

JAN 20 2023

A BILL FOR AN ACT

RELATING TO HEALTH CARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. The legislature finds that Hawaii has long been
3 a leader in advancing reproductive rights and advocating for
4 access to affordable and comprehensive sexual and reproductive
5 health care without discrimination. However, gaps in coverage
6 and care still exist, and Hawaii benefits and protections have
7 been threatened for years by a hostile federal administration
8 that has attempted to restrict and repeal the federal Patient
9 Protection and Affordable Care Act and limit access to sexual
10 and reproductive health care. The Trump administration made it
11 increasingly difficult for insurers to cover abortion care and
12 assembled a Supreme Court that overturned the right to abortion
13 access and that may eliminate the Patient Protection and
14 Affordable Care Act in the near future.

15 The legislature further finds that a host of the Protection
16 and Affordable Care Act provisions could soon be eliminated,
17 including coverage of preventive care with no patient cost-



1 sharing. These changes would force people in Hawaii to pay more
2 health care costs out-of-pocket, delay or forego care, and risk
3 their health and economic security. The COVID-19 pandemic has
4 cost thousands of people their jobs and health insurance.
5 Forcing Hawaii residents to pay more for preventive care would
6 create a new public health crisis in the wake of a global
7 pandemic.

8 The legislature further finds that access to sexual and
9 reproductive health care is critical for the health and economic
10 security of all people in Hawaii, particularly during a
11 recession. Investing in no-cost preventive services will
12 ultimately save Hawaii money because providing preventive care
13 avoids the need for more expensive treatment and management in
14 the future. No-cost preventive services would also support
15 families in financial difficulty by helping people remain
16 healthy and plan their families in a way that is appropriate for
17 them. Ensuring that Hawaii's people receive comprehensive,
18 client-centered, and culturally-competent sexual and
19 reproductive health care is prudent economic policy that will
20 improve the overall health of our States communities.



- 1 (1) Well-woman preventive care visit annually for women to
2 obtain the recommended preventive services that are
3 age and developmentally appropriate, including
4 preconception care and services necessary for prenatal
5 care. For the purposes of this section and where
6 appropriate, a "well-woman visit" shall include other
7 preventive services as listed in this section;
8 provided that if several visits are needed to obtain
9 all necessary recommended preventive services,
10 depending upon a woman's health status, health needs,
11 and other risk factors, coverage shall apply to each
12 of the necessary visits;
- 13 (2) Counseling for sexually transmitted infections,
14 including human immunodeficiency virus and acquired
15 immune deficiency syndrome;
- 16 (3) Screening for: chlamydia; gonorrhea; hepatitis B;
17 hepatitis C; human immunodeficiency virus and acquired
18 immune deficiency syndrome; human papillomavirus;
19 syphilis; anemia; urinary tract infection; pregnancy;
20 Rh incompatibility; gestational diabetes;
21 osteoporosis; breast cancer; and cervical cancer;



- 1 (4) Screening to determine whether counseling and testing
- 2 related to the BRCA1 or BRCA2 genetic mutation is
- 3 indicated and genetic counseling and testing related
- 4 to the BRCA1 or BRCA2 genetic mutation, if indicated;
- 5 (5) Screening and appropriate counseling or interventions
- 6 for:
- 7 (A) Substance abuse, including tobacco and electronic
- 8 smoking devices, and alcohol; and
- 9 (B) Domestic and interpersonal violence;
- 10 (6) Screening and appropriate counseling or interventions
- 11 for mental health screening and counseling, including
- 12 depression;
- 13 (7) Folic acid supplements;
- 14 (8) Abortion;
- 15 (9) Breastfeeding comprehensive support, counseling, and
- 16 supplies;
- 17 (10) Breast cancer chemoprevention counseling;
- 18 (11) Any contraceptive supplies, as specified in section
- 19 431:10A-116.6;



