118TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
118–758

CHILDREN'S HOSPITAL GME SUPPORT REAUTHORIZATION ACT OF 2023

NOVEMBER 20, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. RODGERS of Washington, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3887]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3887) to amend title III of the Public Health Service Act to reauthorize the program of payments to children's hospitals that operate graduate medical education programs, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

59–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Hospital GME Support Reauthorization Act of 2023".

SEC. 2. PROGRAM OF PAYMENTS TO CHILDREN'S HOSPITALS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.

Section 340E of the Public Health Service Act (42 U.S.C. 256e) is amended—

(1) in subsection (a), by striking "2023" and inserting "2028";

(2) in subsection (b)(3)(D), by inserting "and the end of fiscal year 2028," after "fiscal year 2022,";

(3) in subsection (e), by adding at the end the following new paragraph:

"(4) PROHIBITION ON PAYMENTS TO HOSPITALS FURNISHING SPECIFIED PROCEDURES AND DRUGS TO MINORS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, no payment may be made under this section to a children's hospital for a fiscal year (beginning with fiscal year 2024) if, at any point during the preceding fiscal year, such hospital furnished specified procedures and drugs (as defined in subsection (g)) to an individual under 18 years of age.

"(B) SPECIAL RULE FOR FISCAL YEAR 2024.—In applying subparagraph (A) with respect to payments described in such subparagraph for fiscal year 2024—

"(i) the reference to 'for a fiscal year' shall be treated as a reference to 'for any portion of fiscal year 2024 occurring after December 31, 2023'; and

"(ii) the reference to 'the preceding fiscal year' shall be treated as a reference to 'the period beginning on September 1, 2023, and ending on December 31, 2023'.

"(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as prohibiting payments for a fiscal year (or, in the case of payments for fiscal year 2024, during the portion of such fiscal year described in subparagraph (B)(i)) to a hospital that, during the preceding fiscal year (or, in the case of payments for fiscal year 2024, during the period described in subparagraph (B)(ii)), furnished mental or behavioral health services to individuals under 18 years of age for the treatment of gender dysphoria not consisting of specified procedures and drugs.";

(4) in subsection (f)—

(A) in paragraph (1)(A)—

(i) in clause (v), by striking "and" at the end;

(ii) in clause (vi), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(vii) for each of fiscal years 2024 through 2028, $124,000,000."; and

(B) in paragraph (2)—

(i) in subparagraph (E), by striking "and" at the end;

(ii) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(G) for each of fiscal years 2024 through 2028, $261,000,000."; and

(5) in subsection (g), by adding at the end the following new paragraph:

"(4) SPECIFIED PROCEDURES AND DRUGS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'specified procedures and drugs' means, with respect to an individual, any of the following:

"(i) Performing any surgery for the purpose of changing the body of such individual to correspond to a sex that differs from their biological sex, including—

"(I) castration;

"(II) orchiectomy;

"(III) scrotoplasty;

"(IV) vasectomy;

"(V) hysterectomy;

"(VI) oophorectomy;

"(VII) ovariectomy;

"(VIII) metoidioplasty;

"(IX) penectomy;
"(X) phalloplasty;
"(XI) vaginoplasty;
"(XII) vaginectomy;
"(XIII) vulvoplasty;
"(XIV) reduction thyrochondroplasty;
"(XV) chondrolaryngoplasty; and
"(XVI) mastectomy.

"(ii) Any plastic surgery that feminizes or masculinizes the facial features for the purposes described in clause (i).

"(iii) Any placement of chest implants to create feminine breasts for the purposes described in clause (i).

"(iv) Any placement of fat or artificial implants in the gluteal region for the purposes described in clause (i).

"(v) Administering, supplying, prescribing, dispensing, distributing, or otherwise conveying to an individual medications for the purposes described in clause (i), including—

"(I) gonadotropin-releasing hormone (GnRH) analogues or other puberty-blocking drugs to stop or delay normal puberty;

"(II) testosterone or other androgens to biological females at doses that are supraphysiologic to the female sex; and

"(III) estrogen to biological males at doses that are supraphysiologic to the male sex.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to the following individuals:

"(i) An individual with both ovarian and testicular tissue.

"(ii) An individual with respect to whom a physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action.

"(iii) An individual experiencing infection, disease, injury, or disorder caused or exacerbated by previous medical procedures as defined in subsection (g)(4)(A).

"(iv) An individual suffering from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the individual in imminent danger of death or impairment of a major bodily function unless the procedure is performed.

