

111TH CONGRESS
1ST SESSION

H. R. 3001

To address the health disparities experienced by lesbian, gay, bisexual, and transgender Americans, to eliminate the barriers they face in accessing quality health care, and to ensure that good health and well-being is accessible to all.

IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2009

Ms. BALDWIN (for herself, Mr. WAXMAN, Ms. LEE of California, Mr. HONDA, and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Armed Services, the Judiciary, Ways and Means, Oversight and Government Reform, House Administration, Education and Labor, Veterans' Affairs, Transportation and Infrastructure, Select Intelligence (Permanent Select), and Foreign Affairs, 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 address the health disparities experienced by lesbian, gay, bisexual, and transgender Americans, to eliminate the barriers they face in accessing quality health care, and to ensure that good health and well-being is accessible to all.

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.**

2 This Act may be cited as the “Ending LGBT Health
3 Disparities Act”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definition.
- Sec. 4. Effective date.

TITLE I—HEALTH ACCESS AND PROMOTION

Subtitle A—Private Health Insurance

- Sec. 101. Tax Equity for Health Plan Beneficiaries Act.
- Sec. 102. Preexisting condition exclusion patient protection.
- Sec. 103. Domestic Partnership Benefits and Obligations Act.

Subtitle B—Public Health Insurance

- Sec. 111. Optional Medicaid coverage of low-income HIV-infected individuals.
- Sec. 112. Expanded definition of spouse for purposes of the Medicare program.
- Sec. 113. Ending the Medicare Disability Waiting Period Act.
- Sec. 114. Including costs incurred by AIDS drug assistance programs in providing prescription drugs toward the annual out-of-pocket threshold under Medicare part D.
- Sec. 115. Nondiscrimination based on gender identity or sexual orientation under the Medicaid, Medicare, and CHIP programs.

Subtitle C—Miscellaneous

- Sec. 121. Health Promotion Grants.
- Sec. 122. Mental Health Promotion Grants.
- Sec. 123. Health Insurance Coverage Grants.

TITLE II—CULTURAL COMPETENCY AND WORKFORCE

- Sec. 201. Amendment to the Public Health Service Act.
- Sec. 202. Definitions.
- Sec. 203. Federal reimbursement for culturally competent services under the Medicare, Medicaid, and Children’s Health Insurance Programs.
- Sec. 204. Report on Federal efforts to provide culturally competent health care services to sexual and gender minorities.

TITLE III—RESEARCH AND DATA COLLECTION

- Sec. 301. No compelled disclosure of data.
- Sec. 302. Federal collection of data on sexual and gender minorities.
- Sec. 303. Inclusion of sexual orientation and gender identity in federally funded health surveys.
- Sec. 304. Research on sexual and gender minority health.

TITLE IV—INFRASTRUCTURE AND CAPACITY BUILDING

Sec. 401. Office of LGBT Health.

Sec. 402. Community health centers.

TITLE V—OLDER AMERICANS SUPPORT PROGRAM

Sec. 501. Priority.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Nondiscrimination contingency for VAWA grant funds; Grant program for LGBT victims of violence.

Sec. 602. National Baseline Study on Domestic Violence and Sexual Assault in the LGBT Community.

Sec. 603. Assistance to reduce teen pregnancy, HIV/AIDS, and other sexually transmitted diseases and to support healthy adolescent development.

Sec. 604. Mother's and father's insurance benefits under Social Security for same-sex surviving parents.

Sec. 605. Prohibition against discrimination on the basis of sexual orientation or gender identity under the health benefits program for Federal employees.

Sec. 606. Prohibition against discrimination on the basis of sex, gender identity, or sexual orientation under certain laws providing health care and other benefits for members of the Armed Forces and Veterans.

1 **SEC. 3. DEFINITION.**

2 In this Act:

3 (1) Unless otherwise specified, the term “Sec-
4 retary” means the Secretary of Health and Human
5 Services.

6 (2) The terms “sexual or gender minority” and
7 “sexual and gender minority” mean a lesbian, gay,
8 bisexual, or transgender individual.

9 **SEC. 4. EFFECTIVE DATE.**

10 Unless otherwise specified, this Act and the amend-
11 ments made this Act shall take effect on the date that
12 is 30 days after the date of the enactment of this Act.

1 **TITLE I—HEALTH ACCESS AND**
2 **PROMOTION**
3 **Subtitle A—Private Health**
4 **Insurance**

5 **SEC. 101. TAX EQUITY FOR HEALTH PLAN BENEFICIARIES**
6 **ACT.**

7 (a) APPLICATION OF ACCIDENT AND HEALTH PLANS
8 TO ELIGIBLE BENEFICIARIES.—

9 (1) EXCLUSION OF CONTRIBUTIONS.—Section
10 106 of the Internal Revenue Code of 1986 (relating
11 to contributions by employer to accident and health
12 plans) is amended by adding at the end the following
13 new subsection:

14 “(f) COVERAGE PROVIDED FOR ELIGIBLE BENE-
15 FICIARIES OF EMPLOYEES.—

16 “(1) IN GENERAL.—Subsection (a) shall apply
17 with respect to an eligible beneficiary and any quali-
18 fying child who is a dependent of the eligible bene-
19 ficiary.

20 “(2) QUALIFYING CHILD; DEPENDENT.—For
21 purposes of this subsection—

22 “(A) QUALIFYING CHILD.—The term
23 ‘qualifying child’ has the meaning given such
24 term by section 152(c).

1 “(B) DEPENDENT.—The term ‘dependent’
2 has the meaning given such term by section
3 105(b).”.

4 (2) EXCLUSION OF AMOUNTS EXPENDED FOR
5 MEDICAL CARE.—The first sentence of section
6 105(b) of such Code (relating to amounts expended
7 for medical care) is amended by inserting before the
8 period the following: “and eligible beneficiary and
9 the qualifying children of the eligible beneficiary
10 (within the meaning of section 106(f)) with respect
11 to the taxpayer”.

12 (3) PAYROLL TAXES.—

13 (A) Section 3121(a)(2) of such Code is
14 amended—

15 (i) by inserting “, or his eligible bene-
16 ficiary or any qualifying children of the eli-
17 gible beneficiary,” after “his dependents”
18 both places it appears,

19 (ii) by inserting “, and eligible bene-
20 ficiaries and qualifying children of eligible
21 beneficiaries (within the meaning of section
22 106(f)),” after “their dependents” the first
23 place it appears, and

24 (iii) by inserting “, eligible bene-
25 ficiaries, and qualifying children of eligible

1 beneficiaries” after “their dependents” the
2 second place it appears.

3 (B) Section 3231(e)(1) of such Code is
4 amended—

5 (i) by inserting “, or his eligible bene-
6 ficiary or any qualifying children of his eli-
7 gible beneficiary,” after “his dependents”,

8 (ii) by inserting “, and eligible bene-
9 ficiaries and qualifying children of eligible
10 beneficiaries (within the meaning of section
11 106(f)),” after “their dependents” the first
12 place it appears, and

13 (iii) by inserting “, eligible bene-
14 ficiaries, and qualifying children of eligible
15 beneficiaries” after “their dependents” the
16 second place it appears.

17 (C) Section 3306(b)(2) of such Code is
18 amended—

19 (i) by inserting “, or his eligible bene-
20 ficiary or any qualifying children of his eli-
21 gible beneficiary,” after “his dependents”
22 both places it appears,

23 (ii) by inserting “, and eligible bene-
24 ficiaries and qualifying children of eligible
25 beneficiaries (within the meaning of section

1 106(f)),” after “their dependents” the first
2 place it appears, and

3 (iii) by inserting “, eligible bene-
4 ficiaries, and qualifying children of eligible
5 beneficiaries” after “their dependents” the
6 second place it appears.

7 (D) Section 3401(a) of such Code is
8 amended by striking “or” at the end of para-
9 graph (21), by striking the period at the end of
10 paragraph (22) and inserting “; or”, and by in-
11 serting after paragraph (22) the following new
12 paragraph:

13 “(23) for any payment made to or for the ben-
14 efit of an employee or his eligible beneficiary or any
15 qualifying children of his eligible beneficiary (within
16 the meaning of section 106(f)) if at the time of such
17 payment it is reasonable to believe that the employee
18 will be able to exclude such payment from income
19 under section 106(f) or under section 105 by ref-
20 erence in section 105(b) to section 106(f);”.

21 (4) EFFECTIVE DATE.—The amendments made
22 by this section shall apply to taxable years beginning
23 after December 31, 2009.

1 (b) EXPANSION OF DEPENDENCY FOR PURPOSES OF
 2 DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-
 3 EMPLOYED INDIVIDUALS.—

4 (1) IN GENERAL.—Subsection (l) of section 162
 5 of the Internal Revenue Code of 1986 (relating to
 6 special rules for health insurance costs of self-em-
 7 ployed individuals) is amended by adding at the end
 8 the following new paragraph:

9 “(6) DEPENDENTS.—For purposes of this sub-
 10 section, the term ‘dependents’ shall include the fol-
 11 lowing with respect to the taxpayer—

12 “(A) any individual who satisfies the re-
 13 quirements of sections 152(c)(3)(A) and
 14 152(d)(2)(H) (determined without regard to
 15 subsections (d)(1)(B) and (d)(1)(D) thereof),
 16 and

17 “(B) one individual who does not satisfy
 18 the requirements of section 152(c)(3)(A), but
 19 who satisfies the requirements of section
 20 152(d)(2)(H) (determined without regard to
 21 subsections (d)(1)(B) and (d)(1)(C) thereof).”.

22 (2) CONFORMING AMENDMENT.—Subparagraph
 23 (B) of section 162(l)(2) of such Code is amended by
 24 inserting “or dependent (as defined in paragraph
 25 (1))” after “spouse”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this section shall apply to taxable years beginning
3 after December 31, 2009.

4 (c) EXTENSION TO ELIGIBLE BENEFICIARIES OF
5 SICK AND ACCIDENT BENEFITS PROVIDED TO MEMBERS
6 OF A VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIA-
7 TION AND THEIR DEPENDENTS.—

8 (1) IN GENERAL.—Section 501(c)(9) of the In-
9 ternal Revenue Code of 1986 (relating to list of ex-
10 empt organizations) is amended by adding at the
11 end the following new sentence: “For purposes of
12 providing for the payment of sick and accident bene-
13 fits to members of such an association and their de-
14 pendents, the term ‘dependents’ shall include any in-
15 dividual who is an eligible beneficiary, or qualified
16 child of an eligible beneficiary, as determined under
17 the terms of a medical benefit, health insurance, or
18 other program under which members and their de-
19 pendents are entitled to sick and accident benefits.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by this section shall apply to taxable years beginning
22 after December 31, 2009.

23 (d) FLEXIBLE SPENDING ARRANGEMENTS AND
24 HEALTH REIMBURSEMENT ARRANGEMENTS.—The Sec-
25 retary of Treasury shall issue guidance of general applica-

1 bility providing that medical expenses that otherwise qual-
2 ify—

3 (1) for reimbursement from a flexible spending
4 arrangement under regulations in effect on the date
5 of the enactment of this Act may be reimbursed
6 from an employee’s flexible spending arrangement,
7 notwithstanding the fact that such expenses are at-
8 tributable to an individual who is the employee’s eli-
9 gible beneficiary under any accident or health plan
10 of the employer, and

11 (2) for reimbursement from a health reimburse-
12 ment arrangement under regulations in effect on the
13 date of the enactment of this Act may be reimbursed
14 from an employee’s health reimbursement arrange-
15 ment, notwithstanding the fact that such expenses
16 are attributable to an individual who is not a spouse
17 or dependent within the meaning of section 152 but
18 who is designated by the employee as eligible to have
19 his or her expenses reimbursed under the health re-
20 imbursement arrangement.

21 **SEC. 102. PREEXISTING CONDITION EXCLUSION PATIENT**
22 **PROTECTION.**

23 (a) AMENDMENTS RELATING TO PREEXISTING CON-
24 DITION EXCLUSIONS UNDER GROUP HEALTH PLANS.—

1 (1) AMENDMENTS TO THE EMPLOYEE RETIRE-
2 MENT INCOME SECURITY ACT OF 1974.—

3 (A) REDUCTION IN LOOK-BACK PERIOD.—

4 Section 701(a)(1) of the Employee Retirement
5 Income Security Act of 1974 (29 U.S.C.
6 1181(a)(1)) is amended by striking “6-month
7 period” and inserting “30-day period”.

8 (B) REDUCTION IN PERMITTED PRE-
9 EXISTING CONDITION LIMITATION PERIOD.—

10 Section 701(a)(2) of such Act (29 U.S.C.
11 1181(a)(2)) is amended by striking “12
12 months” and inserting “3 months”, and by
13 striking “18 months” and inserting “9
14 months”.

15 (2) AMENDMENTS TO THE PUBLIC HEALTH
16 SERVICE ACT.—

17 (A) REDUCTION IN LOOK-BACK PERIOD.—

18 Section 2701(a)(1) of the Public Health Service
19 Act (42 U.S.C. 300gg(a)(1)) is amended by
20 striking “6-month period” and inserting “30-
21 day period”.

22 (B) REDUCTION IN PERMITTED PRE-
23 EXISTING CONDITION LIMITATION PERIOD.—

24 Section 2701(a)(2) of such Act (42 U.S.C.
25 300gg(a)(2)) is amended by striking “12

1 months” and inserting “3 months”, and by
2 striking “18 months” and inserting “9
3 months”.

4 (3) AMENDMENTS TO THE INTERNAL REVENUE
5 CODE OF 1986.—

6 (A) REDUCTION IN LOOK-BACK PERIOD.—

7 Paragraph (1) of section 9801(a) of the Inter-
8 nal Revenue Code of 1986 (relating to limita-
9 tion on preexisting condition exclusion period
10 and crediting for periods of previous coverage)
11 is amended by striking “6-month period” and
12 inserting “30-day period”.