- 1 (12) Voluntary sterilization, as a single claim or combined
- 2 with the following other claims for covered services
- 3 provided on the same day:
- 4 (A) Patient education and counseling on contraception
- 5 and sterilization; and
- 6 (B) Services related to sterilization or the
- 7 administration and monitoring of contraceptive
- 8 supplies, including:
- 9 (i) Management of side effects;
- 10 (ii) Counseling for continued adherence to a
- 11 prescribed regimen;
- 12 (iii) Device insertion and removal; and
- 13 (iv) Provision of alternative contraceptive
- 14 supplies deemed medically appropriate in the
- 15 judgment of the insured's health care
- 16 provider;
- 17 (13) Pre-exposure prophylaxis, post-exposure prophylaxis,
- 18 and human papillomavirus vaccination; and
- 19 (14) Any additional preventive services for women that must
- 20 be covered without cost sharing under title 42 United
- 21 States Code section 300gg-13, as identified by the



1 United States Preventive Services Task Force or the
2 Health Resources and Services Administration of the
3 United States Department of Health and Human Services,
4 as of January 1, 2019.

5 (b) Except as otherwise authorized under this section, an
6 insurer shall not impose any restrictions or delays on the
7 coverage required under this section.

8 (c) This section shall not require a policy of accident
9 and health or sickness insurance to cover:

10 (1) Experimental or investigational treatments;

11 (2) Clinical trials or demonstration projects;

12 (3) Treatments that do not conform to acceptable and
13 customary standards of medical practice; or

14 (4) Treatments for which there is insufficient data to
15 determine efficacy.

16 (d) If services, drugs, devices, products, or procedures
17 required by this section are provided by an out-of-network
18 provider, the insurer shall cover the services, drugs, devices,
19 products, or procedures if:

20 (1) There is no in-network provider to furnish the
21 service, drug, device, product, or procedure that



1 meets the requirements for network adequacy under
2 section 431:26-103; or

3 (2) An in-network provider is unable or unwilling to
4 provide the service, drug, device, product, or
5 procedure in a timely manner.

6 (e) Every insurer shall provide written notice to its
7 policyholders regarding the coverage required by this section.
8 The notice shall be in writing and prominently positioned in any
9 literature or correspondence sent to policyholders and shall be
10 transmitted to policyholders beginning with calendar year 2024
11 when annual information is made available to policyholders or in
12 any other mailing to policyholders, but in no case later than
13 December 31, 2024.

14 (f) This section shall not apply to policies that provide
15 coverage for specified diseases or other limited benefit health
16 insurance coverage, as provided pursuant to section 431:10A-607.

17 (g) If the commissioner concludes that enforcement of this
18 section may adversely affect the allocation of federal funds to
19 the State, the commissioner may grant an exemption to the
20 requirements, but only to the minimum extent necessary to ensure
21 the continued receipt of federal funds.



1 (h) A bill or statement for services from any health care
2 provider or insurer shall be sent directly to the person
3 receiving the services.

4 (i) For purposes of this section, "contraceptive supplies"
5 shall have the same meaning as in section 431:10A-116.6.

6 **§431:10A-B Nondiscrimination; reproductive health care;**

7 **coverage.** (a) An individual, on the basis of actual or
8 perceived race, color, national origin, sex, gender identity,
9 sexual orientation, age, or disability, shall not be excluded
10 from participation in, be denied the benefits of, or otherwise
11 be subjected to discrimination in the coverage of, or payment
12 for, the services, drugs, devices, products, and procedures
13 covered by section 431:10A-A or 431:10A-116.6.

14 (b) Violation of this section shall be considered a
15 violation pursuant to chapter 489.

16 (c) Nothing in this section shall be construed to limit
17 any cause of action based upon any unfair or discriminatory
18 practices for which a remedy is available under state or federal
19 law."



1 SECTION 3. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding two new sections to part II of article 10A to
3 be appropriately designated and to read as follows:

4 "§431:10A-C Preventive care; coverage; requirements. (a)
5 Every group policy of accident and health or sickness insurance
6 issued or renewed in this State shall provide coverage for all
7 of the following services, drugs, devices, products, and
8 procedures for the policyholder or any dependent of the insured
9 who is covered by the policy:

10 (1) Well-woman preventive care visit annually for women to
11 obtain the recommended preventive services that are
12 age and developmentally appropriate, including
13 preconception care and services necessary for prenatal
14 care. For the purposes of this section and where
15 appropriate, a "well-woman visit" shall include other
16 preventive services as listed in this section;
17 provided that if several visits are needed to obtain
18 all necessary recommended preventive services,
19 depending upon a woman's health status, health needs,
20 and other risk factors, coverage shall apply to each
21 of the necessary visits;