"(C) BIOLOGICAL SEX.—For purposes of subparagraph (A), the term 'biological sex' means the indication of male or female sex by reproductive potential or capacity, sex chromosomes, naturally occurring sex hormones, gonads, or internal or external genitalia present at birth.".

PURPOSE AND SUMMARY

H.R. 3887 reauthorizes payments to children's hospitals that operate Graduate Medical Education programs for fiscal years 2024 through 2028. Additionally, the bill prohibits payments to children's hospitals that furnish specified procedures or drugs for minors.

BACKGROUND AND NEED FOR LEGISLATION

The Children's Hospitals Graduate Medical Education Program (CHGME) funds 59 children's hospitals in 30 states and Puerto Rico to help their graduate medical education (GME) programs train resident physicians and dentists.[1] According to the Health Resources and Services Administration (HRSA), the CHGME program trains 56 percent of all general pediatrics residents and 54 percent of all pediatric subspecialty residents and fellows. HRSA found that the national pediatrician supply is estimated to grow by 9 percent by 2025, while the demand is estimated to grow by 6 per-

[1] Health Resources and Services Administration, Children's Hospitals Graduate Medical Education (CHGME) Payment Program, March 2023.

cent.[2] Reauthorizing the CHGME program will help ensure there is a sufficient supply of pediatricians to meet the expected growth in demand.

Nearly 18,000 U.S. minors began taking puberty blockers or hormones from 2017 to 2021.[3] The number of clinics in the U.S. focused on providing hormones and surgeries has grown from just a few to more than 100 in February 2023.[4] Recent studies have found that the risk of puberty blockers and hormone treatment for the purposes of gender transition in minors currently outweigh the benefits.[5] Additionally, these treatments are potentially fraught with irreversible consequences like cardiovascular disease, osteoporosis, infertility, increased cancer risk, and thrombosis.[6]

COMMITTEE ACTION

On June 14, 2023, the Subcommittee on Health held a hearing on H.R. 3887. The title of the hearing was "Examining Proposals that Provide Access to Care for Patients and Support Research for Rare Diseases." The Subcommittee received testimony from:

- Elizabeth Cherot, MD, MBA, Senior Vice President and Chief Medical Health Officer, March of Dimes;
- Alexis A. Thompson, MD, MPH, Chief of Division of Hematology, Elias Schwartz MD Endowed Chair in Hematology, Children's Hospital of Philadelphia, Professor of Pediatrics, University of Pennsylvania Perelman School of Medicine;
- Meredithe McNamara, MD, MS, FAAP, Assistant Professor, Yale School of Medicine;
- Miriam Grossman, MD, Child, Adolescent, and Adult Psychiatrist;
- George Manahan, Parkinson's Advocate and Patient; and
- Kevin O'Connor, Assistant to the General President for Government Affairs and Political Action, International Association of Fire Fighters.

On July 13, 2023, the Subcommittee on Health met in open markup session and forwarded H.R. 3887, as amended, to the full Committee by a record vote of 15 yeas and 12 nays.

On July 19, 2023, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 3887, as amended, favorably reported to the House by a record vote of 27 yeas and 17 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

---

[2] Ibid.

[3] British Medical Journal, Gender Dysphoria is Rising and so is Professional Disagreement, February 23, 2023.

[4] Ibid.

[5] National Board of Health and Welfare, Updated Recommendations for Hormone Therapy for Gender Dysphoria in Young People, February 22, 2022.

[6] Swedish Agency for Health Technology Assessment and Assessment of Social Services, Gender Dysphoria in Children and Adolescents: An Inventory of the Literature, December 20, 2019.

COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 22

BILL: H.R. 3887, the Children's Hospital GME Support Reauthorization Act of 2023

AMENDMENT: A motion by Mrs. Rodgers to order H.R. 3887 favorably reported to the House, as amended (Final Passage).

