

118TH CONGRESS
1ST SESSION

H. R. 3329

To prohibit taxpayer-funded gender transition procedures, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2023

Mr. LAMALFA (for himself, Mrs. BOEBERT, Mr. LAMBORN, Mr. GOSAR, Mr. BANKS, Mr. DUNCAN, Mr. BABIN, Mr. ROUZER, Mr. BARR, Mr. ROSENDALE, Mr. WEBER of Texas, Mr. BRECHEEN, Mr. NORMAN, Mrs. MILLER of Illinois, Mr. GROTHMAN, Mr. WILSON of South Carolina, Mr. MILLS, Mr. BURLISON, Mr. SMITH of New Jersey, Mr. ADERHOLT, Mrs. McCLAIN, Mrs. LESKO, Mrs. HARSHBARGER, Mr. NEHLS, Mr. KELLY of Mississippi, Mr. OGLES, Mr. FALLON, Mr. LATURNER, Mr. DAVIDSON, Mr. GAETZ, Ms. TENNEY, Mr. ALLEN, Mr. ROY, and Mr. MOONEY) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on the Judiciary, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit taxpayer-funded gender transition procedures,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “End Taxpayer Funding of Gender Experimentation Act
4 of 2023”.

5 (b) **TABLE OF CONTENTS.**—The table of contents of
6 this Act are as follows:

Sec. 1. Short title; table of contents.

**TITLE I—PROHIBITING FEDERALLY FUNDED GENDER
TRANSITION PROCEDURES**

Sec. 101. Prohibiting taxpayer-funded gender transition procedures.

Sec. 102. Amendment to table of chapters.

TITLE II—APPLICATION UNDER THE AFFORDABLE CARE ACT

Sec. 201. Clarifying application of prohibition to premium credits and cost-sharing reductions under ACA.

7 **TITLE I—PROHIBITING FEDER-**
8 **ALLY FUNDED GENDER TRAN-**
9 **SITION PROCEDURES**

10 **SEC. 101. PROHIBITING TAXPAYER-FUNDED GENDER TRAN-**
11 **SITION PROCEDURES.**

12 Title 1, United States Code, is amended by adding
13 at the end the following new chapter:

14 **“CHAPTER 4—PROHIBITING TAXPAYER-**
15 **FUNDED GENDER TRANSITION PROCE-**
16 **DURES**

“301. Prohibition on funding for gender transition procedures.

“302. Prohibition on funding for health benefits plans that cover gender transition procedures.

“303. Limitation on Federal facilities and employees.

“304. Construction relating to separate coverage.

“305. Construction relating to the use of non-Federal funds for health coverage.

“306. Construction relating to complications arising from gender transition procedures.

“307. Definitions.

1 **“§ 301. Prohibition on funding for gender transition**
2 **procedures**

3 “No funds authorized or appropriated by Federal
4 law, and none of the funds in any trust fund to which
5 funds are authorized or appropriated by Federal law, shall
6 be expended for any gender transition procedures.

7 **“§ 302. Prohibition on funding for health benefits**
8 **plans that cover gender transition proce-**
9 **dures**

10 “No funds authorized or appropriated by Federal
11 law, and none of the funds in any trust fund to which
12 funds are authorized or appropriated by Federal law, shall
13 be expended for health benefits coverage that includes cov-
14 erage of gender transition procedures.

15 **“§ 303. Limitation on Federal facilities and employees**

16 “No health care service furnished—

17 “(1) by or in a health care facility owned or op-
18 erated by the Federal Government; or

19 “(2) by any physician or other individual em-
20 ployed by the Federal Government to provide health
21 care services within the scope of the physician’s or
22 individual’s employment,

23 may include gender transition procedures.

1 **“§ 304. Construction relating to separate coverage**

2 “Nothing in this chapter shall be construed as pro-
3 hibiting any individual, entity, State, or locality from pur-
4 chasing separate coverage for gender transition procedures
5 or health benefits coverage that include gender transition
6 procedures so long as such coverage is paid for entirely
7 with funds not authorized or appropriated by Federal law,
8 and such coverage shall not be purchased using matching
9 funds required for a federally subsidized program, includ-
10 ing a State or locality’s contribution of Medicaid matching
11 funds.

