To prohibit commercial sexual orientation conversion therapy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2019

Mr. Ted Lieu of California (for himself, Ms. Bass, Mr. Bera, Mr. Blumenauer, Ms. Bonamici, Ms. Brownley of California, Mr. Cárdenas, Mr. Cicilline, Ms. Clarke of New York, Mr. Cohen, Mr. Correa, Mr. Crist, Mr. DeFazio, Ms. DeGette, Ms. Delauro, Ms. DelBene, Ms. Demings, Mr. Espaillat, Mr. Foster, Mr. Garamendi, Mr. Hastings, Mr. Higgins of New York, Mr. Huffman, Mr. Jefferson, Ms. Kelly of Illinois, Mr. Kilmer, Mr. Krishnamoorthi, Ms. Kuster of New Hampshire, Mr. Langevin, Mr. Lowenthal, Mrs. Lowey, Mrs. Carolyn B. Maloney of New York, Ms. McCollum, Mr. Meeks, Ms. Meng, Ms. Moore, Mr. Morelle, Mr. Moulton, Ms. Mucarsel-Powell, Mrs. Murphy, Ms. Norton, Mr. O’Halleran, Mr. Panetta, Mr. Pappas, Mr. Peters, Mr. Pocan, Mr. Raskin, Miss Rice of New York, Mr. Rouda, Mr. Rush, Ms. Scanlon, Mr. Schiff, Mr. Schneider, Ms. Sherrill, Mr. Soto, Ms. Speier, Mr. Suozzi, Mr. Swalwell of California, Ms. Titus, Mr. Tonko, Ms. Underwood, Ms. Velázquez, Ms. Wasserman Schultz, Mrs. Watson Coleman, and Mr. Welch) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit commercial sexual orientation conversion therapy, and for other purposes.

1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Therapeutic Fraud Prevention Act of 2019”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Being lesbian, gay, bisexual, transgender, or gender nonconforming is not a disorder, disease, illness, deficiency, or shortcoming.

(2) The national community of professionals in education, social work, health, mental health, and counseling has determined that there is no scientifically valid evidence that supports the practice of attempting to prevent a person from being lesbian, gay, bisexual, transgender, or gender nonconforming.

(3) Such professionals have determined that there is no evidence that conversion therapy is effective or that an individual’s sexual orientation or gender identity can be changed by conversion therapy.

(4) Such professionals have also determined that the potential risks of conversion therapy are not only that it is ineffective, but also that it is substantially dangerous to an individual’s mental and physical health, and has been shown to contribute to depression, self-harm, low self-esteem, family rejection, and suicide.
(5) It is in the interest of the Nation to prevent lesbian, gay, bisexual, transgender, and gender non-conforming people and their families from being defrauded by persons seeking to profit by offering this harmful and wholly ineffective therapy.

SEC. 3. DEFINITIONS.

In this Act:

(1) CONVERSION THERAPY.—The term “conversion therapy”—

(A) means any practice or treatment by any person that seeks to change another 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, if such person—

(i) receives monetary compensation in exchange for such practice or treatment; or

(ii) instead of, or in addition to, receiving monetary compensation in exchange for such practice or treatment directly, receives monetary compensation in exchange for a product or service that is integral to the provision of such practice or treatment by such person, unless such
product or service is protected by the First Amendment to the Constitution; and

(B) does not include any practice or treatment, which does not seek to change sexual orientation or gender identity, that—

(i) provides assistance to an individual undergoing a gender transition; or

(ii) provides acceptance, support, and understanding of a client or facilitation of a client’s coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices.

(2) GENDER IDENTITY.—The term “gender identity” means the gender-related identity, appearance, mannerisms, or other gender-related characteristics of an individual, regardless of the individual’s designated sex at birth.

(3) PERSON.—The term “person” means any individual, partnership, corporation, cooperative, association, or any other entity.

(4) SEXUAL ORIENTATION.—The term “sexual orientation” means homosexuality, heterosexuality, or bisexuality.
SEC. 4. UNLAWFUL CONDUCT RELATED TO CONVERSION THERAPY.