DISPOSITION: **AGREED TO,** by a roll call vote of 27 yeas to 17 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers	X			Rep. Pallone		X	
Rep. Burgess	X			Rep. Eshoo		X	
Rep. Latta	X			Rep. DeGette		X	
Rep. Guthrie	X			Rep. Schakowsky			
Rep. Griffith	X			Rep. Matsui		X	
Rep. Bilirakis	X			Rep. Castor		X	
Rep. Johnson	X			Rep. Sarbanes		X	
Rep. Bucshon	X			Rep. Tonko		X	
Rep. Hudson	X			Rep. Clarke			
Rep. Walberg	X			Rep. Cárdenas		X	
Rep. Carter	X			Rep. Ruiz		X	
Rep. Duncan	X			Rep. Peters			
Rep. Palmer	X			Rep. Dingell		X	
Rep. Dunn	X			Rep. Veasey			
Rep. Curtis	X			Rep. Kuster		X	
Rep. Lesko	X			Rep. Kelly			
Rep. Pence	X			Rep. Barragán			
Rep. Crenshaw	X			Rep. Blunt Rochester		X	
Rep. Joyce				Rep. Soto		X	
Rep. Armstrong	X			Rep. Craig		X	
Rep. Weber	X			Rep. Schrier		X	
Rep. Allen	X			Rep. Trahan		X	
Rep. Balderson	X			Rep. Fletcher		X	
Rep. Fulcher	X						
Rep. Pfluger	X						
Rep. Harshbarger	X						
Rep. Miller-Meeks							
Rep. Cammack	X						
Rep. Obernolte	X						

07/19/2023

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held a hearing and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 3887 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to reauthorize the Children's Hospital Graduate Medical Education program and prohibit CHGME payments to children's hospitals furnishing specified procedures or drugs for minors.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3887 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop or consider H.R. 3887:

- On June 14, 2023, the Subcommittee on Health held a hearing on H.R. 3887. The title of the hearing was "Examining Proposals that Provide Access to Care for Patients and Support Research for Rare Diseases." The Subcommittee received testimony from:
  - Elizabeth Cherot, MD, MBA, Senior Vice President and Chief Medical Health Officer, March of Dimes;
  - Alexis A. Thompson, MD, MPH, Chief of Division of Hematology, Elias Schwartz MD Endowed Chair in Hematology, Children's Hospital of Philadelphia, Professor of Pediatrics, University of Pennsylvania Perelman School of Medicine;

- Meredithe McNamara, MD, MS, FAAP, Assistant Professor, Yale School of Medicine;
- Miriam Grossman, MD, Child, Adolescent, and Adult Psychiatrist;
- George Manahan, Parkinson's Advocate and Patient; and
- Kevin O'Connor, Assistant to the General President for Government Affairs and Political Action, International Association of Fire Fighters.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 3887 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 provides a short title of "Children's Hospital GME Support Reauthorization Act of 2023."

Section 2. Program of payments to children's hospitals that operate graduate medical education programs

Section 2 amends Section 340E of the Public Health Service Act to reauthorize payments to children's hospitals operating Graduate Medical Education programs for fiscal years 2024 through 2028 and prohibits payments to children's hospitals that furnish specified procedures or drugs for minors.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT

* * * * * * *

TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

* * * * * * *

PART D—PRIMARY HEALTH CARE

* * * * * * *

Subpart IX—Support of Graduate Medical Education Programs in Children's Hospitals

SEC. 340E. PROGRAM OF PAYMENTS TO CHILDREN'S HOSPITALS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.

(a) PAYMENTS.—The Secretary shall make two payments under this section to each children's hospital for each of fiscal years 2000 through 2005, each of fiscal years 2007 through 2011, each of fiscal years 2014 through 2018, and each of fiscal years 2019 through [2023] *2028*, one for the direct expenses and the other for indirect expenses associated with operating approved graduate medical residency training programs. The Secretary shall promulgate regulations pursuant to the rulemaking requirements of title 5, United States Code, which shall govern payments made under this subpart.

(b) AMOUNT OF PAYMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amounts payable under this section to a children's hospital for an approved graduate medical residency training program for a fiscal year are each of the following amounts:

(A) DIRECT EXPENSE AMOUNT.—The amount determined under subsection (c) for direct expenses associated with operating approved graduate medical residency training programs.

(B) INDIRECT EXPENSE AMOUNT.—The amount determined under subsection (d) for indirect expenses associated with the treatment of more severely ill patients and the additional costs relating to teaching residents in such programs.

(2) CAPPED AMOUNT.—

(A) IN GENERAL.—The total of the payments made to children's hospitals under paragraph (1)(A) or paragraph (1)(B) in a fiscal year shall not exceed the funds appropriated under paragraph (1) or (2), respectively, of subsection (f) for such payments for that fiscal year.