- 1 (2) Counseling for sexually transmitted infections,
2 including human immunodeficiency virus and acquired
3 immune deficiency syndrome;
- 4 (3) Screening for: chlamydia; gonorrhea; hepatitis B;
5 hepatitis C; human immunodeficiency virus and acquired
6 immune deficiency syndrome; human papillomavirus;
7 syphilis; anemia; urinary tract infection; pregnancy;
8 Rh incompatibility; gestational diabetes;
9 osteoporosis; breast cancer; and cervical cancer;
- 10 (4) Screening to determine whether counseling and testing
11 related to the BRCA1 or BRCA2 genetic mutation is
12 indicated and genetic counseling and testing related
13 to the BRCA1 or BRCA2 genetic mutation, if indicated;
- 14 (5) Screening and appropriate counseling or interventions
15 for:
 - 16 (A) Substance abuse, including tobacco and electronic
17 smoking devices, and alcohol; and
 - 18 (B) Domestic and interpersonal violence;
- 19 (6) Screening and appropriate counseling or interventions
20 for mental health screening and counseling, including
21 depression;



- 1 (7) Folic acid supplements;
- 2 (8) Abortion;
- 3 (9) Breastfeeding comprehensive support, counseling, and
4 supplies;
- 5 (10) Breast cancer chemoprevention counseling;
- 6 (11) Any contraceptive supplies, as specified in section
7 431:10A-116.6;
- 8 (12) Voluntary sterilization, as a single claim or combined
9 with the following other claims for covered services
10 provided on the same day:
 - 11 (A) Patient education and counseling on contraception
12 and sterilization; and
 - 13 (B) Services related to sterilization or the
14 administration and monitoring of contraceptive
15 supplies, including:
 - 16 (i) Management of side effects;
 - 17 (ii) Counseling for continued adherence to a
18 prescribed regimen;
 - 19 (iii) Device insertion and removal; and
 - 20 (iv) Provision of alternative contraceptive
21 supplies deemed medically appropriate in the



1 judgment of the insured's dependent's health
2 care provider;

3 (13) Pre-exposure prophylaxis, post-exposure prophylaxis,
4 and human papillomavirus vaccination; and

5 (14) Any additional preventive services for women that must
6 be covered without cost sharing under title 42 United
7 States Code section 300gg-13, as identified by the
8 United States Preventive Services Task Force or the
9 Health Resources and Services Administration of the
10 United States Department of Health and Human Services,
11 as of January 1, 2019.

12 (b) Except as otherwise authorized under this section, an
13 insurer shall not impose any restrictions or delays on the
14 coverage required under this section.

15 (c) This section shall not require a policy of accident
16 and health or sickness insurance to cover:

17 (1) Experimental or investigational treatments;

18 (2) Clinical trials or demonstration projects;

19 (3) Treatments that do not conform to acceptable and
20 customary standards of medical practice; or



1 (4) Treatments for which there is insufficient data to
2 determine efficacy.

3 (d) If services, drugs, devices, products, or procedures
4 required by this section are provided by an out-of-network
5 provider, the insurer shall cover the services, drugs, devices,
6 products, or procedures if:

7 (1) There is no in-network provider to furnish the
8 service, drug, device, product, or procedure that
9 meets the requirements for network adequacy under
10 section 431:26-103; or

11 (2) An in-network provider is unable or unwilling to
12 provide the service, drug, device, product, or
13 procedure in a timely manner.

14 (e) Every insurer shall provide written notice to its
15 subscribers regarding the coverage required by this section.
16 The notice shall be in writing and prominently positioned in any
17 literature or correspondence sent to insured members and shall
18 be transmitted to insured members beginning with calendar year
19 2024 when annual information is made available to subscribers or
20 in any other mailing to subscribers, but in no case later than
21 December 31, 2024.



1 (f) This section shall not apply to policies that provide
2 coverage for specified diseases or other limited benefit health
3 insurance coverage, as provided pursuant to section 431:10A-607.

4 (g) If the commissioner concludes that enforcement of this
5 section may adversely affect the allocation of federal funds to
6 the State, the commissioner may grant an exemption to the
7 requirements, but only to the minimum extent necessary to ensure
8 the continued receipt of federal funds.