13 (B) REDUCTION IN PERMITTED PRE-
14 EXISTING CONDITION LIMITATION PERIOD.—

15 Paragraph (2) of section 9801(a) of such Code
16 is amended by striking “12 months” and insert-
17 ing “3 months”, and by striking “18 months”
18 and inserting “9 months”.

19 (4) EFFECTIVE DATE.—

20 (A) IN GENERAL.—Except as provided in
21 paragraph (2), the amendments made by this
22 subsection shall apply with respect to group
23 health plans for plan years beginning after the
24 end of the 12th calendar month following the
25 date of the enactment of this Act.

1 (B) SPECIAL RULE FOR COLLECTIVE BAR-
2 GAINING AGREEMENTS.—In the case of a group
3 health plan maintained pursuant to one or more
4 collective bargaining agreements between em-
5 ployee representatives and one or more employ-
6 ers ratified before the date of the enactment of
7 this Act, the amendments made by this sub-
8 section shall not apply to plan years beginning
9 before the earlier of—

10 (i) the date on which the last of the
11 collective bargaining agreements relating to
12 the plan terminates (determined without
13 regard to any extension thereof agreed to
14 after the date of the enactment of this
15 Act), or

16 (ii) 3 years after the date of the en-
17 actment of this Act.

18 For purposes of clause (i), any plan amendment
19 made pursuant to a collective bargaining agree-
20 ment relating to the plan which amends the
21 plan solely to conform to any requirement
22 added by the amendments made by this sub-
23 section shall not be treated as a termination of
24 such collective bargaining agreement.

1 (b) AMENDMENTS RELATING TO PREEXISTING CON-
 2 DITION EXCLUSIONS IN HEALTH INSURANCE COVERAGE
 3 IN THE INDIVIDUAL MARKET.—

4 (1) APPLICABILITY OF GROUP HEALTH INSUR-
 5 ANCE LIMITATIONS ON IMPOSITION OF PREEXISTING
 6 CONDITION EXCLUSIONS.—

7 (A) IN GENERAL.—Subpart 1 of part B of
 8 title XXVII of the Public Health Service Act
 9 (42 U.S.C. 300gg–41 et seq.) is amended by in-
 10 serting after section 2741 the following:

11 **“SEC. 2741A. APPLICATION OF GROUP HEALTH INSURANCE**
 12 **LIMITATIONS ON IMPOSITION OF PRE-**
 13 **EXISTING CONDITION EXCLUSIONS.**

14 “(a) IN GENERAL.—Subject to subsection (b), a
 15 health insurance issuer that provides individual health in-
 16 surance coverage may not impose a preexisting condition
 17 exclusion (as defined in subsection (b)(1)(A) of section
 18 2701) with respect to such coverage except to the extent
 19 that such exclusion could be imposed consistent with such
 20 section if such coverage were group health insurance cov-
 21 erage.

22 “(b) LIMITATION.—In the case of an individual
 23 who—

24 “(1) is enrolled in individual health insurance
 25 coverage;

1 “(2) during the period of such enrollment has
2 a condition for which no medical advice, diagnosis,
3 care, or treatment had been recommended or re-
4 ceived as of the enrollment date; and

5 “(3) seeks to enroll under other individual
6 health insurance coverage which provides benefits
7 different from those provided under the coverage re-
8 ferred to in paragraph (1) with respect to such con-
9 dition,

10 the issuer of the individual health insurance coverage de-
11 scribed in paragraph (2) may impose a preexisting condi-
12 tion exclusion with respect to such condition and any bene-
13 fits in addition to those provided under the coverage re-
14 ferred to in paragraph (1), but such exclusion may not
15 extend for a period of more than 3 months.

16 **“SEC. 2741B. ELIGIBILITY TO ENROLL.**

17 “(a) IN GENERAL.—Subject to subsection (d), an in-
18 dividual health plan, and a health insurance issuer offer-
19 ing health insurance in the individual market, may not de-
20 cline to offer coverage to, deny enrollment of, or establish
21 rules for eligibility (including continued eligibility) to en-
22 roll under the terms of the plan, an individual based on
23 any of the following health status-related factors in rela-
24 tion to the individual or a dependent of the individual:

25 “(1) Health status.

1 “(2) Medical condition (including both physical
2 and mental illnesses).

3 “(3) Claims experience.

4 “(4) Receipt of health care.

5 “(5) Medical history.

6 “(6) Genetic information.

7 “(7) Evidence of insurability (including condi-
8 tions arising out of acts of domestic violence).

9 “(8) Disability.

10 “(b) NO APPLICATION TO BENEFITS OR EXCLU-
11 SIONS.—To the extent consistent with section 2701, sub-
12 section (a) shall not be construed—

13 “(1) to require an individual health plan, or a
14 health insurance issuer offering health insurance on
15 the individual market, to provide particular benefits
16 other than those provided under the terms of such
17 plan or coverage; or

18 “(2) to prevent such a plan or coverage from
19 establishing limitations or restrictions on the
20 amount, level, extent, or nature of the benefits or
21 coverage for similarly situated individuals enrolled in
22 the plan or coverage.

23 “(c) RULES FOR ELIGIBILITY.—In subsection (a),
24 the term ‘rules for eligibility’, with respect to enrollment

1 under the terms of a plan, includes any rule defining any
2 applicable waiting period for such enrollment.

3 “(d) IN PREMIUM CONTRIBUTIONS.—

4 “(1) IN GENERAL.—An individual health plan,
5 and a health insurance issuer offering health insur-
6 ance on the individual market, may not require any
7 individual (as a condition of enrollment or continued
8 enrollment under the plan) to pay a premium or
9 contribution which is greater than such premium or
10 contribution for a similarly situated individual en-
11 rolled in the plan on the basis of any health status-
12 related factor in relation to the individual or to an
13 individual enrolled under the plan as a dependent of
14 the individual.

15 “(2) CONSTRUCTION.—Nothing in subsection
16 (a) shall be construed to prevent an individual
17 health plan, and a health insurance issuer offering
18 health insurance on the individual market from es-
19 tablishing premium discounts or rebates or modi-
20 fying otherwise applicable copayments or deductibles
21 in return for adherence to programs of health pro-
22 motion and disease prevention.”.

23 (B) ELIMINATION OF COBRA REQUIRE-
24 MENT.—Subsection (b) of section 2741 of the

1 Public Health Service Act (42 U.S.C. 300gg–
2 41) is amended—

3 (i) by adding “and” at the end of
4 paragraph (2);

5 (ii) by striking the semicolon at the
6 end of paragraph (3) and inserting a pe-
7 riod; and

8 (iii) by striking paragraphs (4) and
9 (5).

10 (2) EFFECTIVE DATE.—The amendments made
11 by this subsection shall apply with respect to health
12 insurance coverage offered, sold, issued, renewed, in
13 effect, or operated in the individual market after the
14 end of the 12th calendar month following the date
15 of the enactment of this Act.

16 **SEC. 103. DOMESTIC PARTNERSHIP BENEFITS AND OBLIGA-**
17 **TIONS ACT.**

18 (a) BENEFITS TO DOMESTIC PARTNERS OF FED-
19 ERAL EMPLOYEES.—

20 (1) IN GENERAL.—An employee who has a do-
21 mestic partner and the domestic partner of the em-
22 ployee shall be entitled to benefits available to, and
23 shall be subject to obligations imposed upon, a mar-
24 ried employee and the spouse of the employee.

1 (2) CERTIFICATION OF ELIGIBILITY.—In order
2 to obtain benefits and assume obligations under this
3 section, an employee shall file an affidavit of eligi-
4 bility for benefits and obligations with the Office of
5 Personnel Management identifying the domestic
6 partner of the employee and certifying that the em-
7 ployee and the domestic partner of the employee—

8 (A) are each other's sole domestic partner
9 and intend to remain so indefinitely;

10 (B) have a common residence, and intend
11 to continue the arrangement;

12 (C) are at least 18 years of age and men-
13 tally competent to consent to contract;

14 (D) share responsibility for a significant
15 measure of each other's common welfare and fi-
16 nancial obligations;

17 (E) are not married to or domestic part-
18 ners with anyone else;

19 (F) are same sex domestic partners, and
20 not related in a way that, if the 2 were of the
21 opposite sex, would prohibit legal marriage in
22 the State in which they reside; and

23 (G) understand that willful falsification of
24 information within the affidavit may lead to dis-
25 ciplinary action and the recovery of the cost of

benefits received related to such falsification and may constitute a criminal violation.

(3) DISSOLUTION OF PARTNERSHIP.—

(A) IN GENERAL.—An employee or domestic partner of an employee who obtains benefits under this section shall file a statement of dissolution of the domestic partnership with the Office of Personnel Management not later than 30 days after the death of the employee or the domestic partner or the date of dissolution of the domestic partnership.

(B) DEATH OF EMPLOYEE.—In a case in which an employee dies, the domestic partner of the employee at the time of death shall receive under this section such benefits as would be received by the widow or widower of an employee.

(C) OTHER DISSOLUTION OF PARTNERSHIP.—

(i) IN GENERAL.—In a case in which a domestic partnership dissolves by a method other than death of the employee or domestic partner of the employee, any benefits received by the domestic partner as a result of this section shall terminate.

1 (ii) EXCEPTION.—In a case in which
2 a domestic partnership dissolves by a
3 method other than death of the employee
4 or domestic partner of the employee, the
5 former domestic partner of the employee
6 shall be entitled to benefits available to,
7 and shall be subject to obligations imposed
8 upon, a former spouse.

9 (4) STEPCHILDREN.—For purposes of affording
10 benefits under this section, any natural or adopted
11 child of a domestic partner of an employee shall be
12 deemed a stepchild of the employee.

13 (5) CONFIDENTIALITY.—Any information sub-
14 mitted to the Office of Personnel Management under
15 paragraph (2) shall be used solely for the purpose of
16 certifying an individual's eligibility for benefits
17 under paragraph (1).

18 (6) REGULATIONS AND ORDERS.—

19 (A) OFFICE OF PERSONNEL MANAGE-
20 MENT.—Not later than 6 months after the date
21 of enactment of this Act, the Office of Per-
22 sonnel Management shall promulgate regula-
23 tions to implement paragraphs (2) and (3).

24 (B) OTHER EXECUTIVE BRANCH REGULA-
25 TIONS.—Not later than 6 months after the date

1 of enactment of this Act, the President or des-
2 ignees of the President shall promulgate regula-
3 tions to implement this section with respect to
4 benefits and obligations administered by agen-
5 cies or other entities of the executive branch.

6 (C) OTHER REGULATIONS AND ORDERS.—

7 Not later than 6 months after the date of en-
8 actment of this Act, each agency or other entity
9 or official not within the executive branch that
10 administers a program providing benefits or im-
11 posing obligations shall promulgate regulations
12 or orders to implement this section with respect
13 to the program.

14 (D) PROCEDURE.—Regulations and orders

15 required under this paragraph shall be promul-
16 gated after notice to interested persons and an
17 opportunity for comment.

18 (7) DEFINITIONS.—In this section:

19 (A) BENEFITS.—The term “benefits”
20 means—

21 (i) health insurance and enhanced
22 dental and vision benefits, as provided
23 under chapters 89, 89A, and 89B of title
24 5, United States Code;

1 (ii) retirement and disability benefits
2 and plans, as provided under—

3 (I) chapters 83 and 84 of title 5,
4 United States Code;

5 (II) chapter 8 of the Foreign
6 Service Act of 1980 (22 U.S.C. 4041
7 et seq.); and

8 (III) the Central Intelligence
9 Agency Retirement Act of 1964 for
10 Certain Employees (50 U.S.C. chapter
11 38);

12 (iii) family, medical, and emergency
13 leave, as provided under—

14 (I) subchapters III, IV, and V of
15 chapter 63 of title 5, United States
16 Code;

17 (II) the Family and Medical
18 Leave Act of 1993 (29 U.S.C. 2601 et
19 seq.), insofar as that Act applies to
20 the Government Accountability Office
21 and the Library of Congress;

22 (III) section 202 of the Congres-
23 sional Accountability Act of 1995 (2
24 U.S.C. 1312); and

1 (IV) section 412 of title 3,
2 United States Code;

3 (iv) Federal group life insurance, as
4 provided under chapter 87 of title 5,
5 United States Code;

6 (v) long-term care insurance, as pro-
7 vided under chapter 90 of title 5, United
8 States Code;

9 (vi) compensation for work injuries, as
10 provided under chapter 81 of title 5,
11 United States Code;

12 (vii) benefits for disability, death, or
13 captivity, as provided under—

14 (I) sections 5569 and 5570 of
15 title 5, United States Code;

16 (II) section 413 of the Foreign
17 Service Act of 1980 (22 U.S.C. 3973);

18 (III) part L of title I of the Om-
19 nibus Crime Control and Safe Streets
20 Act of 1968 (42 U.S.C. 3796 et seq.),
21 insofar as that part applies to any
22 employee; and

23 (viii) travel, transportation, and re-
24 lated payments and benefits, as provided
25 under—

1 (I) chapter 57 of title 5, United
2 States Code;

3 (II) chapter 9 of the Foreign
4 Service Act of 1980 (22 U.S.C. 4081
5 et seq.); and

6 (III) section 1599b of title 10,
7 United States Code; and

8 (ix) any other benefit similar to a ben-
9 efit described under clauses (i) through
10 (viii) provided by or on behalf of the
11 United States to any employee.

12 (B) DOMESTIC PARTNER.—The term “do-
13 mestic partner” means an adult unmarried per-
14 son living with another adult unmarried person
15 of the same sex in a committed, intimate rela-
16 tionship.

17 (C) EMPLOYEE.—The term “employee”—

18 (i) means an officer or employee of
19 the United States or of any department,
20 agency, or other entity of the United
21 States, including the President, the Vice
22 President, a Member of Congress, or a
23 Federal judge; and

24 (ii) shall not include a member of the
25 uniformed services.