(B) PRO RATA REDUCTIONS OF PAYMENTS FOR DIRECT EXPENSES.—If the Secretary determines that the amount of funds appropriated under subsection (f)(1) for a fiscal year is insufficient to provide the total amount of payments otherwise due for such periods under paragraph (1)(A), the Secretary shall reduce the amounts so payable on a pro rata basis to reflect such shortfall.

(3) ANNUAL REPORTING REQUIRED.—

(A) REDUCTION IN PAYMENT FOR FAILURE TO REPORT.—

(i) IN GENERAL.—The amount payable under this section to a children's hospital for a fiscal year (beginning with fiscal year 2008 and after taking into account paragraph (2)) shall be reduced by 25 percent if the Secretary determines that—

(I) the hospital has failed to provide the Secretary, as an addendum to the hospital's application under this section for such fiscal year, the report required under subparagraph (B) for the previous fiscal year; or

(II) such report fails to provide the information required under any clause of such subparagraph.

(ii) NOTICE AND OPPORTUNITY TO PROVIDE MISSING INFORMATION.—Before imposing a reduction under clause (i) on the basis of a hospital's failure to provide information described in clause (i)(II), the Secretary shall provide notice to the hospital of such failure and the Secretary's intention to impose such reduction and shall provide the hospital with the opportunity to provide the required information within a period of 30 days beginning on the date of such notice. If the hospital provides such information within such period, no reduction shall be made under clause (i) on the basis of the previous failure to provide such information.

(B) ANNUAL REPORT.—The report required under this subparagraph for a children's hospital for a fiscal year is a report that includes (in a form and manner specified by the Secretary) the following information for the residency academic year completed immediately prior to such fiscal year:

(i) The types of resident training programs that the hospital provided for residents described in subparagraph (C), such as general pediatrics, internal medicine/pediatrics, and pediatric subspecialties, including both medical subspecialties certified by the American Board of Pediatrics (such as pediatric gastroenterology) and non-medical subspecialties approved by other medical certification boards (such as pediatric surgery).

(ii) The number of training positions for residents described in subparagraph (C), the number of such positions recruited to fill, and the number of such positions filled.

(iii) The types of training that the hospital provided for residents described in subparagraph (C) related to the health care needs of different populations, such as children who are underserved for reasons of family income or geographic location, including rural and urban areas.

(iv) The changes in residency training for residents described in subparagraph (C) which the hospital has made during such residency academic year (except that the first report submitted by the hospital under this subparagraph shall be for such changes since the

first year in which the hospital received payment under this section), including—

(I) changes in curricula, training experiences, and types of training programs, and benefits that have resulted from such changes; and

(II) changes for purposes of training the residents in the measurement and improvement of the quality and safety of patient care.

(v) The numbers of residents described in subparagraph (C) who completed their residency training at the end of such residency academic year and care for children within the borders of the service area of the hospital or within the borders of the State in which the hospital is located. Such numbers shall be disaggregated with respect to residents who completed residencies in general pediatrics or internal medicine/pediatrics, subspecialty residencies, and dental residencies.

(C) RESIDENTS.—The residents described in this subparagraph are those who—

(i) are in full-time equivalent resident training positions in any training program sponsored by the hospital; or

(ii) are in a training program sponsored by an entity other than the hospital, but who spend more than 75 percent of their training time at the hospital.

(D) REPORT TO CONGRESS.—Not later than the end of fiscal year 2018, and the end of fiscal year 2022, *and the end of fiscal year 2028,* the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall submit a report to the Congress—

(i) summarizing the information submitted in reports to the Secretary under subparagraph (B);

(ii) describing the results of the program carried out under this section; and

(iii) making recommendations for improvements to the program.

(c) AMOUNT OF PAYMENT FOR DIRECT GRADUATE MEDICAL EDUCATION.—

(1) IN GENERAL.—The amount determined under this subsection for payments to a children's hospital for direct graduate expenses relating to approved graduate medical residency training programs for a fiscal year is equal to the product of—

(A) the updated per resident amount for direct graduate medical education, as determined under paragraph (2); and

(B) the average number of full-time equivalent residents in the hospital's graduate approved medical residency training programs (as determined under section 1886(h)(4) of the Social Security Act during the fiscal year.

(2) UPDATED PER RESIDENT AMOUNT FOR DIRECT GRADUATE MEDICAL EDUCATION.—The updated per resident amount for direct graduate medical education for a hospital for a fiscal year is an amount determined as follows:

(A) DETERMINATION OF HOSPITAL SINGLE PER RESIDENT AMOUNT.—The Secretary shall compute for each hospital operating an approved graduate medical education program (regardless of whether or not it is a children's hospital) a single per resident amount equal to the average (weighted by number of full-time equivalent residents) of the primary care per resident amount and the non-primary care per resident amount computed under section 1886(h)(2) of the Social Security Act for cost reporting periods ending during fiscal year 1997.