9 (h) A bill or statement for services from any health care
10 provider or insurer shall be sent directly to the person
11 receiving the services.

12 (i) For purposes of this section, "contraceptive supplies"
13 shall have the same meaning as in section 431:10A-116.6.

14 **§431:10A-D Nondiscrimination; reproductive health care;**
15 **coverage.** (a) An individual, on the basis of actual or
16 perceived race, color, national origin, sex, gender identity,
17 sexual orientation, age, or disability, shall not be excluded
18 from participation in, be denied the benefits of, or otherwise
19 be subjected to discrimination in the coverage of, or payment
20 for, the services, drugs, devices, products, and procedures
21 covered by section 431:10A-C or 431:10A-116.6.



1 (b) Violation of this section shall be considered a
2 violation pursuant to chapter 489.

3 (c) Nothing in this section shall be construed to limit
4 any cause of action based upon any unfair or discriminatory
5 practices for which a remedy is available under state or federal
6 law."

7 SECTION 4. Chapter 432, Hawaii Revised Statutes, is
8 amended by adding two new sections to article 1 to be
9 appropriately designated and to read as follows:

10 **"§432:1-A Preventive care; coverage; requirements. (a)**
11 Every individual or group hospital or medical service plan
12 contract issued or renewed in this State shall provide coverage
13 for all of the following services, drugs, devices, products, and
14 procedures for the subscriber or member or any dependent of the
15 subscriber or member who is covered by the plan contract:

16 (1) Well-woman preventive care visit annually for women to
17 obtain the recommended preventive services that are
18 age and developmentally appropriate, including
19 preconception care and services necessary for prenatal
20 care. For the purposes of this section and where
21 appropriate, a "well-woman visit" shall include other



1 preventive services as listed in this section;
2 provided that if several visits are needed to obtain
3 all necessary recommended preventive services,
4 depending upon a woman's health status, health needs,
5 and other risk factors, coverage shall apply to each
6 of the necessary visits;

7 (2) Counseling for sexually transmitted infections,
8 including human immunodeficiency virus and acquired
9 immune deficiency syndrome;

10 (3) Screening for: chlamydia; gonorrhea; hepatitis B;
11 hepatitis C; human immunodeficiency virus and acquired
12 immune deficiency syndrome; human papillomavirus;
13 syphilis; anemia; urinary tract infection; pregnancy;
14 Rh incompatibility; gestational diabetes;
15 osteoporosis; breast cancer; and cervical cancer;

16 (4) Screening to determine whether counseling and testing
17 related to the BRCA1 or BRCA2 genetic mutation is
18 indicated and genetic counseling and testing related
19 to the BRCA1 or BRCA2 genetic mutation, if indicated;

20 (5) Screening and appropriate counseling or interventions
21 for:



- 1 (A) Substance abuse, including tobacco and electronic
- 2 smoking devices, and alcohol; and
- 3 (B) Domestic and interpersonal violence;
- 4 (6) Screening and appropriate counseling or interventions
- 5 for mental health screening and counseling, including
- 6 depression;
- 7 (7) Folic acid supplements;
- 8 (8) Abortion;
- 9 (9) Breastfeeding comprehensive support, counseling, and
- 10 supplies;
- 11 (10) Breast cancer chemoprevention counseling;
- 12 (11) Any contraceptive supplies, as specified in section
- 13 431:10A-116.6;
- 14 (12) Voluntary sterilization, as a single claim or combined
- 15 with the following other claims for covered services
- 16 provided on the same day:
- 17 (A) Patient education and counseling on contraception
- 18 and sterilization; and
- 19 (B) Services related to sterilization or the
- 20 administration and monitoring of contraceptive
- 21 supplies, including:



- 1 (i) Management of side effects;
- 2 (ii) Counseling for continued adherence to a
- 3 prescribed regimen;
- 4 (iii) Device insertion and removal; and
- 5 (iv) Provision of alternative contraceptive
- 6 supplies deemed medically appropriate in the
- 7 judgment of the subscriber's or member's
- 8 health care provider;
- 9 (13) Pre-exposure prophylaxis, post-exposure prophylaxis,
- 10 and human papillomavirus vaccination; and
- 11 (14) Any additional preventive services for women that must
- 12 be covered without cost sharing under title 42 United
- 13 States Code section 300gg-13, as identified by the
- 14 United States Preventive Services Task Force or the
- 15 Health Resources and Services Administration of the
- 16 United States Department of Health and Human Services,
- 17 as of January 1, 2019.
- 18 (b) Except as otherwise authorized under this section, a
- 19 mutual benefit society shall not impose any restrictions or
- 20 delays on the coverage required under this section.