1 (D) OBLIGATIONS.—The term “obliga-
 2 tions” means any duties or responsibilities with
 3 respect to Federal employment that would be
 4 incurred by a married employee or by the
 5 spouse of an employee.

6 (E) UNIFORMED SERVICES.—The term
 7 “uniformed services” has the meaning given
 8 under section 2101(3) of title 5, United States
 9 Code.

10 (b) EFFECTIVE DATE.—This section and the amend-
 11 ments made by this section shall—

12 (1) with respect to the provision of benefits and
 13 obligations, take effect 6 months after the date of
 14 enactment of this Act; and

15 (2) apply to any individual who is employed as
 16 an employee on or after the date of enactment of
 17 this Act.

18 **Subtitle B—Public Health** 19 **Insurance**

20 **SEC. 111. OPTIONAL MEDICAID COVERAGE OF LOW-INCOME** 21 **HIV-INFECTED INDIVIDUALS.**

22 (a) IN GENERAL.—Section 1902 of the Social Secu-
 23 rity Act (42 U.S.C. 1396a), as amended by section
 24 5006(b)(1) of division B of Public Law 11–5, is amend-
 25 ed—

1 (1) in subsection (a)(10)(A)(ii)—

2 (A) by striking “or” at the end of sub-
3 clause (XVIII);

4 (B) by adding “or” at the end of subclause
5 (XIX); and

6 (C) by adding at the end the following:

7 “(XX) who are described in subsection (gg) (re-
8 lating to HIV-infected individuals);”; and

9 (2) by adding at the end the following:

10 “(gg) HIV-infected individuals described in this sub-
11 section are individuals not described in subsection
12 (a)(10)(A)(i)—

13 “(1) who are infected with HIV;

14 “(2) whose income (as determined under the
15 State plan under this title with respect to disabled
16 individuals) does not exceed the maximum amount
17 of income a disabled individual described in sub-
18 section (a)(10)(A)(i) may have to obtain medical as-
19 sistance under the plan; and

20 “(3) whose resources (as determined under the
21 State plan under this title with respect to disabled
22 individuals) do not exceed the maximum amount of
23 resources a disabled individual described in sub-
24 section (a)(10)(A)(i) may have to obtain medical as-
25 sistance under the plan.”.

1 (b) ENHANCED MATCH.—The first sentence of sec-
 2 tion 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended
 3 by striking “section 1902(a)(10)(A)(ii)(XVIII)” and in-
 4 serting “subclause (XVIII) or (XX) of section
 5 1902(a)(10)(A)(ii)”.

6 (c) CONFORMING AMENDMENTS.—Section 1905(a) of
 7 such Act (42 U.S.C. 1396d(a)) is amended, in the matter
 8 preceding paragraph (1)—

9 (1) by striking “or” at the end of clause (xii);

10 (2) by adding “or” at the end of clause (xiii);

11 and

12 (3) by inserting after clause (xiii) the following:

13 “(xiv) individuals described in section
 14 1902(gg);”.

15 (d) EXEMPTION FROM FUNDING LIMITATION FOR
 16 TERRITORIES.—Section 1108(g) of the Social Security
 17 Act (42 U.S.C. 1308(g)) is amended by adding at the end
 18 the following:

19 “(5) DISREGARDING MEDICAL ASSISTANCE FOR
 20 OPTIONAL LOW-INCOME HIV-INFECTED INDIVID-
 21 UALS.—The limitations under subsection (f) and this
 22 subsection shall not apply to amounts expended for
 23 medical assistance for individuals described in sec-
 24 tion 1902(gg) who are only eligible for such assist-

1 ance on the basis of section
2 1902(a)(10)(A)(ii)(XX).”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to calendar quarters beginning on
5 or after the date of the enactment of this Act, without
6 regard to whether or not final regulations to carry out
7 such amendments have been promulgated by such date.

8 **SEC. 112. EXPANDED DEFINITION OF SPOUSE FOR PUR-**
9 **POSES OF THE MEDICARE PROGRAM.**

10 Section 1101(a) of the Social Security Act (42 U.S.C.
11 1301a)) is amended by adding at the end the following:

12 “(11) Notwithstanding section 7 of title 1,
13 United States Code, for purposes title XVIII of this
14 Act—

15 “(A) the term ‘spouse’ means an individual
16 in a relationship that any State recognizes as a
17 marriage or similar union under the laws of a
18 State providing for such marriage or similar
19 union; and

20 “(B) the term ‘married’ means in a rela-
21 tionship that any State recognizes as a mar-
22 riage or similar union under the laws of a State
23 providing for such marriage or similar union.”.

1 **SEC. 113. ENDING THE MEDICARE DISABILITY WAITING PE-**
2 **RIOD ACT.**

3 (a) PHASE-OUT OF WAITING PERIOD FOR MEDICARE
4 DISABILITY BENEFITS.—

5 (1) IN GENERAL.—Section 226(b) of the Social
6 Security Act (42 U.S.C. 426(b)) is amended—

7 (A) in paragraph (2)(A), by striking “, and
8 has for 24 calendar months been entitled to,”
9 and inserting “, and for the waiting period (as
10 defined in subsection (k)) has been entitled
11 to,”;

12 (B) in paragraph (2)(B), by striking “,
13 and has been for not less than 24 months,” and
14 inserting “, and has been for not less than the
15 waiting period,”;

16 (C) in paragraph (2)(C)(ii), by striking “,
17 including the requirement that he has been en-
18 titled to the specified benefits for 24 months,”
19 and inserting “, including the requirement that
20 the individual has been entitled to the specified
21 benefits for the waiting period,”; and

22 (D) in the flush matter following para-
23 graph (2)(C)(ii)(II)—

24 (i) in the first sentence, by striking
25 “for each month beginning with the later
26 of (I) July 1973 or (II) the twenty-fifth

1 month of his entitlement or status as a
 2 qualified railroad retirement beneficiary
 3 described in paragraph (2), and” and in-
 4 serting “for each month beginning after
 5 the waiting period for which the individual
 6 satisfies paragraph (2) and”;

7 (ii) in the second sentence, by striking
 8 “the ‘twenty-fifth month of his entitlement’
 9 refers to the first month after the twenty-
 10 fourth month of entitlement to specified
 11 benefits referred to in paragraph (2)(C)
 12 and”; and

13 (iii) in the third sentence, by striking
 14 “, but not in excess of 78 such months”.

15 (2) SCHEDULE FOR PHASE-OUT OF WAITING
 16 PERIOD.—Section 226 of the such Act (42 U.S.C.
 17 426) is amended by adding at the end the following
 18 new subsection:

19 “(k) For purposes of subsection (b) (and for purposes
 20 of section 1837(g)(1) of this Act and section 7(d)(2)(ii)
 21 of the Railroad Retirement Act of 1974), the term ‘waiting
 22 period’ means—

23 “(1) for 2010, 18 months;

24 “(2) for 2011, 16 months;

25 “(3) for 2012, 14 months;

1 “(4) for 2013, 12 months;
 2 “(5) for 2014, 10 months;
 3 “(6) for 2015, 8 months;
 4 “(7) for 2016, 6 months;
 5 “(8) for 2017, 4 months;
 6 “(9) for 2018, 2 months; and
 7 “(10) for 2019 and each subsequent year, 0
 8 months.”.

9 (3) CONFORMING AMENDMENTS.—

10 (A) SUNSET.—Effective January 1, 2019,
 11 subsection (f) of section 226 of the Social Secu-
 12 rity Act (42 U.S.C. 426) is repealed.

13 (B) MEDICARE DESCRIPTION.—Section
 14 1811(2) of such Act (42 U.S.C. 1395c(2)) is
 15 amended by striking “entitled for not less than
 16 24 months” and inserting “entitled for the
 17 waiting period (as defined in section 226(k))”.

18 (C) MEDICARE PART B COVERAGE.—Sec-
 19 tion 1837(g)(1) of such Act (42 U.S.C.
 20 1395p(g)(1)) is amended by striking “of the
 21 later of (A) April 1973 or (B) the third month
 22 before the 25th month of such entitlement” and
 23 inserting “of the third month before the first
 24 month following the waiting period (as defined

1 in section 226(k)) applicable under section
2 226(b)”).

3 (D) RAILROAD RETIREMENT SYSTEM.—
4 Section 7(d)(2)(ii) of the Railroad Retirement
5 Act of 1974 (45 U.S.C. 231f(d)(2)(ii)) is
6 amended—

7 (i) by striking “, for not less than 24
8 months” and inserting “, for the waiting
9 period (as defined in section 226(k) of the
10 Social Security Act)”; and

11 (ii) by striking “could have been enti-
12 tled for 24 calendar months, and” and in-
13 serting “could have been entitled for the
14 waiting period (as defined in section
15 226(k) of the Social Security Act), and”.

16 (4) EFFECTIVE DATE.—Except as provided in
17 paragraph (3)(A), the amendments made by this
18 subsection shall apply with respect to items and
19 services furnished under title XVIII of the Social Se-
20 curity Act on or after the first day of first month
21 beginning more than 90 days after the date of the
22 enactment of this Act.

23 (b) INSTITUTE OF MEDICINE STUDY AND REPORT
24 ON DELAY AND PREVENTION OF DISABILITY CONDI-
25 TIONS.—

1 (1) STUDY.—The Secretary shall request that
 2 the Institute of Medicine of the National Academy
 3 of Sciences conduct a study on the range of dis-
 4 ability conditions that can be delayed or prevented
 5 if individuals receive access to health care services
 6 and coverage before the condition reaches a level
 7 that results in a disability.

8 (2) REPORT.—Not later than the date that is
 9 2 years after the date of enactment of this Act, the
 10 Secretary shall submit to the Congress a report con-
 11 taining the results of the Institute of Medicine study
 12 authorized under this subsection.

13 (3) AUTHORIZATION OF APPROPRIATIONS.—
 14 There is authorized to be appropriated to carry out
 15 this subsection \$750,000 for the period of fiscal
 16 years 2010 and 2011.

17 **SEC. 114. INCLUDING COSTS INCURRED BY AIDS DRUG AS-**
 18 **SISTANCE PROGRAMS IN PROVIDING PRE-**
 19 **SCRIPTION DRUGS TOWARD THE ANNUAL**
 20 **OUT-OF-POCKET THRESHOLD UNDER MEDI-**
 21 **CARE PART D.**

22 (a) IN GENERAL.—Section 1860D–2(b)(4)(C) of the
 23 Social Security Act (42 U.S.C. 1395w–102(b)(4)(C)) is
 24 amended—

25 (1) in clause (i), by striking “and” at the end;

1 (2) in clause (ii)—

2 (A) by inserting “subject to clause (iii),”
3 after “(ii)”;

4 (B) by striking “, under section 1860D–
5 14, or under a State Pharmaceutical Assistance
6 Program”; and

7 (C) by striking the period at the end and
8 inserting “; and”; and

9 (3) by inserting after clause (ii) the following
10 new clause:

11 “(iii) such costs shall be treated as in-
12 curred and shall not be considered to be
13 reimbursed under clause (ii) if such costs
14 are borne or paid—

15 “(I) under section 1860D–14;

16 “(II) under a State Pharma-
17 ceutical Assistance Program; or

18 “(III) under an AIDS Drug As-
19 sistance Program under part B of
20 title XXVI of the Public Health Serv-
21 ice Act.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall apply to costs incurred on or after
24 January 1, 2010.

1 **SEC. 115. NONDISCRIMINATION BASED ON GENDER IDEN-**
2 **TITY OR SEXUAL ORIENTATION UNDER THE**
3 **MEDICAID, MEDICARE, AND CHIP PROGRAMS.**

4 (a) MEDICAID.—

5 (1) Section 1902(a) of the Social Security Act
6 is amended by—

7 (A) striking the “and” at the end of para-
8 graph (72);

9 (B) striking the period at the end of para-
10 graph (73)(B) and inserting “; and”;

11 (C) inserting after paragraph (73) the fol-
12 lowing new paragraph:

13 “(74) provide that the State shall not discrimi-
14 nate against any person on the basis of sexual ori-
15 entation or gender identity.”; and

16 (D) adding at the end the following undes-
17 ignated paragraph:

18 “For the purposes of paragraph (74) ‘sexual
19 orientation’ shall mean homosexuality, hetero-
20 sexuality, or bisexuality. ‘Gender identity’ shall mean
21 the gender-related identity, appearance, or manner-
22 isms, or other gender-related characteristics of an
23 individual, with or without regard to the individual’s
24 designated sex at birth.”.

1 (2) Section 1916 of the Social Security Act is
2 amended by adding at the end the following new
3 subsection:

4 “(k) NO DISCRIMINATION ON PREMIUMS OR COST
5 SHARING.—The State shall provide that in the case of all
6 individuals described in section 1902(a) who are eligible
7 under the plan—

8 “(1) there may be imposed no enrollment fee,
9 premium, similar charge on the basis of sexual ori-
10 entation or gender identity as defined in such sec-
11 tion; and

12 “(2) there may be imposed no deduction, cost
13 sharing, or similar charge on the basis of sexual ori-
14 entation or gender identity as defined in such sec-
15 tion.”.

16 (b) STATE CHILDREN’S HEALTH INSURANCE PRO-
17 GRAM.—Section 2102 of the Social Security Act is amend-
18 ed by adding at the end the following subsection: “(d).”

19 “(d) NO DISCRIMINATION IN STATE CHILD HEALTH
20 PLANS.—A State child health plan may not discriminate
21 on the basis sexual orientation or gender identity as de-
22 fined in section 1902.”.

23 (c) MEDICARE.—Title XVIII of the Social Security
24 Act is amended by—

25 (1) adding at the end the following:

1 **“SEC. 1899. NONDISCRIMINATION BASED ON GENDER IDEN-**
 2 **TITY OR SEXUAL ORIENTATION.**

3 “(a) **CONDITION OF PARTICIPATION.**—As a condition
 4 of participation as a provider of services or supplier under
 5 section 1866(a)(1) or 1842(h), respectively, the provider
 6 or supplier may not discriminate on the basis of sex, gen-
 7 der identity, or sexual orientation of a beneficiary in the
 8 provision of items or services for which payment may be
 9 made under this title.