12 **“§ 305. Construction relating to the use of non-Fed-
13 eral funds for health coverage**

14 “Nothing in this chapter shall be construed as re-
15 stricting the ability of any non-Federal health benefits cov-
16 erage provider from offering coverage for gender transi-
17 tion procedures, or the ability of a State or locality to con-
18 tract separately with such a provider for such coverage,
19 so long as only funds not authorized or appropriated by
20 Federal law are used, and such coverage shall not be pur-
21 chased using matching funds required for a federally sub-
22 sidized program, including a State or locality’s contribu-
23 tion of Medicaid matching funds.

1 **“§ 306. Construction relating to complications arising**
2 **from gender transition procedures**

3 “Nothing in this chapter shall be construed to apply
4 to the treatment of any infection, injury, disease, or dis-
5 order that has been caused by or exacerbated by the per-
6 formance of a gender transition procedure.

7 **“§ 307. Definitions**

8 “For purposes of this chapter:

9 “(1) **BIOLOGICAL SEX.**—The term ‘biological
10 sex’ means the biological indication of male or fe-
11 male in the context of reproductive potential or ca-
12 pacity, such as sex chromosomes, naturally occurring
13 sex hormones, gonads, and non-ambiguous internal
14 and external genitalia present at birth, without re-
15 gard to an individual’s psychological, chosen, or sub-
16 jective experience of gender.

17 “(2) **CROSS-SEX HORMONES.**—The term ‘cross-
18 sex hormones’ means—

19 “(A) testosterone or other androgens given
20 to biological females at doses that are pro-
21 foundly larger or more potent than would natu-
22 rally occur in healthy biological females; or

23 “(B) estrogen given to biological males at
24 doses that are profoundly larger or more potent
25 than would naturally occur in healthy biological
26 males.

1 “(3) GENDER.—The term ‘gender’ means the
2 psychological, behavioral, social, and cultural aspects
3 of being male or female.

4 “(4) GENDER TRANSITION.—The term ‘gender
5 transition’ means the process in which a person goes
6 from identifying with and living as a gender that
7 corresponds to his or her biological sex to identifying
8 with and living as a gender different from his or her
9 biological sex, and may involve social, legal, or phys-
10 ical changes.

11 “(5) GENDER TRANSITION PROCEDURE.—

12 “(A) IN GENERAL.—The term ‘gender
13 transition procedure’ means any medical or sur-
14 gical service, including physician’s services, in-
15 patient and outpatient hospital services, or pre-
16 scribed drugs related to gender transition, that
17 seek to alter or remove physical or anatomical
18 characteristics or features that are typical for
19 an individual’s biological sex, or to instill or cre-
20 ate physiological or anatomical characteristics
21 that resemble a sex different from an individ-
22 ual’s birth sex, including, without limitation,
23 medical services that provide puberty-blocking
24 drugs, cross-sex hormones, or other mechanisms
25 to promote the development of feminizing or

1 masculinizing features (in the opposite sex), or
2 genital gender transition surgery or nongenital
3 gender transition surgery performed for the
4 purpose of assisting an individual with a gender
5 transition.

6 “(B) EXCEPTIONS.—The term ‘gender
7 transition procedure’ does not include—

8 “(i) services to those born with a
9 medically-verifiable disorder of sex develop-
10 ment, including a person with external bio-
11 logical sex characteristics that are
12 irresolvably ambiguous, such as those born
13 with 46 XX chromosomes with virilization,
14 46 XY chromosomes with undervirilization,
15 or having both ovarian and testicular tis-
16 sue; or services provided when a physician
17 has otherwise diagnosed a disorder of sex-
18 ual development, in which such physician
19 has determined through genetic or bio-
20 chemical testing that the person does not
21 have normal sex chromosome structure, sex
22 steroid hormone production, or sex steroid
23 hormone action for a biological male or bi-
24 ological female; or

1 “(ii) the treatment of any infection,
2 injury, disease, or disorder that has been
3 caused by or exacerbated by the perform-
4 ance of a gender transition procedure,
5 whether or not such procedure was per-
6 formed in accordance with State or Fed-
7 eral law, or whether funding for such pro-
8 cedure was permissible under this chapter.