1 (c) This section shall not require an individual or group
2 hospital or medical service plan contract to cover:

- 3 (1) Experimental or investigational treatments;
- 4 (2) Clinical trials or demonstration projects;
- 5 (3) Treatments that do not conform to acceptable and
6 customary standards of medical practice; or
- 7 (4) Treatments for which there is insufficient data to
8 determine efficacy.

9 (d) If services, drugs, devices, products, or procedures
10 required by this section are provided by an out-of-network
11 provider, the mutual benefit society shall cover the services,
12 drugs, devices, products, or procedures if:

- 13 (1) There is no in-network provider to furnish the
14 service, drug, device, product, or procedure that
15 meets the requirements for network adequacy under
16 section 431:26-103; or
- 17 (2) An in-network provider is unable or unwilling to
18 provide the service, drug, device, product, or
19 procedure in a timely manner.

20 (e) Every mutual benefit society shall provide written
21 notice to its subscribers or members regarding the coverage



1 required by this section. The notice shall be in writing and
2 prominently positioned in any literature or correspondence sent
3 to subscribers or members and shall be transmitted to
4 subscribers or members beginning with calendar year 2024 when
5 annual information is made available to subscribers or members
6 or in any other mailing to subscribers or members, but in no
7 case later than December 31, 2024.

8 (f) This section shall not apply to plan contracts that
9 provide coverage for specified diseases or other limited benefit
10 health insurance coverage, as provided pursuant to section
11 431:10A-607.

12 (g) If the commissioner concludes that enforcement of this
13 section may adversely affect the allocation of federal funds to
14 the State, the commissioner may grant an exemption to the
15 requirements, but only to the minimum extent necessary to ensure
16 the continued receipt of federal funds.

17 (h) A bill or statement for services from any health care
18 provider or mutual benefit society shall be sent directly to the
19 person receiving the services.

20 (i) For purposes of this section, "contraceptive supplies"
21 shall have the same meaning as in section 431:10A-116.6.



1 §432:1-B Nondiscrimination; reproductive health care;
 2 coverage. (a) An individual, on the basis of actual or
 3 perceived race, color, national origin, sex, gender identity,
 4 sexual orientation, age, or disability, shall not be excluded
 5 from participation in, be denied the benefits of, or otherwise
 6 be subjected to discrimination in the coverage of, or payment
 7 for, the services, drugs, devices, products, and procedures
 8 covered by section 432:1-A or 432:1-604.5.

9 (b) Violation of this section shall be considered a
 10 violation pursuant to chapter 489.

11 (c) Nothing in this section shall be construed to limit
 12 any cause of action based upon any unfair or discriminatory
 13 practices for which a remedy is available under state or federal
 14 law."

15 SECTION 5. Chapter 432D, Hawaii Revised Statutes, is
 16 amended by adding a new section to be appropriately designated
 17 and to read as follows:

18 "§432D-A Nondiscrimination; reproductive health care;
 19 coverage. (a) An individual, on the basis of actual or
 20 perceived race, color, national origin, sex, gender identity,
 21 sexual orientation, age, or disability, shall not be excluded



1 from participation in, be denied the benefits of, or otherwise
2 be subjected to discrimination in the coverage of, or payment
3 for, the services, drugs, devices, products, and procedures
4 covered by section 431:10-A or 431:10A-116.6.

5 (b) Violation of this section shall be considered a
6 violation pursuant to chapter 489.

7 (c) Nothing in this section shall be construed to limit
8 any cause of action based upon any unfair or discriminatory
9 practices for which a remedy is available under state or federal
10 law."

