, including depression, eating disorders, autism,
38 attention deficit hyperactivity disorder, intellectual disability, or psychotic disorders, and (iv) the
39 physician received the consent form from the minor and the minor's parents in accordance with
40 this Article.

41 **"§ 90-21.145. Violation; enforcement.**

42 (a) A violation of this Article by a physician or other health care provider shall be
43 considered unprofessional conduct and shall be subject to revocation of licensure and other
44 appropriate discipline by the North Carolina Medical Board, North Carolina Board of Nursing,
45 or other appropriate licensing board, as applicable.

46 (b) A person may assert an actual or threatened violation of this Article as a claim or
47 defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive
48 relief, declaratory relief, or any other appropriate relief.

49 (c) A certification for a gender transition procedure by a physician under this Article is
50 not an affirmative defense to a claim brought under this Chapter or other applicable State or
51 federal law for medical malpractice or other civil claims of action.

1 **"§ 90-21.146. Severability.**

2 If any one or more provision, section, subsection, sentence, clause, phrase, or word of this
3 Article or the application thereof to any person or circumstance is found to be unconstitutional,
4 the same is hereby declared to be severable, and the balance of this Article shall remain effective,
5 notwithstanding such unconstitutionality. The General Assembly hereby declares that it would
6 have passed this Article, and each provision, section, subsection, sentence, clause, phrase, or
7 word thereof, irrespective of the fact that any one or more provision, section, subsection,
8 sentence, clause, phrase, or word be declared unconstitutional."

9 **SECTION 2.** G.S. 90-21.5 reads as rewritten:

10 **"§ 90-21.5. Minor's consent sufficient for certain medical health services.**

11 (a) Subject to subsection (a1) of this section, any minor may give effective consent to a
12 physician licensed to practice medicine in North Carolina for medical health services for the
13 prevention, diagnosis and treatment of (i) venereal disease and other diseases reportable under
14 G.S. 130A-135, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional
15 disturbance. This section does not authorize the inducing of an abortion, performance of a
16 sterilization operation, or admission to a 24-hour facility licensed under Article 2 of Chapter
17 122C of the General Statutes except as provided in G.S. 122C-223. This section does not prohibit
18 the admission of a minor to a treatment facility upon his own written application in an emergency
19 situation as authorized by G.S. 122C-223.

20 (a1) Notwithstanding any other provision of law to the contrary, a health care provider
21 shall obtain written consent from a parent or legal guardian prior to administering any vaccine
22 that has been granted emergency use authorization and is not yet fully approved by the United
23 States Food and Drug Administration to an individual under 18 years of age.

24 (b) Any minor who is emancipated may consent to any medical treatment, dental and
25 health services for himself or for his child.

26 (c) This section shall not apply to any gender transition procedure as defined in
27 G.S. 90-21.140."

28 **SECTION 3.** The North Carolina Medical Board shall adopt temporary rules to
29 implement the provisions of this act.

30 **SECTION 4.** This act becomes effective October 1, 2023.