9 “(6) GENDER TRANSITION SURGERY.—

10 “(A) IN GENERAL.—The term ‘gender
11 transition surgery’ means any medical or sur-
12 gical service that seeks to surgically alter or re-
13 move healthy physical or anatomical character-
14 istics or features that are typical for an individ-
15 ual’s biological sex in order to instill or create
16 physiological or anatomical characteristics that
17 resemble a sex different from an individual’s
18 birth sex, including, without limitation, genital
19 gender reassignment surgery or non-genital
20 gender reassignment surgery performed for the
21 purpose of assisting an individual with a gender
22 transition.

23 “(B) EXCEPTION.—Gender transition sur-
24 gery does not include any procedure undertaken
25 because the individual suffers from a physical

1 disorder, physical injury, or physical illness that
2 would, as certified by a physician, place the in-
3 dividual in imminent danger of death or impair-
4 ment of major bodily function unless surgery is
5 performed.

6 “(7) GENITAL GENDER TRANSITION SUR-
7 GERY.—The term ‘genital gender transition surgery’
8 includes surgical procedures such as penectomy,
9 orchiectomy, vaginoplasty, clitoroplasty, or
10 vulvoplasty for biologically male patients, or
11 hysterectomy/ovariectomy, reconstruction of the
12 fixed part of the urethra with or without a
13 metoidioplasty or a phalloplasty, vaginectomy,
14 scrotoplasty, or implantation of erection or testicular
15 prostheses for biologically female patients when per-
16 formed for the purpose of assisting an individual
17 with a gender transition.

18 “(8) NON-GENITAL GENDER TRANSITION SUR-
19 GERY.—The term ‘non-genital gender transition sur-
20 gery’ means surgical procedures including augmenta-
21 tion mammoplasty, facial feminization surgery,
22 liposuction, lipofilling, voice surgery, thyroid car-
23 tilage reduction, gluteal augmentation (implants or
24 lipofilling), hair reconstruction, or other aesthetic
25 procedures for biologically male patients or subcuta-

1 neous mastectomy, voice surgery, liposuction,
 2 lipofilling, pectoral implants, or other aesthetic pro-
 3 cedures for biologically female patients, when per-
 4 formed for the purpose of assisting an individual
 5 with a gender transition.

6 “(9) PUBERTY-BLOCKING DRUGS.—The term
 7 ‘puberty-blocking drugs’ means—

8 “(A) Gonadotropin-releasing hormone
 9 (GnRH) analogues or other synthetic drugs
 10 used in biological males to stop luteinizing hor-
 11 mone secretion and therefore testosterone secre-
 12 tion;

13 “(B) synthetic drugs used in biological fe-
 14 males that stop the production of estrogen; and

15 “(C) progesterone when used to delay or
 16 suppress pubertal development in children for
 17 the purpose of assisting an individual with a
 18 gender transition.”.

19 **SEC. 102. AMENDMENT TO TABLE OF CHAPTERS.**

20 The table of chapters for title 1, United States Code,
 21 is amended by adding at the end the following new item:

**“4. Prohibiting taxpayer-funded gender transition pro-
 cedures 301”.**

1 **TITLE II—APPLICATION UNDER**
2 **THE AFFORDABLE CARE ACT**

3 **SEC. 201. CLARIFYING APPLICATION OF PROHIBITION TO**
4 **PREMIUM CREDITS AND COST-SHARING RE-**
5 **DUCTIONS UNDER ACA.**

6 (a) IN GENERAL.—

7 (1) DISALLOWANCE OF REFUNDABLE CREDIT
8 AND COST-SHARING REDUCTIONS FOR COVERAGE
9 UNDER QUALIFIED HEALTH PLAN WHICH PROVIDES
10 COVERAGE FOR GENDER TRANSITION PROCE-
11 DURES.—

12 (A) IN GENERAL.—Section 36B(c)(3)(A)
13 of the Internal Revenue Code of 1986 is
14 amended by inserting before the period at the
15 end the following: “or any health plan that in-
16 cludes coverage for gender transition procedures
17 (other than any procedure described in section
18 306 or 307 of title 1, United States Code)”.

