



HOUSE BILL 808: Gender Transition/Minors.

2023-2024 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 28, 2023
Introduced by:	Reps. Blackwell, Pless, Fontenot, Torbett	Prepared by:	Jason Moran-Bates Staff Attorney
Analysis of:	Sixth Edition		

OVERVIEW: *House Bill 808 would prohibit medical professionals from performing surgical gender transition procedures on minors and prescribing, providing, or dispensing puberty-blocking drugs or cross-sex hormones to minors, with some exceptions. Medical professionals who violate these provisions would have their licenses revoked, and minors who underwent a surgical gender transition procedure or who were prescribed or provided with puberty-blocking drugs or cross-sex hormones would have a private right of action against the medical provider who performed the procedure or prescribed or provided the drugs. State funds could not be used for surgical gender transition procedures on minors and prescribing, providing, or dispensing puberty-blocking drugs or cross-sex hormones to minors.*

BILL ANALYSIS: House Bill 808 would prohibit medical professionals from performing surgical gender transition procedures on minors and prescribing, providing, or dispensing puberty-blocking drugs or cross-sex hormones to minors.

"Medical professional" would be defined to include anyone licensed to practice medicine under Article 1 of Chapter 90 or licensed to prescribe or dispense drugs under Chapter 90.

The prohibitions would not extend to the following procedures, provided informed consent is obtained from the minor's parents or guardians:

- Services to individuals with a medically verifiable disorder of sex development.
- Services provided when a physician has diagnosed abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action.
- The treatment of any infection, injury, disease, or disorder caused by previous performance of gender transition procedures.
- Breast reduction procedures when necessary to remedy a physical disorder in a female patient.
- Any procedure to treat a physical disorder that places an individual at imminent risk of death or impairment of a major bodily function.
- Any procedure that a physician certifies is medically necessary to treat a physiological condition.
- Non-medical or non-surgical treatment provided by a mental health professional that is in the professional's scope of practice.

Any course of treatment that was initiated prior to August 1, 2023, could be continued or completed provided that a medical professional deemed the continuation or completion to be medically necessary and the parents or guardians consented.

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Medical professionals and healthcare institutions would not be required to provide surgical gender transition procedures, puberty-blocking drugs, or cross-sex hormones or allow use of their facilities for those purposes.

Medical professionals who did not comply with the provisions of this act would be deemed to have engaged in unprofessional conduct and would have their licenses revoked.

A minor who suffered harm from a surgical gender transition procedure or treatment with puberty-blocking drugs or cross-sex hormones would be able to recover damages from the medical professional, and the entity employing or contracting with the medical professional who performed the procedure or prescribed or supplied the puberty-blocking drugs or cross-sex hormones. The action for damages could be commenced any time up until 25 years after the minor turned 18, and the damage cap for medical malpractice actions would not apply.

The bill would also prohibit state funds from being used to fund surgical gender transition procedures, puberty-blocking drugs, or cross-sex hormones for minors. This prohibition would not include the State Health Plan, which is currently under a court order to cover these procedures.

EFFECTIVE DATE: The provisions of this bill allowing a civil cause of action would become effective July 1, 2023. The provisions prohibiting surgical gender transition procedures, puberty-blocking drugs, or cross-sex hormones for minors and funding for those treatments would become effective August 1, 2023. The provisions allowing the State Health Plan to cover certain treatment would expire 30 days after the court order requiring that coverage is vacated or overturned. The remainder of the bill would be effective when it becomes law.

BACKGROUND: On June 10, 2022 an order was entered in the case of *Kadel v. Folwell*, 1:19CV272 (M.D.N.C), permanently enjoining the State Health Plan from enforcing provisions which exclude "treatment in connection with sex changes" and ordering coverage of "medically necessary services for the treatment of gender dysphoria."