10 “(b) **COVERAGE DETERMINATIONS.**—The Secretary
 11 may not discriminate on the basis of the sex, gender iden-
 12 tity, or sexual orientation in fulfillment of his duties under
 13 this Act.

14 “(c) **REGULATIONS.**—The Secretary shall promulgate
 15 regulations to implement this section.”.

16 **Subtitle C—Miscellaneous**

17 **SEC. 121. HEALTH PROMOTION GRANTS.**

18 (a) **DEMONSTRATION PROJECTS.**—The Secretary, in
 19 collaboration with the Deputy Assistant Secretary for
 20 LGBT Health, shall award multiyear contracts or com-
 21 petitive grants to eligible entities to support demonstration
 22 projects designed to improve the health and health care
 23 of sexual or gender minorities through improved access to
 24 health care, patient navigators, primary prevention activi-
 25 ties, health promotion and disease prevention activities,
 26 and health literacy education and services.

1 (b) ELIGIBILITY.—In this section:

2 (1) ELIGIBLE ENTITY.—The term “eligible enti-
3 ty” means a qualified organization or a community-
4 based consortium.

5 (2) QUALIFIED ORGANIZATION.—The term
6 “qualified organization” means—

7 (A) a hospital, health plan, or clinic;

8 (B) an academic institution;

9 (C) a State health agency;

10 (D) an Indian Health Service hospital or
11 clinic, Indian tribal health facility, or urban In-
12 dian facility;

13 (E) a nonprofit organization, including a
14 faith-based organization or consortium, to the
15 extent that a contract or grant awarded to such
16 an entity is consistent with the requirements of
17 section 1955 of the Public Health Service Act
18 (42 U.S.C. 300x–65);

19 (F) a primary care practice-based research
20 network;

21 (G) long-term care facilities, including
22 nursing homes and assisted living facilities; or

23 (H) any other similar entity determined to
24 be appropriate by the Secretary.

1 (3) COMMUNITY-BASED CONSORTIUM.—The
2 term “community-based consortium” means a part-
3 nership that—

4 (A) includes—

5 (i) individuals who are representatives
6 of organizations of sexual and gender mi-
7 norities;

8 (ii) community leaders and leaders of
9 community-based organizations;

10 (iii) health care providers, including
11 providers who treat sexual and gender mi-
12 norities; and

13 (iv) experts in the area of social and
14 behavioral science, who have knowledge,
15 training, or practical experience in health
16 policy, advocacy, cultural competency, or
17 other relevant areas as determined by the
18 Secretary; and

19 (B) is located within an area with a signifi-
20 cant population of sexual and gender minorities.

21 (c) USE OF FUNDS.—An eligible entity shall use
22 amounts received under this section for demonstration
23 projects to—

24 (1) address health disparities affecting sexual
25 and gender minorities in the areas of—

- 1 (A) primary care and preventive health, in-
- 2 cluding health education and promotion;
- 3 (B) behavioral and mental health and sub-
- 4 stance abuse;
- 5 (C) health services research;
- 6 (D) demographics and data collection; and
- 7 (E) other areas determined appropriate by
- 8 the Secretary;
- 9 (2) identify, educate, and enroll into clinical
- 10 trials and comparative effectiveness research eligible
- 11 patients from sexual or gender minority groups;
- 12 (3) educate, guide, and provide outreach in a
- 13 community setting regarding health problems preva-
- 14 lent among sexual or gender minority populations,
- 15 including—
- 16 (A) HIV in high-risk subpopulations, in-
- 17 cluding—
- 18 (i) transgender populations;
- 19 (ii) sex workers; and
- 20 (iii) people of color;
- 21 (B) cancers;
- 22 (C) school violence;
- 23 (D) emerging drugs; and
- 24 (E) suicide prevention;

1 (4) educate, guide, and provide experiential
2 learning opportunities to sexual and gender minori-
3 ties targeting behavioral risk factors including—

4 (A) poor nutrition;

5 (B) physical inactivity;

6 (C) being overweight or obese;

7 (D) tobacco use;

8 (E) alcohol and substance use;

9 (F) injury and violence;

10 (G) high-risk sexual behavior; and

11 (H) mental health problems;

12 (5) educate and provide guidance to sexual and
13 gender minorities regarding effective strategies to
14 promote positive health behaviors within the commu-
15 nity; or

16 (6) educate and refer sexual and gender minori-
17 ties to appropriate health care agencies and commu-
18 nity-based programs and organizations in order to
19 increase access to high-quality health care services,
20 including preventive health services.

21 (d) REPORT TO CONGRESS.—

22 (1) IN GENERAL.—Not later than 4 years after
23 the date on which the Secretary first awards grants
24 under subsection (a), the Secretary shall submit to
25 the Congress a report regarding such grants.

1 (2) CONTENTS.—The report required under
2 paragraph (1) shall include the following:

3 (A) A description of the programs for
4 which grant funds were used.

5 (B) The number of individuals served
6 under such programs.

7 (C) An evaluation of—
8 (i) the effectiveness of such programs;
9 (ii) the cost of such programs; and
10 (iii) the impact of such programs on
11 the health outcomes of the community resi-
12 dents.

13 (D) Recommendations for improving the
14 health and health care of sexual and gender mi-
15 norities.

16 (E) A description of how the Secretary will
17 continue to work to improve the use of grant
18 funds under this section.

19 **SEC. 122. MENTAL HEALTH PROMOTION GRANTS.**

20 (a) DEMONSTRATION PROJECTS.—The Secretary, in
21 collaboration with the Deputy Assistant Secretary for
22 LGBT Health and the Administrator of the Substance
23 Abuse and Mental Health Services Administration, shall
24 award multiyear contracts or competitive grants to eligible
25 entities to support demonstration projects designed to im-

1 prove the mental health of sexual and gender minorities
2 through improved access to health care, primary preven-
3 tion activities, health promotion and prevention activities,
4 and education and services.

5 (b) ELIGIBILITY.—In this section:

6 (1) ELIGIBLE ENTITY.—The term “eligible enti-
7 ty” means a qualified organization or a community-
8 based consortium.

9 (2) QUALIFIED ORGANIZATION.—The term
10 “qualified organization” means—

11 (A) a hospital, health plan, or clinic;

12 (B) an academic institution;

13 (C) a State health agency;

14 (D) an Indian Health Service hospital or
15 clinic, Indian tribal health facility, or urban In-
16 dian facility;

17 (E) a nonprofit organization, including a
18 faith-based organization or consortium, to the
19 extent that a contract or grant awarded to such
20 an entity is consistent with the requirements of
21 section 1955 of the Public Health Service Act
22 (42 U.S.C. 300x–65);

23 (F) a certified mental health treatment
24 center;

1 (G) a long-term care facility, including a
2 nursing home or assisted living facility; and

3 (H) any other similar entity determined to
4 be appropriate by the Secretary.

5 (3) COMMUNITY-BASED CONSORTIUM.—The
6 term “community-based consortium” means a part-
7 nership that—

8 (A) includes—

9 (i) individuals who are representatives
10 of organizations of sexual or gender mi-
11 norities;

12 (ii) community leaders and leaders of
13 community-based organizations;

14 (iii) mental health care providers, in-
15 cluding providers who treat sexual or gen-
16 der minorities; and

17 (iv) experts in the area of social and
18 behavioral science, who have knowledge,
19 training, or practical experience in health
20 policy, advocacy, cultural competency, or
21 other relevant areas as determined by the
22 Secretary; and

23 (B) is located within an area with a signifi-
24 cant population of sexual or gender minorities.

1 (c) USE OF FUNDS.—An eligible entity shall use
2 amounts received under this section for demonstration
3 projects to—

4 (1) address health disparities in the areas of be-
5 havioral and mental health and substance abuse;

6 (2) educate, guide, and provide outreach in a
7 community setting regarding mental health problems
8 prevalent among sexual or gender minority popu-
9 lations;

10 (3) educate, guide, and provide experiential
11 learning opportunities that target behavioral risk
12 factors including—

13 (A) alcohol and substance use;

14 (B) high-risk sexual behavior; and

15 (C) mental health problems;

16 (4) develop or adapt curricula and interventions
17 to address major mental health issues in the sexual
18 and gender minority community, including—

19 (A) school violence;

20 (B) emerging drugs;

21 (C) suicide; and

22 (D) family acceptance of lesbian, gay, bi-
23 sexual, and transgender youth;

24 (5) educate and provide guidance regarding ef-
25 fective strategies to promote positive health behav-

1 iors within the community, including the promotion
2 of resiliency and wellness strategies;

3 (6) educate and refer sexual and gender minori-
4 ties to appropriate agencies and community-based
5 programs and organizations in order to increase ac-
6 cess to high-quality mental health services, including
7 preventive mental health services; or

8 (7) provide mental health counseling and edu-
9 cation for families to promote acceptance of lesbian,
10 gay, bisexual, and transgender youth, which may in-
11 clude the creation and distribution of support-fo-
12 cused resource guides.

13 (d) REPORT TO CONGRESS.—

14 (1) IN GENERAL.—Not later than 4 years after
15 the date on which the Secretary first awards grants
16 under subsection (a), the Secretary shall submit to
17 the Congress a report regarding such grants.

18 (2) CONTENTS.—The report required under
19 paragraph (1) shall include the following:

20 (A) A description of the programs for
21 which grant funds were used.

22 (B) The number of individuals served
23 under such programs.

24 (C) An evaluation of—

25 (i) the effectiveness of such programs;

- 1 (ii) the cost of such programs; and
- 2 (iii) the impact of the programs on
- 3 the health outcomes of the community resi-
- 4 dents.

5 (D) Recommendations for improving the

6 mental health and mental health care of sexual

7 and gender minorities.

8 **SEC. 123. HEALTH INSURANCE COVERAGE GRANTS.**

9 (a) IN GENERAL.—The Secretary, in collaboration

10 with the Deputy Assistant Secretary for LGBT Health,

11 the Director of the Centers for Disease Control and Pre-

12 vention and other Federal officials determined appropriate

13 by the Secretary, may award grants to State or local gov-

14 ernments, Indian tribes (including Alaska Native villages),

15 tribal organizations, and urban Indian organizations to

16 support projects designed to improve the health and health

17 care of sexual and gender minorities through improved ac-

18 cess to health care through expanded health insurance.

19 (b) APPLICATION.—An eligible entity seeking a grant

20 under this section shall submit an application to the Sec-

21 retary at such time, in such manner, and containing such

22 information as the Secretary may require, including assur-

23 ances that the eligible entity will—

- 24 (1) target individuals who are members of sex-
- 25 ual or gender minority groups that experience health

1 disparities through specific outreach activities fund-
2 ed through the grant;

3 (2) collaborate with appropriate community or-
4 ganizations and include meaningful community par-
5 ticipation in planning, implementation, and evalua-
6 tion of activities;

7 (3) demonstrate capacity to enroll individuals
8 currently without health coverage into public or pri-
9 vate health insurance plans that meet their treat-
10 ment and care needs;

11 (4) set appropriate and measurable goals for
12 health insurance enrollment of sexual and gender
13 minorities;

14 (5) provide ongoing outreach and education to
15 the populations targeted under paragraph (1);

16 (6) demonstrate coordination between public
17 and private entities for purposes of assisting public
18 entities in leveraging private funds to improve the
19 health and health care of sexual and gender minori-
20 ties;

21 (7) assist individuals and groups in accessing
22 public and private programs that will help eliminate
23 disparities in health and health care for sexual and
24 gender minorities;

1 (8) develop a plan for long-term sustainability
2 for the activities funded through the grant; and

3 (9) evaluate the effectiveness of activities under
4 this section, within an appropriate time frame, which
5 shall include a focus on quality and outcomes per-
6 formance measures to ensure that the activities are
7 meeting the intended goals, and that the entity is
8 able to disseminate findings from such evaluations.

9 (c) PRIORITIES.—

10 (1) IN GENERAL.—In awarding contracts and
11 grants under this section, the Secretary shall give
12 priority to applicants that meet the criteria under
13 paragraph (2) and are—

14 (A) safety net hospitals, defined as hos-
15 pitals with a low-income utilization rate greater
16 than 25 percent (as defined in section
17 1923(b)(3) of the Social Security Act (42
18 U.S.C. 1396r-4(b)(3)));

19 (B) a federally qualified health center as
20 defined in section 1905(l)(2)(B) of the Social
21 Security Act with the ability to establish and
22 lead a collaborative partnership;

23 (C) a community-based consortium;

24 (D) safety net health plans that work in
25 coordination with local health centers;

1 (E) an Indian tribe, tribal organization, or
2 urban Indian organization; or

3 (F) other health systems.

4 (2) ADDITIONAL CRITERIA.—For purposes of
5 paragraph (1), the criteria under this paragraph is
6 that the applicant—

7 (A) by legal mandate or explicitly adopted
8 mission, provide patients with access to services
9 regardless of their ability to pay;

10 (B) provide care or treatment for a sub-
11 stantial number of patients who are uninsured,
12 are receiving assistance under a State program
13 under title XIX of the Social Security Act, or
14 are members of vulnerable populations, as de-
15 termined by the Secretary;

16 (C) serve a disproportionate percentage of
17 patients who are sexual or gender minorities;
18 and

19 (D) provide an assurance that amounts re-
20 ceived under the grant or contract will be used
21 to support quality improvement activities for
22 patients from sexual and gender minority
23 groups.

1 (d) USE OF FUNDS.—An eligible entity shall use such
2 amounts received under this section for demonstration
3 projects to—

4 (1) address health disparities in the areas of
5 health insurance coverage; and

6 (2) evaluate methods for strengthening the
7 health coverage and continuity of coverage of sexual
8 and gender minority populations, including—

9 (A) targeting enrollment of uninsured sex-
10 ual and gender minority populations into title
11 XIX of the Social Security Act; and

12 (B) assessing eligibility for domestic part-
13 ner benefits.