19 (B) OPTION TO PURCHASE OR OFFER SEP-
20 ARATE COVERAGE OR PLAN.—Section 36B(c)(3)
21 of such Code is amended by adding at the end
22 the following new subparagraph:

23 “(C) SEPARATE COVERAGE OR PLAN FOR
24 GENDER TRANSITION PROCEDURES AL-
25 LOWED.—

1 “(i) OPTION TO PURCHASE SEPARATE
2 COVERAGE OR PLAN.—Nothing in subpara-
3 graph (A) shall be construed as prohibiting
4 any individual from purchasing separate
5 coverage for gender transition procedures
6 described in such subparagraph, or a
7 health plan that includes such gender tran-
8 sition procedures, so long as no credit is
9 allowed under this section with respect to
10 the premiums for such coverage or plan.

11 “(ii) OPTION TO OFFER COVERAGE OR
12 PLAN.—Nothing in subparagraph (A) shall
13 restrict any non-Federal health insurance
14 issuer offering a health plan from offering
15 separate coverage for gender transition
16 procedures described in such subpara-
17 graph, or a plan that includes such gender
18 transition procedures, so long as premiums
19 for such separate coverage or plan are not
20 paid for with any amount attributable to
21 the credit allowed under this section (or
22 the amount of any advance payment of the
23 credit under section 1412 of the Patient
24 Protection and Affordable Care Act).”.

1 (2) DISALLOWANCE OF SMALL EMPLOYER
2 HEALTH INSURANCE EXPENSE CREDIT FOR PLAN
3 WHICH INCLUDES COVERAGE FOR GENDER TRANSI-
4 TION PROCEDURES.—Subsection (h) of section 45R
5 of the Internal Revenue Code of 1986 is amended—

6 (A) by striking “Any term” and inserting
7 the following:

8 “(1) IN GENERAL.—Any term”; and

9 (B) by adding at the end the following new
10 paragraph:

11 “(2) EXCLUSION OF HEALTH PLANS INCLUDING
12 COVERAGE FOR GENDER TRANSITION PROCE-
13 DURES.—

14 “(A) IN GENERAL.—The term ‘qualified
15 health plan’ does not include any health plan
16 that includes coverage for gender transition
17 procedures (other than a procedure described in
18 section 306 or 307 of title 1, United States
19 Code).

20 “(B) SEPARATE COVERAGE OR PLAN FOR
21 GENDER TRANSITION PROCEDURES AL-
22 LOWED.—

23 “(i) OPTION TO PURCHASE SEPARATE
24 COVERAGE OR PLAN.—Nothing in subpara-
25 graph (A) shall be construed as prohibiting

1 any employer from purchasing for its em-
2 ployees separate coverage for gender tran-
3 sition procedures described in such sub-
4 paragraph, or a health plan that includes
5 such gender transition procedures, so long
6 as no credit is allowed under this section
7 with respect to the employer contributions
8 for such coverage or plan.

9 “(ii) OPTION TO OFFER COVERAGE OR
10 PLAN.—Nothing in subparagraph (A) shall
11 restrict any non-Federal health insurance
12 issuer offering a health plan from offering
13 separate coverage for gender transition
14 procedures described in such subpara-
15 graph, or a plan that includes such gender
16 transition procedures, so long as such sep-
17 arate coverage or plan is not paid for with
18 any employer contribution eligible for the
19 credit allowed under this section.”.

20 (b) APPLICATION TO MULTI-STATE PLANS.—Section
21 1334(a) of the Patient Protection and Affordable Care Act
22 (42 U.S.C. 18054(a)) is amended by adding at the end
23 the following new paragraph:

24 “(8) COVERAGE CONSISTENT WITH FEDERAL
25 POLICY REGARDING GENDER TRANSITION PROCE-

1 DURES.—In entering into contracts under this sub-
2 section, the Director shall ensure that no multi-State
3 qualified health plan offered in an Exchange pro-
4 vides health benefits coverage for which the expendi-
5 ture of Federal funds is prohibited under chapter 4
6 of title 1, United States Code.”.

7 (c) EFFECTIVE DATE.—

8 (1) EFFECTIVE DATE WITH RESPECT TO PRE-
9 MIUM CREDITS AND COST SHARING REDUCTIONS.—

10 The amendments made by subsection (a) shall apply
11 to taxable years after the date that is one year after
12 the date of enactment of this Act, but only with re-
13 spect to plan years beginning after such date.

14 (2) EFFECTIVE DATE FOR APPLICATION TO
15 MULTI-STATE PLANS.—The amendment made by
16 subsection (b) shall apply to plan years beginning on
17 the date that is one year after the date of enactment
18 of this Act.

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