11 SECTION 6. Section 431:10A-116.6, Hawaii Revised Statutes,
12 is amended to read as follows:

13 **"§431:10A-116.6 Contraceptive services. (a)**
14 Notwithstanding any provision of law to the contrary, each
15 employer group policy of accident and health or sickness
16 [~~policy, contract, plan, or agreement~~] insurance issued or
17 renewed in this State on or after January 1, [~~2000,~~] 2024, shall
18 [~~cease to exclude~~] provide coverage for contraceptive services
19 or contraceptive supplies for the [~~subscriber~~] insured or any
20 dependent of the [~~subscriber~~] insured who is covered by the



1 policy, subject to the exclusion under section 431:10A-116.7 and
2 the exclusion under section 431:10A-607[~~-~~

3 ~~(b) Except as provided in subsection (c), all policies,~~
4 ~~contracts, plans, or agreements under subsection (a) that~~
5 ~~provide contraceptive services or supplies or prescription drug~~
6 ~~coverage shall not exclude any prescription contraceptive~~
7 ~~supplies or impose any unusual copayment, charge, or waiting~~
8 ~~requirement for such supplies.~~

9 ~~(c) Coverage for oral contraceptives shall include at~~
10 ~~least one brand from the monophasic, multiphasic, and the~~
11 ~~progestin-only categories. A member shall receive coverage for~~
12 ~~any other oral contraceptive only if:~~

13 ~~(1) Use of brands covered has resulted in an adverse drug~~
14 ~~reaction; or~~

15 ~~(2) The member has not used the brands covered and, based~~
16 ~~on the member's past medical history, the prescribing~~
17 ~~health care provider believes that use of the brands~~
18 ~~covered would result in an adverse reaction.]~~

19 ; provided that:

20 (1) If there is a therapeutic equivalent of a
21 contraceptive supply approved by the United States



1 Food and Drug Administration, an insurer may provide
2 coverage for either the requested contraceptive supply
3 or for one or more therapeutic equivalents of the
4 requested contraceptive supply;

5 (2) If a contraceptive supply covered by the policy is
6 deemed medically inadvisable by the insured's health
7 care provider, the policy shall cover an alternative
8 contraceptive supply prescribed by the health care
9 provider;

10 (3) An insurer shall pay pharmacy claims for reimbursement
11 of all contraceptive supplies available for over-the-
12 counter sale that are approved by the United States
13 Food and Drug Administration; and

14 (4) An insurer may not infringe upon an insured's choice
15 of contraceptive supplies and may not require prior
16 authorization, step therapy, or other utilization
17 control techniques for medically-appropriate covered
18 contraceptive supplies.

19 (b) Except as otherwise provided by this section, an
20 insurer shall not impose any restrictions or delays on the
21 coverage required by this section.



1 (c) Coverage required by this section shall not exclude
2 coverage for contraceptive supplies prescribed by a health care
3 provider, acting within the provider's scope of practice, for:

4 (1) Reasons other than contraceptive purposes, such as
5 decreasing the risk of ovarian cancer or eliminating
6 symptoms of menopause; or

7 (2) Contraception that is necessary to preserve the life
8 or health of an insured.

9 (d) Coverage required by this section shall include
10 reimbursement to a prescribing health care provider or
11 dispensing entity for prescription contraceptive supplies
12 intended to last for up to a twelve-month period for an insured.

13 (e) Coverage required by this section shall include
14 reimbursement to a prescribing and dispensing pharmacist who
15 prescribes and dispenses contraceptive supplies pursuant to
16 section 461-11.6.

17 (f) Nothing in this section shall be construed to extend
18 the practices or privileges of any health care provider beyond
19 that provided in the laws governing the provider's practice and
20 privileges.

21 (g) For purposes of this section:



1 "Contraceptive services" means physician-delivered,
2 physician-supervised, physician assistant-delivered, advanced
3 practice registered nurse-delivered, nurse-delivered, or
4 pharmacist-delivered medical services intended to promote the
5 effective use of contraceptive supplies or devices to prevent
6 unwanted pregnancy.

7 "Contraceptive supplies" means all United States Food and
8 Drug Administration-approved contraceptive drugs ~~[øø]~~, devices,
9 or products used to prevent unwanted pregnancy~~[øø]~~, regardless of
10 whether they are to be used by the insured or the partner of the
11 insured, and regardless of whether they are to be used for
12 contraception or exclusively for the prevention of sexually
13 transmitted infections.