(B) DETERMINATION OF WAGE AND NON-WAGE-RELATED PROPORTION OF THE SINGLE PER RESIDENT AMOUNT.—The Secretary shall estimate the average proportion of the single per resident amounts computed under subparagraph (A) that is attributable to wages and wage-related costs.

(C) STANDARDIZING PER RESIDENT AMOUNTS.—The Secretary shall establish a standardized per resident amount for each such hospital—

(i) by dividing the single per resident amount computed under subparagraph (A) into a wage-related portion and a non-wage-related portion by applying the proportion determined under subparagraph (B);

(ii) by dividing the wage-related portion by the factor applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during fiscal year 1999 for the hospital's area; and

(iii) by adding the non-wage-related portion to the amount computed under clause (ii).

(D) DETERMINATION OF NATIONAL AVERAGE.—The Secretary shall compute a national average per resident amount equal to the average of the standardized per resident amounts computed under subparagraph (C) for such hospitals, with the amount for each hospital weighted by the average number of full-time equivalent residents at such hospital.

(E) APPLICATION TO INDIVIDUAL HOSPITALS.—The Secretary shall compute for each such hospital that is a children's hospital a per resident amount—

(i) by dividing the national average per resident amount computed under subparagraph (D) into a wage-related portion and a non-wage-related portion by applying the proportion determined under subparagraph (B);

(ii) by multiplying the wage-related portion by the factor applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year for the hospital's area; and

(iii) by adding the non-wage-related portion to the amount computed under clause (ii).

(F) UPDATING RATE.—The Secretary shall update such per resident amount for each such children's hospital by the estimated percentage increase in the consumer price index for all urban consumers during the period beginning October 1997 and ending with the midpoint of the Federal fiscal year for which payments are made.

(d) AMOUNT OF PAYMENT FOR INDIRECT MEDICAL EDUCATION.—

(1) IN GENERAL.—The amount determined under this subsection for payments to a children's hospital for indirect expenses associated with the treatment of more severely ill patients and the additional costs associated with the teaching of residents for a fiscal year is equal to an amount determined appropriate by the Secretary.

(2) FACTORS.—In determining the amount under paragraph (1), the Secretary shall—

(A) take into account variations in case mix among children's hospitals and the ratio of the number of full-time equivalent residents in the hospitals' approved graduate medical residency training programs to beds (but excluding beds or bassinets assigned to healthy newborn infants); and

(B) assure that the aggregate of the payments for indirect expenses associated with the treatment of more severely ill patients and the additional costs related to the teaching of residents under this section in a fiscal year are equal to the amount appropriated for such expenses for the fiscal year involved under subsection (f)(2).

(e) MAKING OF PAYMENTS.—

(1) INTERIM PAYMENTS.—The Secretary shall determine, before the beginning of each fiscal year involved for which payments may be made for a hospital under this section, the amounts of the payments for direct graduate medical education and indirect medical education for such fiscal year and shall (subject to paragraph (2)) make the payments of such amounts in 12 equal interim installments during such period. Such interim payments to each individual hospital shall be based on the number of residents reported in the hospital's most recently filed Medicare cost report prior to the application date for the Federal fiscal year for which the interim payment amounts are established. In the case of a hospital that does not report residents on a Medicare cost report, such interim payments shall be based on the number of residents trained during the hospital's most recently completed Medicare cost report filing period.

(2) WITHHOLDING.—The Secretary shall withhold up to 25 percent from each interim installment for direct and indirect graduate medical education paid under paragraph (1) as necessary to ensure a hospital will not be overpaid on an interim basis.

(3) RECONCILIATION.—Prior to the end of each fiscal year, the Secretary shall determine any changes to the number of residents reported by a hospital in the application of the hospital for the current fiscal year to determine the final amount payable to the hospital for the current fiscal year for both direct expense and indirect expense amounts. Based on such determination, the Secretary shall recoup any overpayments made and pay any balance due to the extent possible. The final amount so determined shall be considered a final intermediary determination for the purposes of section 1878 of the Social Security Act and shall be subject to administrative and judicial review under that section in the same manner as the amount

of payment under section 1186(d) of such Act is subject to review under such section.