14 (e) EVALUATION AND REPORT BY GRANTEE.—

15 (1) EVALUATION.—Any entity that receives a
16 grant under this section shall conduct an evaluation
17 of the activities conducted under such grant and the
18 impact of such activities on decreasing health dis-
19 parities for sexual and gender minorities.

20 (2) REPORT.—Not later than 3 years after the
21 date an entity receives a contract or grant under
22 this section and annually thereafter, the entity shall
23 provide to the Secretary a report containing the re-
24 sults of the evaluation conducted under paragraph
25 (1).

1 (f) REPORT AND PUBLIC ACCESS TO INFORMATION
 2 BY SECRETARY.—

3 (1) REPORT TO CONGRESS.—Beginning on or
 4 before the 60th day following the date that the first
 5 report is submitted under subsection (e), the Sec-
 6 retary shall submit a report to the Congress com-
 7 plying the results of evaluations under such sub-
 8 section and describing the overall impact of the
 9 grant program under this section.

10 (2) PUBLIC ACCESS.—The Secretary shall, as
 11 appropriate, provide the public with access to the re-
 12 port under paragraph (1) and the information con-
 13 tained in the reports under subsection (e)(2).

14 **TITLE II—CULTURAL**
 15 **COMPETENCY AND WORKFORCE**

16 **SEC. 201. AMENDMENT TO THE PUBLIC HEALTH SERVICE**
 17 **ACT.**

18 The Public Health Service Act (42 U.S.C. 201 et
 19 seq.) is amended by adding at the end the following:

20 **“TITLE XXXI—CULTURALLY**
 21 **COMPETENT HEALTH CARE**

22 **“SEC. 3100. DEFINITIONS.**

23 “In this title:

24 “(1) CULTURALLY COMPETENT.—The term
 25 ‘culturally competent care’, with respect to health

1 care or services for sexual and gender minorities,
 2 means health care or services that, at a minimum,
 3 do not include nonclinical or medically unsound
 4 judgments based on sex, sexual orientation, or gen-
 5 der identity and expression that affect the amount
 6 and kind of treatment received or that act as a bar-
 7 rier to an individual receiving timely and high-qual-
 8 ity care.

9 “(2) SEXUAL OR GENDER MINORITY.—The
 10 terms ‘sexual or gender minority’ and ‘sexual and
 11 gender minority’ mean a lesbian, gay, bisexual, or
 12 transgender individual.

13 “(3) STATE.—The term ‘State’ means each of
 14 the several states, the District of Columbia, the
 15 Commonwealth of Puerto Rico, the Indian tribes,
 16 the Virgin Islands, Guam, American Samoa, and the
 17 Commonwealth of the Northern Mariana Islands.

18 **“SEC. 3101. NATIONAL STANDARDS FOR CULTURALLY COM-**
 19 **PETENT SERVICES IN HEALTH CARE.**

20 “Recipients of Federal financial assistance from the
 21 Secretary shall, to the extent reasonable and practicable—

22 “(1) implement strategies to recruit, retain, and
 23 promote individuals at all levels of the organization
 24 to maintain a diverse staff and leadership that can

1 provide culturally competent health care to sexual or
2 gender minority patients;

3 “(2) ensure that staff at all levels and across all
4 disciplines of the organization receive ongoing edu-
5 cation and training in culturally competent service
6 delivery for sexual or gender minority patients;

7 “(3) develop and implement clear goals, poli-
8 cies, operational plans, and management account-
9 ability and oversight mechanisms to provide cul-
10 turally competent services for sexual and gender mi-
11 nority patients;

12 “(4) conduct initial and ongoing organizational
13 assessments of culturally competent services-related
14 activities for sexual and gender minority patients
15 and integrate valid competence-related measures into
16 the internal audits, performance improvement pro-
17 grams, patient satisfaction assessments, and out-
18 comes-based evaluations of the organization;

19 “(5) ensure that, consistent with the privacy
20 protections provided for under the regulations pro-
21 mulgated under section 264(c) of the Health Insur-
22 ance Portability and Accountability Act of 1996,
23 data on the individual patient’s sexual orientation
24 and gender identity are collected in health records,

1 integrated into the organization’s management infor-
2 mation systems, and periodically updated;

3 “(6) maintain a current demographic, cultural,
4 and epidemiological profile of the community as well
5 as a needs assessment to accurately plan for and im-
6 plement services that respond to the cultural charac-
7 teristics of the service area of the organization;

8 “(7) develop participatory, collaborative part-
9 nerships with communities and utilize a variety of
10 formal and informal mechanisms to facilitate com-
11 munity and patient involvement in designing and im-
12 plementing culturally competent services-related ac-
13 tivities for sexual and gender minority patients;

14 “(8) ensure that conflict and grievance resolu-
15 tion processes are culturally sensitive and capable of
16 identifying, preventing, and resolving cross-cultural
17 conflicts or complaints by sexual and gender minor-
18 ity patients;

19 “(9) regularly make available to the public in-
20 formation about their progress and successful inno-
21 vations in implementing the standards under this
22 section and provide public notice in their commu-
23 nities about the availability of this information; and

24 “(10) if requested, regularly make available to
25 the head of each Federal entity from which Federal

1 funds are received, information about their progress
2 and successful innovations in implementing the
3 standards under this section as required by the head
4 of such entity.

5 **“SEC. 3102. CENTER FOR CULTURAL COMPETENCE IN**
6 **HEALTH CARE.**

7 “(a) ESTABLISHMENT.—The Secretary, acting
8 through the Deputy Assistant Secretary for LGBT
9 Health, shall establish and support a center to be known
10 as the ‘Center for Cultural Competence in Health Care’
11 (referred to in this section as the ‘Center’).

12 “(b) PROVISION OF INFORMATION.—The Center
13 shall provide information relating to culturally competent
14 health care for sexual and gender minority populations re-
15 siding in the United States to all health care providers
16 and health care organizations at no cost. Such information
17 shall include—

- 18 “(1) tenets of culturally competent care;
19 “(2) cultural competence self-assessment tools;
20 “(3) cultural competence training tools;
21 “(4) strategic plans to increase cultural com-
22 petence in different types of health care organiza-
23 tions, including regional collaborations among health
24 care organizations; and

1 “(5) resources for cultural competence informa-
2 tion for educators, practitioners, and researchers.

3 “(c) DIRECTOR.—The Center shall be headed by a
4 Director who shall be appointed by, and who shall report
5 to, the Deputy Assistant Secretary for LGBT Health.

6 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to carry out this section
8 such sums as may be necessary for each of fiscal years
9 2010 through 2014.

10 **“SEC. 3103. INNOVATIONS IN CULTURAL COMPETENCE**
11 **GRANTS.**

12 “(a) IN GENERAL.—The Secretary, acting through
13 the Administrator of the Centers for Medicare & Medicaid
14 Services, the Administrator of the Health Resources and
15 Services Administration, the Secretary of Education, and
16 the Deputy Assistant Secretary for LGBT Health, shall
17 award grants to eligible entities to enable such entities to
18 design, implement, and evaluate innovative, cost-effective
19 programs to improve cultural competence in health.

20 “(b) ELIGIBILITY.—To be eligible to receive a grant
21 under subsection (a), an entity shall—

22 “(1) be a city, county, Indian tribe, State, terri-
23 tory, community-based or other nonprofit organiza-
24 tion, health center or community clinic, hospital,

1 university, college, or other entity designated by the
2 Secretary; and

3 “(2) prepare and submit to the Secretary an
4 application, at such time, in such manner, and ac-
5 companied by such additional information as the
6 Secretary may require.

7 “(c) USE OF FUNDS.—An entity shall use funds re-
8 ceived under a grant under this section to—

9 “(1) develop formal training programs for indi-
10 viduals interested in becoming dedicated culturally
11 competent health care providers for sexual and gen-
12 der minorities;

13 “(2) develop formal training programs for indi-
14 viduals interested in becoming dedicated culturally
15 competent health care providers for sexual and gen-
16 der minority youth and their families;

17 “(3) develop training programs for individuals
18 interested in becoming dedicated culturally com-
19 petent health care providers for aging sexual and
20 gender minorities; and

21 “(4) develop other culturally competent services
22 as determined appropriate by the Secretary.

23 “(d) PRIORITY.—In awarding grants under this sec-
24 tion, the Secretary shall give priority to entities that have

1 developed partnerships with organizations or agencies with
2 experience in culturally competent services.

3 “(e) EVALUATION.—An entity that receives a grant
4 under this section shall submit to the Secretary an evalua-
5 tion that describes the activities carried out with funds
6 received under the grant, and how such activities improved
7 access to health care services and the quality of health
8 care for individuals. Such evaluation shall be collected and
9 disseminated through the Center for Cultural Competence
10 in Health Care established under section 3102.

11 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
12 is authorized to be appropriated to carry out this section
13 \$5,000,000 for each of fiscal years 2010 through 2014.

14 **“SEC. 3104. RESEARCH ON CULTURAL COMPETENCE.**

15 “(a) IN GENERAL.—The Director of the Agency for
16 Healthcare Research and Quality, in collaboration with
17 the Deputy Assistant Secretary for LGBT Health, shall
18 expand research concerning—

19 “(1) the barriers to health care services, includ-
20 ing mental and behavioral services and services at
21 skilled nursing facilities, that are faced by sexual
22 and gender minority individuals;

23 “(2) the impact of cultural barriers on the qual-
24 ity of health care and the health status of sexual
25 and gender minority individuals and populations;

1 “(3) health care providers’ and health adminis-
2 trators’ attitudes, knowledge, and awareness of the
3 barriers described in paragraphs (1) and (2);

4 “(4) the means by which competency access
5 services are provided to sexual and gender minority
6 individuals and how such services are effective in im-
7 proving the quality of care;

8 “(5) the cost-effectiveness of providing com-
9 petency access services; and

10 “(6) optimal approaches for delivering com-
11 petency access services.

12 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to carry out this section
14 such sums as may be necessary for each of fiscal years
15 2010 through 2014.”.

16 **SEC. 202. DEFINITIONS.**

17 In this title:

18 (1) INCORPORATED DEFINITIONS.—The defini-
19 tions contained in section 3100 of the Public Health
20 Service Act, as added by section 201, shall apply.

21 (2) SECRETARY.—The term “Secretary” means
22 the Secretary of Health and Human Services.

1 **SEC. 203. FEDERAL REIMBURSEMENT FOR CULTURALLY**
2 **COMPETENT SERVICES UNDER THE MEDI-**
3 **CARE, MEDICAID, AND CHILDREN'S HEALTH**
4 **INSURANCE PROGRAMS.**

5 (a) DEMONSTRATION PROJECT PROMOTING ACCESS
6 FOR MEDICARE BENEFICIARIES IN SEXUAL AND GENDER
7 MINORITY POPULATIONS.—

8 (1) IN GENERAL.—The Secretary shall conduct
9 a demonstration project (in this subsection referred
10 to as the “project”) to provide reimbursement for
11 access services to certain Medicare beneficiaries in
12 sexual and gender minority groups in urban and
13 rural areas and document the impact of such reim-
14 bursement on Medicare program costs and health
15 outcomes.

16 (2) SCOPE.—The Secretary shall carry out the
17 project in not less than 30 States or territories
18 through contracts with—

19 (A) MA plans (under part C of title XVIII
20 of the Social Security Act);

21 (B) community-based nonprofit organiza-
22 tions;

23 (C) hospitals; and

24 (D) community-based clinics.

25 (3) DURATION.—The demonstration shall be
26 conducted for a period not longer than 2 years.

1 (4) REPORT.—Upon completion of the project,
2 the Secretary shall submit a report to the Congress
3 on the project which shall include recommendations
4 regarding—

5 (A) the extension of such project for addi-
6 tional time periods; and

7 (B) the expansion of such project to the
8 entire Medicare program.

9 (5) EVALUATION.—The Director of the Agency
10 for Healthcare Research and Quality, in consultation
11 with the Office of Minority Health and the National
12 Center on Minority Health and Health Disparities,
13 shall award grants to public and private nonprofit
14 entities that demonstrate experience and capability
15 with respect to cultural competence, including enti-
16 ties directed by and serving representatives of sexual
17 and gender minority groups, to conduct evaluations
18 of the project under paragraph (1). Such evaluations
19 shall focus on the impact of the project on access to
20 services, utilization rates, efficiency in the provision
21 of services, cost-effectiveness, patient satisfaction,
22 and select health outcomes.

23 (b) MEDICAID AND CHIP.—Section 1903(a)(3) of
24 the Social Security Act (42 U.S.C. 1396b(a)(3)), as
25 amended by section 4201(a) of division B of the American

1 Recovery and Reinvestment Act of 2009 (Public Law 111–
2 5), is amended—

3 (1) in subparagraph (E), by striking “and” at
4 the end;

5 (2) in subparagraph (F), by striking “plus” at
6 the end and inserting “and”; and

7 (3) by adding at the end the following:

8 “(G) 100 percent of so much of the sums
9 expended with respect to costs incurred during
10 such quarter as are attributable to the provision
11 of access services (as defined in section 203(d)
12 of the Ending LGBT Health Disparities Act) to
13 sexual and gender minorities (as defined in sec-
14 tion 3 of the Ending LGBT Health Disparities
15 Act) who apply for or receive medical assistance
16 under the State plan under this title (including
17 any provisions of the plan implemented pursu-
18 ant to any waiver authority of the Secretary) or
19 child health assistance under a State child
20 health plan under title XXI; plus”.

21 (c) SCHIP.—Section 2105(c)(2)(A) of the Social Se-
22 curity Act (42 U.S.C. 1397ee(c)(2)(A)) is amended by in-
23 serting before the period at the end the following: “except
24 that expenditures described in, and reimbursable under,
25 section 1903(a)(3)(G) shall not count towards this total”.