14 ~~[-(f) Nothing in this section shall be construed to extend~~
15 ~~the practice or privileges of any health care provider beyond~~
16 ~~that provided in the laws governing the provider's practice and~~
17 ~~privileges.]"~~

18 SECTION 7. Section 431:10A-116.7, Hawaii Revised Statutes,
19 is amended by amending subsection (g) to read as follows:

20 "(g) For purposes of this section:



1 "Contraceptive services" means physician-delivered,
2 physician-supervised, physician assistant-delivered, advanced
3 practice registered nurse-delivered, nurse-delivered, or
4 pharmacist-delivered medical services intended to promote the
5 effective use of contraceptive supplies or devices to prevent
6 unwanted pregnancy.

7 "Contraceptive supplies" means all United States Food and
8 Drug Administration-approved contraceptive drugs [~~or~~], devices,
9 or products used to prevent unwanted pregnancy[~~or~~], regardless of
10 whether they are to be used by the insured or the partner of the
11 insured, and regardless of whether they are to be used for
12 contraception or exclusively for the prevention of sexually
13 transmitted infections."

14 SECTION 8. Section 432:1-604.5, Hawaii Revised Statutes,
15 is amended to read as follows:

16 "**§432:1-604.5 Contraceptive services.** (a)
17 Notwithstanding any provision of law to the contrary, each
18 employer group [~~health policy, contract, plan, or agreement~~]
19 hospital or medical service plan contract issued or renewed in
20 this State on or after January 1, [~~2000,~~] 2024, shall [~~cease to~~
21 ~~exclude~~] provide coverage for contraceptive services or



1 contraceptive supplies, and contraceptive prescription drug
 2 coverage for the subscriber or member, or any dependent of the
 3 subscriber or member who is covered by the policy, subject to
 4 the exclusion under section 431:10A-116.7[-

5 ~~(b) Except as provided in subsection (c), all policies,~~
 6 ~~contracts, plans, or agreements under subsection (a), that~~
 7 ~~provide contraceptive services or supplies or prescription drug~~
 8 ~~coverage shall not exclude any prescription contraceptive~~
 9 ~~supplies or impose any unusual copayment, charge, or waiting~~
 10 ~~requirement for such drug or device.~~

11 ~~(c) Coverage for contraceptives shall include at least one~~
 12 ~~brand from the monophasic, multiphasic, and the progestin-only~~
 13 ~~categories. A member shall receive coverage for any other oral~~
 14 ~~contraceptive only if:~~

- 15 ~~(1) Use of brands covered has resulted in an adverse drug~~
- 16 ~~reaction; or~~
- 17 ~~(2) The member has not used the brands covered and, based~~
- 18 ~~on the member's past medical history, the prescribing~~
- 19 ~~health care provider believes that use of the brands~~
- 20 ~~covered would result in an adverse reaction.]~~

21 ; provided that:



- 1 (1) If there is a therapeutic equivalent of a
2 contraceptive supply approved by the United States
3 Food and Drug Administration, a mutual benefit society
4 may provide coverage for either the requested
5 contraceptive supply or for one or more therapeutic
6 equivalents of the requested contraceptive supply;
- 7 (2) If a contraceptive supply covered by the plan contract
8 is deemed medically inadvisable by the subscriber's or
9 member's health care provider, the plan contract shall
10 cover an alternative contraceptive supply prescribed
11 by the health care provider;
- 12 (3) A mutual benefit society shall pay pharmacy claims for
13 reimbursement of all contraceptive supplies available
14 for over-the-counter sale that are approved by the
15 United States Food and Drug Administration; and
- 16 (4) A mutual benefit society shall not infringe upon a
17 subscriber's or member's choice of contraceptive
18 supplies and shall not require prior authorization,
19 step therapy, or other utilization control techniques
20 for medically-appropriate covered contraceptive
21 supplies.



1 (b) Except as otherwise provided by this section, a mutual
2 benefit society shall not impose any restrictions or delays on
3 the coverage required by this section.

