

By: Hall, et al.

S.B. No. 1029

A BILL TO BE ENTITLED

AN ACT

relating to civil liability for, governmental health plan coverage of, and public funding for gender modification procedures and treatments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds that:

(1) as evidenced by a 2018 video of a Vanderbilt University Medical Center administrator who promoted gender modification surgeries as financially beneficial and stated that entire clinics are being financed by phalloplasties, the medical community has knowledge that many so-called "gender affirming" treatments are not in the best interest of the health of the patient but rather are being promoted for the monetary gain the health care facilities will receive from providing those treatments; and

(2) the medical community has a conflict of interest in offering gender modification treatments and procedures because those treatments and procedures create lifelong patients as a result of required follow-up visits after those treatments and procedures.

SECTION 2. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 74B to read as follows:

CHAPTER 74B. LIABILITY FOR GENDER MODIFICATION PROCEDURES AND TREATMENTS

Sec. 74B.001. DEFINITION. In this chapter, "gender

1 modification procedure or treatment" means a health care procedure
2 or treatment provided for the purpose of transitioning a patient's
3 biological sex, as determined by the patient's sex organs,
4 chromosomes, and endogenous profiles, or affirming the patient's
5 perception of the patient's sex if that perception is inconsistent
6 with the patient's sex. The term includes:

7 (1) a surgery that sterilizes the patient, including:

8 (A) castration;

9 (B) vasectomy;

10 (C) hysterectomy;

11 (D) oophorectomy;

12 (E) metoidioplasty;

13 (F) orchiectomy;

14 (G) penectomy;

15 (H) phalloplasty; and

16 (I) vaginoplasty;

17 (2) a mastectomy;

18 (3) the prescription, administration, or supply of any
19 of the following medications that induce transient or permanent
20 infertility:

21 (A) puberty-blocking medication to stop or delay
22 normal puberty;

23 (B) supraphysiologic doses of testosterone to
24 females; or

25 (C) supraphysiologic doses of estrogen to males;
26 and

27 (4) the removal of any otherwise healthy or

1 non-diseased body part or tissue.

2 Sec. 74B.002. CONFLICT OF LAWS. To the extent this chapter
3 conflicts with another law, this chapter prevails.

4 Sec. 74B.003. STRICT LIABILITY FOR HEALTH COVERAGE. A
5 health benefit plan issuer is strictly liable to a patient for the
6 patient's medical, mental health, and pharmaceutical costs,
7 including costs associated with reversing a gender modification
8 procedure or treatment, incurred for the life of the patient as a
9 result of a gender modification procedure or treatment covered by
10 the issuer's plan.

11 Sec. 74B.004. LIABILITY FOR PHYSICIAN OR HEALTH CARE
12 PROVIDER. A physician or health care provider who provides a gender
13 modification procedure or treatment to a patient is:

14 (1) liable to the patient for a malpractice claim in
15 the provision of the procedure or treatment; and

16 (2) strictly liable to the patient for the patient's
17 medical, mental health, and pharmaceutical costs, including costs
18 associated with reversing a gender modification procedure or
19 treatment, incurred for the life of the patient as a result of the
20 procedure or treatment.

21 Sec. 74B.005. EXCEPTIONS. Sections 74B.003 and 74B.004 do
22 not apply to the provision by a physician or health care provider,
23 with the consent of a child's parent or legal guardian, if
24 applicable, and the coverage by a health benefit plan of
25 appropriate and medically necessary gender modification procedures
26 or treatments to a patient who:

27 (1) is born with a medically verifiable genetic

1 disorder of sex development, including:

2 (A) 46,XX chromosomes with virilization;

3 (B) 46,XY chromosomes with undervirilization; or

4 (C) both ovarian and testicular tissue; or

5 (2) does not have the normal sex chromosome structure
6 for male or female as determined by a physician through genetic
7 testing.

8 SECTION 3. Subtitle F, Title 10, Government Code, is
9 amended by adding Chapter 2273A to read as follows:

10 CHAPTER 2273A. PROHIBITED USES OF PUBLIC MONEY

11 Sec. 2273A.001. DEFINITIONS. In this chapter:

12 (1) "Gender modification procedure or treatment" has
13 the meaning assigned by Section 74B.001, Civil Practice and
14 Remedies Code.

15 (2) "Governmental entity" means this state, a state
16 agency, or a political subdivision.

17 Sec. 2273A.002. USE FOR GENDER MODIFICATION PROCEDURE OR
18 TREATMENT. A governmental entity may not use or provide public
19 money for the provision or administration of a gender modification
20 procedure or treatment.

21 SECTION 4. Subtitle E, Title 8, Insurance Code, is amended
22 by adding Chapter 1372 to read as follows:

23 CHAPTER 1372. PROHIBITED COVERAGE OF GENDER MODIFICATION

24 PROCEDURES AND TREATMENTS

25 Sec. 1372.001. DEFINITION. In this chapter, "gender
26 modification procedure or treatment" has the meaning assigned by
27 Section 74B.001, Civil Practice and Remedies Code.

1 Sec. 1372.002. APPLICABILITY OF CHAPTER. Notwithstanding
2 any other law, this chapter applies only to:

3 (1) a basic coverage plan under Chapter 1551;

4 (2) a basic plan under Chapter 1575;

5 (3) a primary care coverage plan under Chapter 1579;

6 (4) a plan providing basic coverage under Chapter
7 1601;

8 (5) the state Medicaid program, including the Medicaid
9 managed care program operated under Chapter 533, Government Code;
10 and

11 (6) the child health plan program under Chapter 62,
12 Health and Safety Code.

13 Sec. 1372.003. PROHIBITED COVERAGE; EXCEPTION. (a) A
14 health benefit plan may not provide coverage for a gender
15 modification procedure or treatment.

16 (b) This section does not apply to the coverage by a health
17 benefit plan of appropriate and medically necessary gender
18 modification procedures or treatments to a patient who:

19 (1) is born with a medically verifiable genetic
20 disorder of sex development, including:

21 (A) 46,XX chromosomes with virilization;

22 (B) 46,XY chromosomes with undervirilization; or

23 (C) both ovarian and testicular tissue; or

24 (2) does not have the normal sex chromosome structure
25 for male or female as determined by a physician through genetic
26 testing.

27 SECTION 5. (a) Chapter 74B, Civil Practice and Remedies

1 Code, as added by this Act, applies only to a cause of action that
2 accrues on or after the effective date of this Act.

3 (b) The changes in law made by this Act apply only to a
4 health benefit plan delivered, issued for delivery, or renewed on
5 or after the effective date of this Act.

6 SECTION 6. This Act takes effect September 1, 2023.