1 (d) DEFINITION OF ACCESS SERVICES.—For pur-
2 poses of this section, the term “access services” means—

3 (1) outreach (including care coordination, nurs-
4 ing outreach, and reminder phone calls) designed
5 to—

6 (A) inform individuals of the benefits to
7 which they are entitled; and

8 (B) encourage individuals to use such ben-
9 efits; and

10 (2) services (including transportation) that as-
11 sist the individual in accessing such benefits.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section is effective for payment for items and services
14 furnished on or after October 1, 2010.

15 **SEC. 204. REPORT ON FEDERAL EFFORTS TO PROVIDE CUL-**
16 **TURALLY COMPETENT HEALTH CARE SERV-**
17 **ICES TO SEXUAL AND GENDER MINORITIES.**

18 Not later than 1 year after the date of enactment
19 of this Act and annually thereafter, the Secretary shall
20 enter into a contract with the Institute of Medicine for
21 the preparation and publication of a report that describes
22 Federal efforts to ensure that all individuals have mean-
23 ingful access to culturally competent health care services.
24 Such report shall include—

1 (1) a description and evaluation of the activities
 2 carried out under this Act;

3 (2) a description of best practices, model pro-
 4 grams, guidelines, and other effective strategies for
 5 providing access to culturally competent health care
 6 services for sexual and gender minority populations;
 7 and

8 (3) an assessment of the implementation of the
 9 Department of Health and Human Services National
 10 Standards on Culturally Appropriate Services
 11 (CLAS) in Health Care, in particular the implemen-
 12 tation of CLAS mandates by recipients of Federal
 13 funds.

14 **TITLE III—RESEARCH AND DATA** 15 **COLLECTION**

16 **SEC. 301. NO COMPELLED DISCLOSURE OF DATA.**

17 This title does not authorize any Federal official or
 18 other entity to compel the disclosure of sexual or gender
 19 minority data. The disclosure of any such data pursuant
 20 to this title shall be strictly voluntary.

21 **SEC. 302. FEDERAL COLLECTION OF DATA ON SEXUAL AND** 22 **GENDER MINORITIES.**

23 (a) REQUIREMENTS.—

24 (1) IN GENERAL.—Each health-related program
 25 operated by or that receives funding or reimburse-

1 ment, in whole or in part, either directly or indi-
2 rectly from the Department of Health and Human
3 Services shall—

4 (A) require the collection, by the agency or
5 program involved, of sexual and gender minor-
6 ity data for each applicant for and recipient of
7 health-related assistance under such program;

8 (B) systematically analyze such data using
9 the smallest appropriate units of analysis fea-
10 sible to detect sexual and gender minority dis-
11 parities in health and health care and when ap-
12 propriate, analyze such data for each identified
13 sexual identity separately, and report the re-
14 sults of such analysis to the Secretary, the Di-
15 rector of the Office for Civil Rights, the Com-
16 mittee on Health, Education, Labor, and Pen-
17 sions and the Committee on Finance of the
18 Senate, and the Committee on Energy and
19 Commerce and the Committee on Ways and
20 Means of the House of Representatives;

21 (C) provide such data to the Secretary on
22 at least an annual basis; and

23 (D) ensure that the provision of assistance
24 to an applicant or recipient of assistance is not
25 denied or otherwise adversely affected because

1 of the failure of the applicant or recipient to
2 provide sexual and gender minority data.

3 (2) BUREAU OF PRISONS.—The Attorney Gen-
4 eral of the United States, acting through the Direc-
5 tor of the Bureau of Prisons, shall collect and share
6 with the Secretary sexual and minority data for each
7 individual who is incarcerated and receives health
8 assistance in an institution under the jurisdiction of
9 the Bureau of Prisons.

10 (3) RULES OF CONSTRUCTION.—Nothing in
11 this subsection shall be construed to—

12 (A) permit the use of information collected
13 under this subsection in a manner that would
14 adversely affect any individual providing any
15 such information; and

16 (B) require health care providers to collect
17 data.

18 (b) PROTECTION OF DATA.—Through the promulga-
19 tion of regulations or otherwise, the Secretary shall ensure
20 that all data collected pursuant to subsection (a)(1) or re-
21 ceived pursuant to subsection (a)(2), and the Attorney
22 General of the United States shall ensure that all data
23 collected pursuant to subsection (a)(2), is protected—

24 (1) under the same privacy protections as the
25 Secretary applies to other health data under the reg-

1 ulations promulgated under section 264(c) of the
2 Health Insurance Portability and Accountability Act
3 of 1996 (Public Law 104–191; 110 Stat. 2033) re-
4 lating to the privacy of individually identifiable
5 health information and other protections; and

6 (2) from all inappropriate internal use by any
7 entity that collects, stores, or receives the data, in-
8 cluding use of such data in determinations of eligi-
9 bility (or continued eligibility) in health plans, and
10 from other inappropriate uses, as defined by the
11 Secretary.

12 (c) NATIONAL PLAN OF THE DATA COUNCIL.—The
13 Secretary shall develop and implement a national plan to
14 ensure the collection of data in a culturally appropriate
15 and competent manner, and to improve the collection,
16 analysis, and reporting of sexual and gender minority data
17 at the Federal, State, territorial, tribal, and local levels,
18 including data to be collected under subsection (a). The
19 Data Council of the Department of Health and Human
20 Services, in consultation with the National Committee on
21 Vital Health Statistics, the National Center for Health
22 Statistics, the Office of Minority Health, and other appro-
23 priate public and private entities, shall make recommenda-
24 tions to the Secretary concerning the development, imple-

1 mentation, and revision of the national plan. Such plan
2 shall include recommendations on how to—

3 (1) implement subsection (a) while minimizing
4 the cost and administrative burdens of data collec-
5 tion and reporting;

6 (2) expand awareness among Federal agencies,
7 States, territories, Indian tribes, health providers,
8 health plans, health insurance issuers, and the gen-
9 eral public that data collection, analysis, and report-
10 ing of sexual and gender minority data is necessary
11 to assure equity and nondiscrimination in the quality
12 of health care services;

13 (3) ensure that future patient record systems
14 have data code sets for sexual and gender minority
15 identifiers and that such identifiers can be retrieved
16 from clinical records, including records transmitted
17 electronically;

18 (4) provide researchers with greater access to
19 sexual and gender minority data, subject to privacy
20 and confidentiality regulations; and

21 (5) safeguard and prevent the misuse of data
22 collected under subsection (a).

23 (d) COMPLIANCE WITH STANDARDS.—Data collected
24 under subsection (a) shall be obtained, maintained, and
25 presented (including for reporting purposes) in accordance

1 with the 1997 Office of Management and Budget Stand-
2 ards for Maintaining, Collecting, and Presenting Federal
3 Data on Race and Ethnicity (at a minimum).

4 (e) SEXUAL AND GENDER MINORITY DATA COLLEC-
5 TION STANDARDS.—Not later than 1 year after the date
6 of enactment of this Act, the Deputy Assistant Secretary
7 for LGBT Health, in consultation with the Office for Civil
8 Rights of the Department of Health and Human Services
9 and relevant data collection agencies, shall develop and
10 disseminate Standards for the Classification of Federal
11 Data on Sexual and Gender Minorities.

12 (f) TECHNICAL ASSISTANCE FOR THE COLLECTION
13 AND REPORTING OF DATA.—

14 (1) IN GENERAL.—The Secretary may, either
15 directly or through grant or contract, provide tech-
16 nical assistance to enable a health care program or
17 an entity operating under such program to comply
18 with the requirements of this section.

19 (2) TYPES OF ASSISTANCE.—Assistance pro-
20 vided under this subsection may include assistance
21 to—

22 (A) enhance or upgrade computer tech-
23 nology that will facilitate sexual and gender mi-
24 nority data collection and analysis;

1 (B) develop mechanisms for submitting
2 collected data subject to existing privacy and
3 confidentiality regulations; and

4 (C) develop educational programs to in-
5 form health insurance issuers, health plans,
6 health providers, health-related agencies, and
7 the general public that data collection and re-
8 porting by sexual and gender minority are legal
9 and essential for eliminating health and health
10 care disparities.

11 (g) ANALYSIS OF SEXUAL AND GENDER MINORITY
12 HEALTH DATA.—The Secretary, acting through the Di-
13 rector of the Agency for Healthcare Research and Quality
14 and in coordination with the Administrator of the Centers
15 for Medicare & Medicaid Services, shall provide technical
16 assistance to agencies of the Department of Health and
17 Human Services in meeting Federal standards for sexual
18 and gender minority data collection and analysis of sexual
19 and gender minority disparities in health and health care
20 in public programs by—

21 (1) identifying appropriate quality assurance
22 mechanisms to monitor for health disparities;

23 (2) specifying the clinical, diagnostic, or thera-
24 peutic measures which should be monitored;

1 (3) developing new quality measures relating to
2 sexual and gender minority disparities in health and
3 health care;

4 (4) identifying the level at which data analysis
5 should be conducted; and

6 (5) sharing data with external organizations for
7 research and quality improvement purposes.

8 (h) REPORT.—Not later than 2 years after the date
9 of enactment of this Act, and biennially thereafter, the
10 Secretary shall submit to the appropriate committees of
11 Congress a report on the effectiveness of data collection,
12 analysis, and reporting on sexual and minorities under the
13 programs and activities of the Department of Health and
14 Human Services and under other Federal data collection
15 systems with which the Department interacts to collect
16 relevant data on sexual and gender minorities. The report
17 shall evaluate the progress made in the Department with
18 respect to the national plan under subsection (c) or subse-
19 quent revisions thereto.

20 (i) DEFINITION.—In this section, the term “health-
21 related program” means a program—

22 (1) under the Social Security Act (42 U.S.C.
23 301 et seq.) that pays for health care and services;
24 and

1 (2) under this Act that provides Federal finan-
2 cial assistance for health care, biomedical research,
3 health services research, or programs designed to
4 improve the public's health.

5 (j) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to carry out this section
7 such sums as may be necessary for each of fiscal years
8 2010 through 2015.

9 **SEC. 303. INCLUSION OF SEXUAL ORIENTATION AND GEN-**
10 **DER IDENTITY IN FEDERALLY FUNDED**
11 **HEALTH SURVEYS.**

12 The Secretary shall ensure that, not later than 3
13 years after the date of enactment of this Act, any ongoing
14 or new federally conducted or supported health programs
15 (including surveys) achieve the—

16 (1) collection and reporting of data by sexual
17 and gender identity, using tested methods for doing
18 this with the greatest possible accuracy; and

19 (2) development of a standard question to be
20 included on such surveys which includes information
21 as to the individual's sexual orientation and gender
22 identity.

1 **SEC. 304. RESEARCH ON SEXUAL AND GENDER MINORITY**
2 **HEALTH.**

3 (a) IN GENERAL.—The Secretary, acting through the
4 Deputy Assistant Secretary for LGBT Health, the Direc-
5 tor of the Agency for Health Quality and Research, and
6 the Director of the National Institutes of Health, shall de-
7 velop plans to expand existing research into health dispari-
8 ties to include those experienced by sexual and gender mi-
9 nority populations. In developing such plans, the Secretary
10 shall—

11 (1) determine which areas of research focus
12 would have the greatest impact on health care im-
13 provement and elimination of disparities, taking into
14 consideration the overall health status of various
15 populations, disproportionate burden of diseases or
16 health conditions, and types of interventions for
17 which data on effectiveness is limited;

18 (2) establish measurable goals and objectives
19 which will allow assessment of progress; and

20 (3) solicit public review and comment from ex-
21 perts in health disparities experienced by sexual and
22 gender minorities.

23 (b) ESTABLISHMENT OF GRANTS.—The Secretary,
24 acting through the directors of the Agency for Healthcare
25 Research and Quality and the National Institutes of
26 Health, and in collaboration with the Deputy Assistant

1 Secretary for LGBT Health, may award grants or con-
2 tracts to eligible entities to execute research plans to as-
3 sess the health of sexual and gender minorities.

4 (c) APPLICATION; ELIGIBLE ENTITIES.—

5 (1) APPLICATION.—To receive a grant or con-
6 tract under this section, an eligible entity shall sub-
7 mit to the Secretary an application at such time, in
8 such manner, and containing such information as
9 the Secretary may require.

10 (2) ELIGIBLE ENTITIES.—To be eligible to re-
11 ceive a grant or contract under this section, an enti-
12 ty shall be a health center, hospital, health system,
13 community clinic, university, community-based orga-
14 nization, or other health entity determined appro-
15 priate by the Secretary, that—

16 (A) serves a disproportionate percentage of
17 patients from sexual or gender minority groups;
18 and

19 (B) include a focus on community-based
20 participation in research and demonstrations,
21 as well as research analysis, interpretation, so-
22 lutions and partnerships for patients from sex-
23 ual or gender minority groups.

24 (3) PREFERENCE.—Consortia of 3 or more eli-
25 gible entities, particularly those entities that partner

1 with health plans, shall be given a preference for
2 grant or contract funding under this section.

3 (d) RESEARCH.—The research funded under this sec-
4 tion, with respect to sexual and gender minority groups,
5 shall—

6 (1) prioritize the translation of existing re-
7 search into practical interventions for improving
8 health and health care and reducing disparities; and

9 (2) include a focus on community-based
10 participatory research solutions and partnerships as
11 appropriate.

12 (e) DISSEMINATION OF RESEARCH FINDINGS.—To
13 ensure that findings from the research funded under this
14 section are disseminated and applied promptly, the Direc-
15 tor shall—

16 (1) develop outreach and training programs for
17 health care providers with respect to the practical
18 and effective interventions that result from research
19 programs carried out with grants or contracts
20 awarded under this section; and

21 (2) provide technical assistance for the imple-
22 mentation of evidence-based practices that will im-
23 prove health and health care and reduce disparities.

24 (f) REPORT.—

1 (1) IN GENERAL.—Not later than September
 2 30, 2010, the Deputy Assistant Secretary for LGBT
 3 Health shall submit to the Secretary and the rel-
 4 evant committees of Congress a report that describes
 5 the extent to which the activities and research fund-
 6 ed under this section have been successful in reduc-
 7 ing and eliminating disparities in health and health
 8 care in targeted populations.