4 (c) Coverage required by this section shall not exclude
5 coverage for contraceptive supplies prescribed by a health care
6 provider, acting within the provider's scope of practice, for:

7 (1) Reasons other than contraceptive purposes, such as
8 decreasing the risk of ovarian cancer or eliminating
9 symptoms of menopause; or

10 (2) Contraception that is necessary to preserve the life
11 or health of a subscriber or member.

12 (d) Coverage required by this section shall include
13 reimbursement to a prescribing health care provider or
14 dispensing entity for prescription contraceptive supplies
15 intended to last for up to a twelve-month period for a member.

16 (e) Coverage required by this section shall include
17 reimbursement to a prescribing and dispensing pharmacist who
18 prescribes and dispenses contraceptive supplies pursuant to
19 section 461-11.6.

20 (f) Nothing in this section shall be construed to extend
21 the practice or privileges of any health care provider beyond



1 that provided in the laws governing the provider's practice and
2 privileges.

3 (g) For purposes of this section:

4 "Contraceptive services" means physician-delivered,
5 physician-supervised, physician assistant-delivered, advanced
6 practice registered nurse-delivered, nurse-delivered, or
7 pharmacist-delivered medical services intended to promote the
8 effective use of contraceptive supplies or devices to prevent
9 unwanted pregnancy.

10 "Contraceptive supplies" means all Food and Drug
11 Administration-approved contraceptive drugs or devices used to
12 prevent unwanted pregnancy[-

13 ~~(f) Nothing in this section shall be construed to extend~~
14 ~~the practice or privileges of any health care provider beyond~~
15 ~~that provided in the laws governing the provider's practice and~~
16 ~~privileges.], regardless of whether they are to be used by the
17 subscriber or member or the partner of the subscriber or member,
18 and regardless of whether they are to be used for contraception
19 or exclusively for the prevention of sexually transmitted
20 infections."~~



1 SECTION 9. Section 432D-23, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§432D-23 Required provisions and benefits.**

4 Notwithstanding any provision of law to the contrary, each
5 policy, contract, plan, or agreement issued in the State after
6 January 1, 1995, by health maintenance organizations pursuant to
7 this chapter, shall include benefits provided in sections
8 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
9 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,
10 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, 431:10A-132,
11 431:10A-133, 431:10A-134, 431:10A-140, and [~~431:10A-134,~~
12 431:10A-A, and chapter 431M."

13 PART III

14 SECTION 10. Chapter 346, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 **"§346-A Nondiscrimination; reproductive health care;**
18 **coverage.** (a) An individual, on the basis of actual or
19 perceived race, color, national origin, sex, gender identity,
20 sexual orientation, age, or disability, shall not be excluded
21 from participation in, be denied the benefits of, or otherwise



1 be subjected to discrimination in the coverage of, or payment
2 for, the services, drugs, devices, products, or procedures
3 covered by section 432:1-A or 432:1-604.5 or in the receipt of
4 medical assistance as that term is defined under section 346-1.

5 (b) Violation of this section shall be considered a
6 violation pursuant to chapter 489.

7 (c) Nothing in this section shall be construed to limit
8 any cause of action based upon any unfair or discriminatory
9 practices for which a remedy is available under state or federal
10 law."

11 PART IV

12 SECTION 11. No later than twenty days prior the convening
13 of the regular session of 2024, the insurance division of the
14 department of commerce and consumer affairs shall submit a
15 report to the legislature on the degree of compliance by
16 insurers, mutual benefit societies, and health maintenance
17 organizations regarding the implementation of this Act, and of
18 any actions taken by the insurance commissioner to enforce
19 compliance with this Act.

20 SECTION 12. In codifying the new sections added by
21 sections 2, 3, 4, 5, and 10 of this Act, the revisor of statutes



1 shall substitute appropriate section numbers for the letters
2 used in designating the new sections in this Act.

3 SECTION 13. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 14. This Act shall take effect on January 1, 2024,
6 and shall apply to all plans, policies, contracts, and
7 agreements of health insurance issued or renewed by a health
8 insurer, mutual benefit society, or health maintenance
9 organization on or after January 1, 2024.

10

INTRODUCED BY:

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and difficult to decipher, but appears to contain the letters 'J', 'A', 'R'.

S.B. NO. 892

Report Title:

Health Care; Insurance

Description:

Requires health insurance coverage for various sexual and reproductive health care services.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