(4) PROHIBITION ON PAYMENTS TO HOSPITALS FURNISHING SPECIFIED PROCEDURES AND DRUGS TO MINORS.—

(A) IN GENERAL.—Notwithstanding any other provision of this section, no payment may be made under this section to a children's hospital for a fiscal year (beginning with fiscal year 2024) if, at any point during the preceding fiscal year, such hospital furnished specified procedures and drugs (as defined in subsection (g)) to an individual under 18 years of age.

(B) SPECIAL RULE FOR FISCAL YEAR 2024.—In applying subparagraph (A) with respect to payments described in such subparagraph for fiscal year 2024—

(i) the reference to "for a fiscal year" shall be treated as a reference to "for any portion of fiscal year 2024 occurring after December 31, 2023"; and

(ii) the reference to "the preceding fiscal year" shall be treated as a reference to "the period beginning on September 1, 2023, and ending on December 31, 2023".

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as prohibiting payments for a fiscal year (or, in the case of payments for fiscal year 2024, during the portion of such fiscal year described in subparagraph (B)(i)) to a hospital that, during the preceding fiscal year (or, in the case of payments for fiscal year 2024, during the period described in subparagraph (B)(ii)), furnished mental or behavioral health services to individuals under 18 years of age for the treatment of gender dysphoria not consisting of specified procedures and drugs.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) DIRECT GRADUATE MEDICAL EDUCATION.—

(A) IN GENERAL.—There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for payments under subsection (b)(1)(A)—

(i) for fiscal year 2000, $90,000,000;

(ii) for fiscal year 2001, $95,000,000;

(iii) for each of the fiscal years 2002 through 2005, such sums as may be necessary;

(iv) for each of fiscal years 2007 through 2011, $110,000,000;

(v) for each of fiscal years 2014 through 2018, $100,000,000; **[**and**]**

(vi) for each of fiscal years 2019 through 2023, $105,000,000**[**.**]***; and*

(vii) for each of fiscal years 2024 through 2028, $124,000,000.

(B) CARRYOVER OF EXCESS.—The amounts appropriated under subparagraph (A) for fiscal year 2000 shall remain available for obligation through the end of fiscal year 2001.

(2) INDIRECT MEDICAL EDUCATION.—There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for payments under subsection (b)(1)(B)—

(A) for fiscal year 2000, $190,000,000;
(B) for fiscal year 2001, $190,000,000;
(C) for each of the fiscal years 2002 through 2005, such sums as may be necessary;
(D) for each of fiscal years 2007 through 2011, $220,000,000;
(E) for each of fiscal years 2014 through 2018, $200,000,000; [and]
(F) for each of fiscal years 2019 through 2023, $220,000,000[.]*; and*
(G) for each of fiscal years 2024 through 2028, $261,000,000.

(g) DEFINITIONS.—In this section:

(1) APPROVED GRADUATE MEDICAL RESIDENCY TRAINING PROGRAM.—The term "approved graduate medical residency training program" has the meaning given the term "approved medical residency training program" in section 1886(h)(5)(A) of the Social Security Act.

(2) CHILDREN'S HOSPITAL.—The term "children's hospital" means a hospital with a Medicare payment agreement and which is excluded from the Medicare inpatient prospective payment system pursuant to section 1886(d)(1)(B)(iii) of the Social Security Act and its accompanying regulations.

(3) DIRECT GRADUATE MEDICAL EDUCATION COSTS.—The term "direct graduate medical education costs" has the meaning given such term in section 1886(h)(5)(C) of the Social Security Act.

(4) SPECIFIED PROCEDURES AND DRUGS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "specified procedures and drugs" means, with respect to an individual, any of the following:

(i) Performing any surgery for the purpose of changing the body of such individual to correspond to a sex that differs from their biological sex, including—

(I) castration;
(II) orchiectomy;
(III) scrotoplasty;
(IV) vasectomy;
(V) hysterectomy;
(VI) oophorectomy;
(VII) ovariectomy;
(VIII) metoidioplasty;
(IX) penectomy;
(X) phalloplasty;
(XI) vaginoplasty;
(XII) vaginectomy;
(XIII) vulvoplasty;
(XIV) reduction thyrochondroplasty;
(XV) chondrolaryngoplasty; and
(XVI) mastectomy.

(ii) Any plastic surgery that feminizes or masculinizes the facial features for the purposes described in clause (i).

(iii) Any placement of chest implants to create feminine breasts for the purposes described in clause (i).