9 (2) AVAILABILITY.—The Secretary shall ensure
 10 that the report under paragraph (1) is made avail-
 11 able on the Internet websites of the Office of Minor-
 12 ity Health, the Agency for Healthcare Research and
 13 Quality, and other agencies as appropriate.

14 **TITLE IV—INFRASTRUCTURE** 15 **AND CAPACITY BUILDING**

16 **SEC. 401. OFFICE OF LGBT HEALTH.**

17 Title XVII of the Public Health Service Act (42
 18 U.S.C. 300u et seq.) is amended by inserting after section
 19 1707 the following:

20 **“SEC. 1707A. OFFICE OF LGBT HEALTH.**

21 “(a) ESTABLISHMENT.—There is established within
 22 the Office of Minority Health an Office of Lesbian, Gay,
 23 Bisexual, and Transgender Health (in this section referred
 24 to as the ‘Office’), which Office shall be headed by a Dep-

1 uty Assistant Secretary for LGBT Health, appointed by
2 the Secretary.

3 “(b) DUTIES.—The Deputy Assistant Secretary for
4 LGBT Health shall—

5 “(1) establish, implement, monitor, and evalu-
6 ate short-range and long-range goals and objectives
7 for all activities within the Public Health Service
8 that relate to disease prevention, health promotion,
9 service delivery, and research concerning sexual and
10 gender minorities;

11 “(2) coordinate with the efforts of the offices
12 and agencies of the Department of Health and
13 Human Services to address health disparities experi-
14 enced by sexual and gender minorities; and

15 “(3) coordinate with existing Federal research
16 initiatives, including comparative effectiveness re-
17 search, to establish guidelines for the physical and
18 mental health care of sexual and gender minorities.

19 “(c) DEFINITION.—In this section, the term ‘sexual
20 and gender minorities’ means lesbian, gay, bisexual, and
21 transgender individuals.”.

22 **SEC. 402. COMMUNITY HEALTH CENTERS.**

23 Section 330 of the Public Health Services Act (42
24 U.S.C. 254b) is amended—

1 (1) in subsection (a)(2), by striking “or (i)”
2 and inserting “(i), or (r)”;

3 (2) in the matter following clause (iii) in sub-
4 section (k)(3)(H), by striking “or (p)” and inserting
5 “(p), or (r)”;

6 (3) by redesignating subsection (r) as sub-
7 section (s); and

8 (4) by inserting after subsection (q) the fol-
9 lowing:

10 “(r) LESBIAN, GAY, BISEXUAL, AND TRANSGENDER
11 POPULATION.—

12 “(1) IN GENERAL.—The Secretary may award
13 grants for the planning and delivery of services, in-
14 cluding innovative programs that provide outreach
15 and comprehensive, culturally competent primary
16 health services, to a medically underserved popu-
17 lation comprised of lesbian, gay, bisexual, and
18 transgender individuals of all ages.

19 “(2) ELIGIBILITY.—In order to be eligible for
20 the grant under paragraph (1), an applicant shall
21 demonstrate to the Secretary that the applicant—

22 “(A) provides comprehensive, high-quality
23 care for the lesbian, gay, bisexual, and
24 transgender population;

1 “(B) has specialized knowledge of the
2 unique needs of this population; and

3 “(C) has culturally competent staff.”.

4 **TITLE V—OLDER AMERICANS**
5 **SUPPORT PROGRAM**

6 **SEC. 501. PRIORITY.**

7 Section 373(c)(2) of the Older Americans Act of
8 1965 (42 U.S.C. 3030s–1(c)(2)) is amended—

9 (1) in subparagraph (A) by striking “and” at
10 the end,

11 (2) in subparagraph (B) by striking the period
12 at the end and inserting “; and”, and

13 (3) by adding at the end the following:

14 “(C) individuals providing care to minority
15 individuals, including sexual and gender minori-
16 ties.”.

17 **TITLE VI—MISCELLANEOUS**
18 **PROVISIONS**

19 **SEC. 601. NONDISCRIMINATION CONTINGENCY FOR VAWA**
20 **GRANT FUNDS; GRANT PROGRAM FOR LGBT**
21 **VICTIMS OF VIOLENCE.**

22 (a) NONDISCRIMINATION CONTINGENCY FOR VAWA
23 GRANT FUNDS.—Section 40002(b) of the Violence
24 Against Women Act of 1994 (42 U.S.C. 13925(b)) is

1 amended by adding at the end the following new para-
2 graph:

3 “(12) NONDISCRIMINATION CONTINGENCY.—An
4 entity shall not be eligible to receive any Federal
5 funds, including through a grant or contract, under
6 this title unless the entity provides assurances to the
7 satisfaction of the Attorney General through an ap-
8 plication or agreement for such funds, or both, that
9 the entity does not discriminate on the basis of sex-
10 ual orientation or gender identity.”.

11 (b) GRANT PROGRAM FOR LGBT VICTIMS OF VIO-
12 LENCE.—

13 (1) GRANTS AUTHORIZED.—The Attorney Gen-
14 eral may award grants to eligible entities described
15 in paragraph (4)—

16 (A) to provide services for LGBT victims
17 of violence, as defined in paragraph (3);

18 (B) to provide training, consultation, and
19 information on domestic violence, dating vio-
20 lence, stalking, and sexual assault against indi-
21 viduals who are lesbian, gay, bisexual, or
22 transgender, and to enhance direct services to
23 such individuals;

24 (C) for training programs to assist law en-
25 forcement officers, prosecutors, governmental

1 agencies, victim assistants, and relevant officers
2 of Federal, State, tribal, territorial, and local
3 courts in recognizing, addressing, investigating,
4 and prosecuting instances of adult or minor do-
5 mestic violence, dating violence, sexual assault,
6 stalking, elder abuse, and violence against les-
7 bian, gay, bisexual, and transgender individuals;
8 and

9 (D) for multidisciplinary collaborative com-
10 munity responses to such victims.

11 (2) USE OF FUNDS.—Grants awarded under
12 this subsection may be used—

13 (A) to implement or expand programs or
14 services to respond to the needs of LGBT vic-
15 tims of violence;

16 (B) to provide personnel, training, tech-
17 nical assistance, advocacy, intervention, risk re-
18 duction, and prevention of domestic violence,
19 dating violence, stalking, and sexual assault
20 against lesbian, gay, bisexual, and transgender
21 individuals;

22 (C) to conduct outreach activities to ensure
23 that LGBT victims of violence receive appro-
24 priate assistance;

1 (D) to conduct cross-training for victim
2 service organizations, governmental agencies,
3 and nonprofit, nongovernmental organizations
4 serving individuals with disabilities; about risk
5 reduction, intervention, prevention, and the na-
6 ture and dynamic of domestic violence, dating
7 violence, stalking, and sexual assault for les-
8 bian, gay, bisexual, and transgender individuals;

9 (E) to provide technical assistance to assist
10 with modifications to existing policies, protocols,
11 and procedures to ensure equal access to the
12 services, programs, and activities of victim serv-
13 ice organizations for LGBT victims of violence;

14 (F) to provide advocacy and intervention
15 services for LGBT victims of violence; and

16 (G) to develop model programs providing
17 advocacy and intervention services within orga-
18 nizations serving LGBT victims of violence.

19 (3) LGBT VICTIMS OF VIOLENCE DEFINED.—

20 For purposes of this subsection, the term “LGBT
21 victim of violence” means a lesbian, gay, bisexual, or
22 transgender individual who is a victim of domestic
23 violence, dating violence, sexual assault, other crimi-
24 nal assault, stalking, bias-motivated crime, or elder
25 abuse.

1 (4) ELIGIBLE ENTITIES.—

2 (A) IN GENERAL.—An entity shall be eligi-
3 ble to receive a grant under this subsection if
4 the entity is—

5 (i) a State;

6 (ii) a unit of local government;

7 (iii) a nonprofit, nongovernmental or-
8 ganization such as a victim services organi-
9 zation, an organization serving individuals
10 with disabilities or a community-based or-
11 ganization; or

12 (iv) a religious organization.

13 (B) NONDISCRIMINATION.—An entity shall
14 not be eligible to receive a grant under this sub-
15 section unless the entity provides assurances to
16 the satisfaction of the Attorney General
17 through an application under paragraph (4) or
18 agreement for such grant, or both, that the en-
19 tity does not discriminate on the basis of sexual
20 orientation or gender identity.

21 (5) APPLICATION.—To be eligible for a grant
22 under this subsection an entity shall submit to the
23 Attorney General an application at such time, in
24 such manner, and containing such information as
25 the Attorney General may require.

1 (6) REPORTING.—Not later than 1 year after
2 the last day of the first fiscal year commencing on
3 or after the date of the enactment of this Act, and
4 not later than 180 days after the last day of each
5 fiscal year thereafter, the Attorney General shall
6 submit to Congress a report evaluating the effective-
7 ness of programs administered and operated through
8 grants awarded under this subsection.

9 (7) AUTHORIZATION OF APPROPRIATIONS.—
10 There are authorized to be appropriated \$5,000,000
11 for each of the fiscal years 2010 through 2014 to
12 carry out this subsection.

13 **SEC. 602. NATIONAL BASELINE STUDY ON DOMESTIC VIO-**
14 **LENCE AND SEXUAL ASSAULT IN THE LGBT**
15 **COMMUNITY.**

16 (a) STUDY.—The Attorney General of the United
17 States, in consultation with the Deputy Assistant Sec-
18 retary for LGBT Health, shall provide for a national base-
19 line study to examine the scope of the problem of domestic
20 violence and sexual assaults against lesbian, gay, bisexual,
21 and transgender victims and the effectiveness of institu-
22 tional and legal policies in addressing such crimes and pro-
23 tecting such victims.

24 (b) REPORT.—Not less than 1 year after the date of
25 the enactment of this Act, the Attorney General shall pre-

1 pare and transmit to the Committees on the Judiciary of
2 the Senate and the House of Representatives a report
3 based on the study required by subsection (a) including
4 an analysis of—

5 (1) the number of reported allegations and esti-
6 mated number of unreported allegations of domestic
7 violence and sexual assault involving sexual and gen-
8 der minorities, and to whom the allegations are re-
9 ported (including sexual assault victim service enti-
10 ties, and local criminal authorities);

11 (2) Federal and State laws or regulations per-
12 taining specifically to sexual assaults involving sex-
13 ual and gender minorities; and

14 (3) any recommendations the Attorney General
15 may have for reforms to address domestic violence
16 and sexual assaults involving sexual and gender mi-
17 norities and protect victims more effectively, and any
18 other matters that the Attorney General deems rel-
19 evant to the subject of the study and report required
20 by this section.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated to carry out this section
23 \$500,000 for fiscal year 2010.

1 **SEC. 603. ASSISTANCE TO REDUCE TEEN PREGNANCY, HIV/**
2 **AIDS, AND OTHER SEXUALLY TRANSMITTED**
3 **DISEASES AND TO SUPPORT HEALTHY ADO-**
4 **LESCENT DEVELOPMENT.**

5 (a) IN GENERAL.—The Secretary may award a grant
6 to each eligible State to conduct programs of sex education
7 described in subsection (b), including education on both
8 abstinence and contraception for the prevention of teenage
9 pregnancy and sexually transmitted diseases, including
10 HIV/AIDS.

11 (b) REQUIREMENTS FOR SEX EDUCATION PRO-
12 GRAMS.—A program of sex education described in this
13 subsection is a program that—

14 (1) is age appropriate and medically accurate;

15 (2) stresses the value of abstinence while not ig-
16 noring those young people who have been or are sex-
17 ually active;

18 (3) provides information about the health bene-
19 fits and side effects of contraceptive and barrier
20 methods used—

21 (A) as a means to prevent pregnancy; and

22 (B) to reduce the risk of contracting sexu-
23 ally transmitted disease, including HIV/AIDS;

24 (4) encourages family communication between
25 parent and child about sexuality;

1 (5) cultivates a respectful dialogue about sexu-
2 ality, including sexual orientation and gender iden-
3 tity, and embraces the principles of nondiscrimina-
4 tion based on sexual orientation and gender identity;

5 (6) counters the perpetuation of narrow gender
6 roles, including the sexualization of female children,
7 adolescents, and adults;

8 (7) teaches young people the skills to make re-
9 sponsible decisions about sexuality, including how to
10 avoid unwanted verbal, physical, and sexual ad-
11 vances and how to avoid making verbal, physical,
12 and sexual advances that are not wanted by the
13 other party;

14 (8) develops healthy relationships, including the
15 prevention of dating and sexual violence;

16 (9) teaches young people how alcohol and drug
17 use can affect responsible decisionmaking; and

18 (10) does not teach or promote religion.

19 (c) ADDITIONAL ACTIVITIES.—In carrying out a pro-
20 gram of sex education, a State may expend grant funds
21 awarded under subsection (a) to carry out educational and
22 motivational activities that help young people—

23 (1) gain knowledge about the physical, emo-
24 tional, biological, and hormonal changes of adoles-
25 cence and subsequent stages of human maturation;

1 (2) develop the knowledge and skills necessary
2 to ensure and protect their sexual and reproductive
3 health from unintended pregnancy and sexually
4 transmitted disease, including HIV/AIDS, through-
5 out their lifespan;

6 (3) gain knowledge about the specific involve-
7 ment and responsibility of each individual in sexual
8 decisionmaking;

9 (4) develop healthy attitudes and values about
10 adolescent growth and development, body image,
11 gender roles, racial and ethnic diversity, sexual ori-
12 entation and gender identity, and other subjects;

13 (5) develop and practice healthy life skills in-
14 cluding goal-setting, decisionmaking, negotiation,
15 communication, and stress management; and

16 (6) promote self-esteem and positive inter-
17 personal skills focusing on relationship dynamics, in-
18 cluding friendships, dating, romantic involvement,
19 marriage, and family interactions.