(a) In General.—It shall be unlawful for any person—

(1) to provide conversion therapy to any individual; or

(2) to advertise for the provision of conversion therapy and claim in such advertising—

(A) to change another individual’s sexual orientation or gender identity;

(B) to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender; or

(C) that such efforts are harmless or without risk to individuals receiving such therapy.

(b) Enforcement by Federal Trade Commission.—

(1) Violation of Rule.—A violation of subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) Powers of Commission.—

(A) In General.—The Federal Trade Commission shall enforce this section in the same manner, by the same means, and with the
same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(B) Privileges and Immunities.—Any person who violates subsection (a) shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(3) Regulations.—The Federal Trade Commission may promulgate, in accordance with section 553 of title 5, United States Code, such regulations as the Commission considers appropriate to carry out this section.

(e) Enforcement by Attorney General.—The Attorney General may bring a civil action in the courts of the United States against a person who engages in a violation of subsection (a), for appropriate relief.

(d) Enforcement by States.—

(1) In general.—If the attorney general of a State has reason to believe that an interest of the residents of the State has been or is being threatened or adversely affected by a practice that violates subsection (a), the attorney general of the State
may, as parens patriae, bring a civil action on behalf
of the residents of the State in an appropriate dis-
trict court of the United States to obtain appro-
priate relief.

(2) Rights of Federal Trade Commis-
sion.—

(A) Notice to Federal Trade Commiss-
ion.—

(i) In general.—Except as provided
in clause (iii), the attorney general of a
State, before initiating a civil action under
paragraph (1), shall provide written notifi-
cation to the Federal Trade Commission
that the attorney general intends to bring
such civil action.

(ii) Contents.—The notification re-
quired under clause (i) shall include a copy
of the complaint to be filed to initiate the
civil action.

(iii) Exception.—If it is not feasible
for the attorney general of a State to pro-
vide the notification required under clause
(i) before initiating a civil action under
paragraph (1), the attorney general shall
notify the Commission immediately upon instituting the civil action.

(B) Intervention by Federal Trade Commission.—The Commission may—

(i) intervene in any civil action brought by the attorney general of a State under paragraph (1); and

(ii) upon intervening—

(I) be heard on all matters arising in the civil action; and

(II) file petitions for appeal of a decision in the civil action.

(3) Investigatory Powers.—Nothing in this subsection may be construed to prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of the State to conduct investigations, to administer oaths or affirmations, or to compel the attendance of witnesses or the production of documentary or other evidence.

(4) Preemptive Action by Federal Trade Commission.—If the Federal Trade Commission institutes a civil action or an administrative action with respect to a violation of subsection (a), the attorney general of a State may not, during the pend-
ency of such action, bring a civil action under para-
graph (1) against any defendant named in the com-
plaint of the Commission for the violation with re-
spect to which the Commission instituted such ac-
tion.

(5) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under
paragraph (1) may be brought in—

(i) the district court of the United
States that meets applicable requirements
relating to venue under section 1391 of
title 28, United States Code; or

(ii) another court of competent juris-
diction.

(B) SERVICE OF PROCESS.—In an action
brought under paragraph (1), process may be
served in any district in which—

(i) the defendant is an inhabitant,
may be found, or transacts business; or

(ii) venue is proper under section
1391 of title 28, United States Code.

(6) ACTIONS BY OTHER STATE OFFICIALS.—

(A) IN GENERAL.—In addition to a civil
action brought by an attorney general under
paragraph (1), any other officer of a State who
is authorized by the State to do so may bring
a civil action under paragraph (1), subject to
the same requirements and limitations that
apply under this subsection to civil actions
brought by attorneys general.

(B) SAVINGS PROVISION.—Nothing in this
subsection may be construed to prohibit an au-
thorized official of a State from initiating or
continuing any proceeding in a court of the
State for a violation of any civil or criminal law
of the State.

SEC. 5. SEVERABILITY.

If any provision of this Act, or the application of such
provision to any person or circumstance, is held to be un-
constitutional, the remainder of this Act, and its applica-
tion to any person or circumstance shall not be affected
thereby.