(iv) Any placement of fat or artificial implants in the gluteal region for the purposes described in clause (i).

(v) Administering, supplying, prescribing, dispensing, distributing, or otherwise conveying to an individual medications for the purposes described in clause (i), including—

(I) gonadotropin-releasing hormone (GnRH) analogues or other puberty-blocking drugs to stop or delay normal puberty;

(II) testosterone or other androgens to biological females at doses that are supraphysiologic to the female sex; and

(III) estrogen to biological males at doses that are supraphysiologic to the male sex.

(B) EXCEPTION.—Subparagraph (A) shall not apply to the following individuals:

(i) An individual with both ovarian and testicular tissue.

(ii) An individual with respect to whom a physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action.

(iii) An individual experiencing infection, disease, injury, or disorder caused or exacerbated by previous medical procedures as defined in subsection (g)(4)(A).

(iv) An individual suffering from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the individual in imminent danger of death or impairment of a major bodily function unless the procedure is performed.

(C) BIOLOGICAL SEX.—For purposes of subparagraph (A), the term "biological sex" means the indication of male or female sex by reproductive potential or capacity, sex chromosomes, naturally occurring sex hormones, gonads, or internal or external genitalia present at birth.

(h) ADDITIONAL PROVISIONS.—

(1) IN GENERAL.—The Secretary is authorized to make available up to 25 percent of the total amounts in excess of $245,000,000 appropriated under paragraphs (1) and (2) of subsection (f), but not to exceed $7,000,000, for payments to hospitals qualified as described in paragraph (2), for the direct and indirect expenses associated with operating approved graduate medical residency training programs, as described in subsection (a).

(2) QUALIFIED HOSPITALS.—

(A) IN GENERAL.—To qualify to receive payments under paragraph (1), a hospital shall be a free-standing hospital—

(i) with a Medicare payment agreement and that is excluded from the Medicare inpatient hospital prospective payment system pursuant to section 1886(d)(1)(B) of the Social Security Act and its accompanying regulations;

(ii) whose inpatients are predominantly individuals under 18 years of age;

(iii) that has an approved medical residency training program as defined in section 1886(h)(5)(A) of the Social Security Act; and

(iv) that is not otherwise qualified to receive payments under this section or section 1886(h) of the Social Security Act.

(B) ESTABLISHMENT OF RESIDENCY CAP.—In the case of a freestanding children's hospital that, on the date of enactment of this subsection, meets the requirements of subparagraph (A) but for which the Secretary has not determined an average number of full-time equivalent residents under section 1886(h)(4) of the Social Security Act, the Secretary may establish such number of full-time equivalent residents for the purposes of calculating payments under this subsection.

(3) PAYMENTS.—Payments to hospitals made under this subsection shall be made in the same manner as payments are made to children's hospitals, as described in subsections (b) through (e).

(4) PAYMENT AMOUNTS.—The direct and indirect payment amounts under this subsection shall be determined using per resident amounts that are no greater than the per resident amounts used for determining direct and indirect payment amounts under subsection (a).

(5) REPORTING.—A hospital receiving payments under this subsection shall be subject to the reporting requirements under subsection (b)(3).

(6) REMAINING FUNDS.—

(A) IN GENERAL.—If the payments to qualified hospitals under paragraph (1) for a fiscal year are less than the total amount made available under such paragraph for that fiscal year, any remaining amounts for such fiscal year may be made available to all hospitals participating in the program under this subsection or subsection (a).

(B) QUALITY BONUS SYSTEM.—For purposes of distributing the remaining amounts described in subparagraph (A), the Secretary may establish a quality bonus system, whereby the Secretary distributes bonus payments to hospitals participating in the program under this subsection or subsection (a) that meet standards specified by the Secretary, which may include a focus on quality measurement and improvement, interpersonal and communications skills, delivering patient-centered care, and practicing in integrated health systems, including training in community-based settings. In developing such standards, the Secretary shall collaborate with relevant stakeholders, including program accrediting bodies, certifying boards, training programs, health care organizations, health care purchasers, and patient and consumer groups.

* * * * * * *

MINORITY VIEWS

H.R. 3887, the Children's Hospital GME Support Reauthorization Act, would reauthorize the Children's Hospital Graduate Medical Education (CHGME) program while adding a new requirement prohibiting children's hospitals that provide gender-affirming care to people under 18 from receiving payments under the program. This would endanger a critically important funding mechanism for pediatric residents by forcing children's hospitals to choose between funding and providing evidence-based care. Further, this legislation imposes a dangerous and unnecessary precedent of inserting the federal government into private medical decisions that should be made by patients, their families, and their medical providers.