20 (d) MATCHING FUNDS.—The Secretary may not
21 make payments to a State under this section in an amount
22 exceeding Federal medical assistance percentage for such
23 State (as such term is defined in section 1905(b) of the
24 Social Security Act (42 U.S.C. 1396d(b))) of the costs of
25 the programs conducted by the State under this section.

1 (e) EVALUATION OF PROGRAMS.—

2 (1) IN GENERAL.—For the purpose of evalu-
3 ating the effectiveness of programs of sex education
4 carried out with a grant under this section, evalua-
5 tions shall be carried out in accordance with para-
6 graphs (2) and (3).

7 (2) NATIONAL EVALUATION.—

8 (A) METHOD.—The Secretary shall pro-
9 vide for a national evaluation of a representa-
10 tive sample of programs of sex education car-
11 ried out with grants under this section to deter-
12 mine—

13 (i) the effectiveness of such programs
14 in helping to delay the initiation of sexual
15 intercourse and other high-risk behaviors;

16 (ii) the effectiveness of such programs
17 in preventing adolescent pregnancy;

18 (iii) the effectiveness of such pro-
19 grams in preventing sexually transmitted
20 disease, including HIV/AIDS;

21 (iv) the effectiveness of such programs
22 in increasing contraceptive knowledge and
23 contraceptive behaviors when sexual inter-
24 course occurs; and

1 (v) a list of best practices based upon
2 essential programmatic components of
3 evaluated programs that have led to suc-
4 cess described in clauses (i) through (iv).

5 (B) GRANT CONDITION.—A condition for
6 the receipt of a grant to a State under this sec-
7 tion is that the State cooperate with the evalua-
8 tion under subparagraph (A).

9 (C) REPORT.—The Secretary shall submit
10 to the Congress—

11 (i) not later than the end of each fis-
12 cal year during the 5-year period beginning
13 with fiscal year 2010, an interim report on
14 the national evaluation under subpara-
15 graph (A); and

16 (ii) not later than March 31, 2015, a
17 final report providing the results of such
18 national evaluation.

19 (3) INDIVIDUAL STATE EVALUATIONS.—A con-
20 dition for the receipt of a grant under this section
21 is that the State evaluate of the programs of sex
22 education funded through such grant in accordance
23 with the following requirements:

24 (A) The evaluation will be conducted by an
25 external, independent entity.

1 (B) The purposes of the evaluation will be
2 the determination of—

3 (i) the effectiveness of such programs
4 in helping to delay the initiation of sexual
5 intercourse and other high-risk behaviors;

6 (ii) the effectiveness of such programs
7 in preventing adolescent pregnancy;

8 (iii) the effectiveness of such pro-
9 grams in preventing sexually transmitted
10 disease, including HIV/AIDS; and

11 (iv) the effectiveness of such programs
12 in increasing contraceptive and barrier
13 method knowledge and contraceptive be-
14 haviors when sexual intercourse occurs.

15 (f) LIMITATIONS ON USE OF FUNDS.—

16 (1) LIMITATIONS ON SECRETARY.—Of the
17 amounts appropriated for a fiscal year for purposes
18 of this section, the Secretary may not use more
19 than—

20 (A) 7 percent of such amounts for admin-
21 istrative expenses related to carrying out this
22 section for that fiscal year; and

23 (B) 10 percent of such amounts for the
24 national evaluation under subsection (e)(2).

1 (2) LIMITATIONS TO STATES.—Of amounts pro-
2 vided to an eligible State under this subsection, the
3 State may not use more than 10 percent of the
4 grant to conduct any evaluation under subsection
5 (e)(3).

6 (g) NONDISCRIMINATION REQUIRED.—Programs
7 funded under this section shall not discriminate on the
8 basis of sex, race, ethnicity, national origin, disability, reli-
9 gion, sexual orientation, or gender identity. Nothing in
10 this section shall be construed to invalidate or limit rights,
11 remedies, procedures, or legal standards available to vic-
12 tims of discrimination under any other Federal law or any
13 law of a State or a political subdivision of a State, includ-
14 ing title VI of the Civil Rights Act of 1964 (42 U.S.C.
15 2000d et seq.), title IX of the Education Amendments of
16 1972 (20 U.S.C. 1681 et seq.), section 504 of the Reha-
17 bilitation Act of 1973 (29 U.S.C. 794), and the Americans
18 with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

19 (h) DEFINITIONS.—For purposes of this section:

20 (1) The term “age appropriate” means, with re-
21 spect to topics, messages, and teaching methods,
22 those suitable to particular ages or age groups of
23 children, adolescents, and adults, based on devel-
24 oping cognitive, emotional, and behavioral capacity
25 typical for the age or age group.

1 (2) The term “eligible State” means a State
2 that submits to the Secretary an application for a
3 grant under this section that is in such form, is
4 made in such manner, and contains such agree-
5 ments, assurances, and information as the Secretary
6 determines to be necessary to carry out this section.

7 (3) The term “HIV/AIDS” means the human
8 immunodeficiency virus, and includes acquired im-
9 mune deficiency syndrome.

10 (4) The term “medically accurate”, with respect
11 to information, means information that is supported
12 by research, recognized as accurate and objective by
13 leading medical, psychological, psychiatric, and pub-
14 lic health organizations and agencies, and, published
15 in journals that are peer reviewed.

16 (5) The term “State” means the 50 States, the
17 District of Columbia, the Commonwealth of Puerto
18 Rico, the Commonwealth of the Northern Mariana
19 Islands, American Samoa, Guam, the Virgin Islands,
20 and any other territory or possession of the United
21 States.

22 (i) AUTHORIZATION OF APPROPRIATIONS.—For the
23 purpose of carrying out this section, there is authorized
24 to be appropriated \$50,000,000 for each of the fiscal years
25 2010 through 2014.

1 **SEC. 604. MOTHER’S AND FATHER’S INSURANCE BENEFITS**
2 **UNDER SOCIAL SECURITY FOR SAME-SEX**
3 **SURVIVING PARENTS.**

4 (a) IN GENERAL.—Section 202(g)(1) of the Social
5 Security Act (42 U.S.C. 402(g)(1)) is amended—

6 (1) by striking “and every surviving divorced
7 parent (as defined in section 216(d))” and inserting
8 “, every surviving divorced parent (as defined in sec-
9 tion 216(d)), and every surviving same-sex parent
10 (as defined in section 216(m))”; and

11 (2) in the matter before subparagraph (A), by
12 striking “or surviving divorced parent” and inserting
13 “, surviving divorced parent, or surviving same-sex
14 parent”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 202(g)(1) of such Act is amended—

17 (A) in subparagraph (F), by inserting “or
18 surviving same-sex parent” after “surviving di-
19 vorced parent”; and

20 (B) in the matter following subparagraph
21 (F)—

22 (i) by striking “or surviving divorced
23 parent” and inserting “, such surviving di-
24 vorced parent, or such surviving same-sex
25 parent”;

1 (ii) by inserting “or a surviving same-
2 sex parent” after “in the case of a sur-
3 viving divorced parent”; and

4 (iii) by inserting “or such surviving
5 same-sex parent” after “adopted child of
6 such surviving divorced parent”.

7 (2) Section 202(g)(3) of such Act is amended
8 by striking “or surviving divorced parent” each place
9 it appears and inserting “, surviving divorced par-
10 ent, or surviving same-sex parent”.

11 (c) SURVIVING SAME-SEX PARENT.—Section 216 of
12 the Social Security Act (42 U.S.C. 416) is amended by
13 adding at the end the following new subsection:

14 “Surviving Same-sex Parent

15 “(m)(1) The term ‘surviving same-sex parent’ means,
16 with respect to a deceased individual, an individual who
17 is of the same sex as such deceased individual but only
18 if—

19 “(A) he or she is the mother or father of the
20 individual’s child;

21 “(B) such individual legally adopted the de-
22 ceased individual’s son or daughter before such son
23 or daughter attained the age of 18;

1 “(C) the deceased individual legally adopted the
2 son or daughter of such individual before such son
3 or daughter attained the age of 18; or

4 “(D) such individual and the deceased indi-
5 vidual both legally adopted a child under the age of
6 18.

7 “(2) Determinations under this subsection and sec-
8 tion 202(g) shall be made without regard to section 7 of
9 title 1, United States Code.”.

10 (d) SPECIAL MARRIAGE RULE FOR SURVIVING SAME-
11 SEX PARENTS.—Section 202(g) of the Social Security Act
12 (42 U.S.C. 402(g)) is amended by adding at the end the
13 following new paragraph:

14 “(4) For purposes of this subsection, a surviving
15 same-sex parent shall be considered to be married if such
16 parent enters into a marriage or similar union under the
17 laws of a State providing for such marriage or similar
18 union.”.

19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall apply with respect to benefits for months
21 beginning one month after the date of the enactment of
22 this Act, based on applications filed on or after such date.

1 **SEC. 605. PROHIBITION AGAINST DISCRIMINATION ON THE**
2 **BASIS OF SEXUAL ORIENTATION OR GENDER**
3 **IDENTITY UNDER THE HEALTH BENEFITS**
4 **PROGRAM FOR FEDERAL EMPLOYEES.**

5 (a) IN GENERAL.—Section 8902(f) of title 5, United
6 States Code, is amended by inserting “sexual orientation,
7 gender identity,” after “sex,”.

8 (b) REGULATIONS.—Section 8913 of such title is
9 amended—

10 (1) by redesignating subsection (d) as sub-
11 section (e); and

12 (2) by inserting after subsection (c) the fol-
13 lowing:

14 “(d) The regulations of the Office shall ensure that
15 qualified carriers do not discriminate on the basis of sex,
16 sexual orientation, gender identity, or any other basis
17 which is prohibited by law.”.

18 **SEC. 606. PROHIBITION AGAINST DISCRIMINATION ON THE**
19 **BASIS OF SEX, GENDER IDENTITY, OR SEXUAL**
20 **ORIENTATION UNDER CERTAIN LAWS PRO-**
21 **VIDING HEALTH CARE AND OTHER BENEFITS**
22 **FOR MEMBERS OF THE ARMED FORCES AND**
23 **VETERANS.**

24 (a) PROHIBITION AGAINST DISCRIMINATION IN AD-
25 MINISTRATION OF MEDICAL AND DENTAL CARE FOR CER-
26 TAIN MEMBERS OF THE ARMED FORCES.—

1 (1) IN GENERAL.—Chapter 55 of title 10,
 2 United States Code, is amended by inserting after
 3 section 1074l the following new section:

4 **“§ 1074m. Prohibition against discrimination on the**
 5 **basis of sex, gender identity, or sexual**
 6 **orientation**

7 “(a) IN GENERAL.—The Secretary of Defense may
 8 not discriminate against a former member of the uni-
 9 formed services entitled to medical care under section
 10 1074 or 1074a of this title on the basis of sex, gender
 11 identity, or sexual orientation.

12 “(b) REGULATIONS.—The Secretary of Defense, in
 13 consultation with the other administering Secretaries,
 14 shall prescribe regulations to carry out this section.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
 16 tions at the beginning of such chapter is amended
 17 by inserting after the item relating to section 1074l
 18 the following new item:

“1074m. Prohibition against discrimination on the basis of sex, gender identity,
 or sexual orientation.”.

19 (b) PROHIBITION AGAINST DISCRIMINATION IN PER-
 20 SONAL SERVICE CONTRACTS RELATED TO MEDICAL CARE
 21 FOR MEMBERS OF THE ARMED FORCES.—Paragraph (1)
 22 of section 1091(c) of title 10, United States Code, is
 23 amended—

24 (1) in subparagraph (A), by striking “and”;

1 (2) in subparagraph (B), by striking the period
2 at the end and inserting “; and”; and

3 (3) by adding at the end the following new sub-
4 paragraph:

5 “(C) that an individual who enters into a per-
6 sonal services contract under subsection (a) shall not
7 discriminate on the basis of sex, gender identity, or
8 sexual orientation.”.

9 (c) PROHIBITION AGAINST DISCRIMINATION IN AD-
10 MINISTRATION OF VETERANS’ BENEFITS.—

11 (1) IN GENERAL.—Subchapter II of chapter 5
12 of title 38, United States Code, is amended by add-
13 ing at the end the following new section:

14 **“§ 533. Prohibition against discrimination on the**
15 **basis of sex, gender identity, or sexual**
16 **orientation**

17 “In carrying out this title, the Secretary of Veterans
18 Affairs may not discriminate on the basis of sex, gender
19 identity, or sexual orientation and shall ensure that no
20 person is discriminated against on such basis in connec-
21 tion with the administration of this title or the payment
22 of any benefit or claim or provision of any service under
23 this title.”.

24 (2) CLERICAL AMENDMENT.—The table of sec-
25 tions at the beginning of such chapter is amended

1 by inserting after the item relating to section 532
 2 the following new item:

“533. Prohibition against discrimination on the basis of sex, gender identity, or sexual orientation.”.

3 (d) PROHIBITION AGAINST DISCRIMINATION IN PAY-
 4 MENT OF VETERANS’ BENEFITS.—

5 (1) IN GENERAL.—Chapter 53 of title 38,
 6 United States Code, is amended by adding at the
 7 end the following new section:

8 **“§ 5320. Prohibition against discrimination on the**
 9 **basis of sex, gender, identity, or sexual**
 10 **orientation in the provision and adminis-**
 11 **tration of benefits**

12 “The Secretary of Veterans Affairs shall ensure that
 13 no person is discriminated against on the basis of sex, gen-
 14 der identity, or sexual orientation in the entitlement to,
 15 administration of, or payment of benefits under this
 16 title.”.

17 (2) CLERICAL AMENDMENT.—The table of sec-
 18 tions at the beginning of such chapter is amended
 19 by inserting after the item relating to section 5319
 20 the following new item:

“5320. Prohibition against discrimination on the basis of sex, gender, identity, or sexual orientation in the provision and administration of benefits.”.