Gender-affirming care is essential, medically necessary care that promotes the health and well-being of transgender people.[1] This evidence-based care is used to treat gender dysphoria, which is a serious medical condition characterized by clinically significant psychological distress associated with a difference between a person's gender and the sex they were assigned at birth.[2] Gender-affirming care makes it both physically and psychologically possible for transgender people to live safely and authentically as themselves.

Scientific research over the past 30 years has repeatedly demonstrated that gender-affirming care improves the health of transgender people, including the mental health of transgender youth.[3] Gender-affirming care also increases life satisfaction and quality of life.[4] Additionally, studies have shown that untreated gender dysphoria can lead to psychological distress and debilitating depression and often leads to self-harm, including suicidal ideation and suicide attempts.[5]

Access to gender-affirming care is critical, medically necessary, and often lifesaving. Gender-affirming care takes many forms and is tailored to the age and unique needs of the individual in consultation with medical doctors, mental health professionals, and—in the case of youth seeking care—parents. While not all transgender people access this care, many do over the course of their lifetimes.

Every major medical association, representing more than 1.3 million U.S. doctors, supports age-appropriate gender-affirming care

---

[1] Department of Health and Human Services, Substance Use and Mental Health Services Administration, *Moving Beyond Change Efforts: Evidence and Action to Support and Affirm LGBTQI+* Youth (Mar. 2023) (PEP22–03–12–001).

[2] American Psychiatric Association, *Gender Dysphoria* (https://www.psychiatry.org/patients-families/gender-dysphoria/what-is-gender-dysphoria) (accessed Jul. 25, 2023).

[3] Amy Green et al., *Association of Gender-Affirming Hormone Therapy With Depression, Thoughts of Suicide, and Attempted Suicide Among Transgender and Nonbinary Youth*, Journal of Adolescent Health (Apr. 2022).

[4] Diane Chen et al., *Psychosocial Functioning in Transgender Youth after 2 Years of Hormones*, The New England Journal of Medicine (January 19, 2023); Christal Achille et al., *Longitudinal Impact of Gender-Affirming Endocrine Intervention on the Mental Health and Well-Being of Transgender Youths: Preliminary Results* (2020).

[5] See note 3.

for transgender people.[6] This includes the American Medical Association,[7] American Academy of Pediatrics,[8] American Psychological Association,[9] American Psychiatric Association,[10] American Academy of Child and Adolescent Psychiatry,[11] and the Endocrine Society,[12] among other organizations.

H.R. 3887 would prohibit funding through the CHGME program for any children's hospital that provides gender-affirming care. Instead of reauthorizing the CHGME program in a bipartisan manner, as has been done previously, this legislation politicizes the program and jeopardizes the training of pediatricians and access to pediatric services across the country. The CHGME program supports the training of more than half of all pediatricians and pediatric subspecialists in the United States.[13] Given the pediatrician shortages that already exist, forcing children's hospitals to choose between critical funding and providing evidence-based care is particularly ill-advised. Further, this legislation interferes in medical decisions for transgender youth that should be determined only by the appropriate providers, patients, and parents.

FRANK PALLONE, Jr.,
Ranking Member.

○

[6] Transgender Legal Defense & Education Fund, *Medical Organization Statements* (https://transhealthproject.org/resources/medical-organization-statements/) (accessed Jul. 25, 2023).
[7] American Medical Association, *AMA reinforces opposition to restrictions on transgender medical care* (Jun. 15, 2021).
[8] American Academy of Pediatrics, *Policy Statement: Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents* (Oct. 1, 2018).
[9] American Psychology Association, *Guidelines for Psychological Practice with Transgender and Gender Nonconforming People* (Dec. 2015).
[10] American Psychiatric Association, *Position Statement on Treatment of Transgender (Trans) and Gender Diverse Youth* (Jul. 2020).
[11] American Academy of Child & Adolescent Psychiatry, *AACAP Statement Responding to Efforts to Ban Evidence-Based Care for Transgender and Gender Diverse Youth* (Nov. 8, 2019).
[12] Endocrine Society, *Position Statement: Transgender Health* (Dec. 16, 2020).
[13] Health Resources and Services Administration, *Children's Hospitals Graduate Medical Education (CHGME) Payment Program* (Mar. 2023).