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# A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1           SECTION 1. The legislature finds that many health  
2 insurance policies and programs exclude transgender people from  
3 accessing care. Transgender people routinely experience serious  
4 and life-threatening discrimination, and the practice of denying  
5 health insurance coverage to a person based on gender identity  
6 or gender expression is against public policy.

7           The purpose of this Act is to prohibit the denial,  
8 exclusion, or limitation of health care services or treatment to  
9 a person on the basis of a person's actual gender identity or  
10 perceived gender identity.

11           SECTION 2. Chapter 431, Hawaii Revised Statutes, is  
12 amended by adding a new section to article 10A to be  
13 appropriately designated and to read as follows:

14           "§431:10A-    Non-discrimination on the basis of actual  
15 gender identity or perceived gender identity; coverage for  
16 services; definitions. (a) No individual and group accident  
17 and health or sickness policy, contract, plan, or agreement that  
18 provides health care coverage shall discriminate with respect to



1 participation and coverage under the policy, contract, plan, or  
2 agreement against any person on the basis of actual gender  
3 identity or perceived gender identity.

4 (b) Discrimination under this section includes the  
5 following:

6 (1) Denying, canceling, limiting, or refusing to issue or  
7 renew an insurance policy, contract, plan, or  
8 agreement on the basis of a person's or the person's  
9 family member's actual gender identity or perceived  
10 gender identity;

11 (2) Demanding or requiring a payment or premium that is  
12 based on a person's or the person's family member's  
13 actual gender identity or perceived gender identity;

14 (3) Designating a person's or the person's family member's  
15 actual gender identity or perceived gender identity as  
16 a preexisting condition to deny, cancel, or limit  
17 coverage;

18 (4) Denying, canceling, or limiting coverage for services  
19 on the basis of actual gender identity or perceived  
20 gender identity including but not limited to the  
21 following:



1           (A) Health care services related to gender  
2           transition; provided that there is coverage under  
3           the policy, contract, plan, or agreement for the  
4           services when the services are not related to  
5           gender transition; and

6           (B) Health care services that are ordinarily or  
7           exclusively available to individuals of one sex.

8           (c) The medical necessity of any treatment shall be  
9           determined pursuant to the insurance policy, contract, plan, or  
10           agreement and shall be defined in a manner that is consistent  
11           with other covered services.

12           (d) Any coverage provided shall be subject to copayment,  
13           deductible, and coinsurance provisions of an individual and  
14           group accident and health or sickness policy, contract, plan, or  
15           agreement that are no less favorable than the copayment,  
16           deductible, and coinsurance provisions for substantially all  
17           other medical services covered by the policy, contract, plan, or  
18           agreement.

19           (e) As used in this section unless the context requires  
20           otherwise:



1 "Actual gender identity" means a person's internal sense of  
2 being male, female, a gender different from the gender assigned  
3 at birth, a transgender person, or neither male nor female.

4 "Gender transition" means the process of a person changing  
5 the person's outward appearance or sex characteristics to accord  
6 with the person's actual gender identity.

7 "Perceived gender identity" means an observer's impression  
8 of another person's actual gender identity or the observer's own  
9 impression that the person is male, female, a gender different  
10 from the gender designed at birth, a transgender person, or  
11 neither male nor female.

12 "Transgender person" means a person who has gender identity  
13 disorder or gender dysphoria, has received health care services  
14 related to gender transition, adopts the appearance or behavior  
15 of the opposite sex, or otherwise identifies as a gender  
16 different from the gender assigned to that person at birth."

17 SECTION 3. Chapter 432, Hawaii Revised Statutes, is  
18 amended by adding a new section to article 1 to be appropriately  
19 designated and to read as follows:

20 "§432:1- Non-discrimination on the basis of actual  
21 gender identity or perceived gender identity; coverage for

1 services; definitions. (a) No individual and group hospital  
2 and medical service policy, contract, plan, or agreement that  
3 provides health care coverage shall discriminate with respect to  
4 participation and coverage under the policy, contract, plan, or  
5 agreement against any person on the basis of actual gender  
6 identity or perceived gender identity.

7 (b) Discrimination under this section includes the  
8 following:

9 (1) Denying, canceling, limiting, or refusing to issue or  
10 renew an insurance policy, contract, plan, or  
11 agreement on the basis of a person's or the person's  
12 family member's actual gender identity or perceived  
13 gender identity;

14 (2) Demanding or requiring a payment or premium that is  
15 based on a person's or the person's family member's  
16 actual gender identity or perceived gender identity;

17 (3) Designating a person's or the person's family member's  
18 actual gender identity or perceived gender identity as  
19 a preexisting condition to deny, cancel, or limit  
20 coverage;



1       (4) Denying, canceling, or limiting coverage for services  
2       on the basis of actual gender identity or perceived  
3       gender identity including but not limited to the  
4       following:

5       (A) Health care services related to gender  
6       transition; provided that there is coverage under  
7       the policy, contract, plan, or agreement for the  
8       services when the services are not related to  
9       gender transition; and

10       (B) Health care services that are ordinarily or  
11       exclusively available to individuals of one sex.

12       (c) The medical necessity of any treatment shall be  
13       determined pursuant to the insurance policy, contract, plan, or  
14       agreement and shall be defined in a manner that is consistent  
15       with other covered services.

16       (d) Any coverage provided shall be subject to copayment,  
17       deductible, and coinsurance provisions of an individual and  
18       group hospital and medical service policy, contract, plan, or  
19       agreement that are no less favorable than the copayment,  
20       deductible, and coinsurance provisions for substantially all



1 other medical services covered by the policy, contract, plan, or  
2 agreement.

3 (e) As used in this section unless the context requires  
4 otherwise:

5 "Actual gender identity" means a person's internal sense of  
6 being male, female, a gender different from the gender assigned  
7 at birth, a transgender person, or neither male nor female.

8 "Gender transition" means the process of a person changing  
9 the person's outward appearance or sex characteristics to accord  
10 with the person's actual gender identity.

11 "Perceived gender identity" means an observer's impression  
12 of another person's actual gender identity or the observer's own  
13 impression that the person is male, female, a gender different  
14 from the gender designed at birth, a transgender person, or  
15 neither male nor female.

16 "Transgender person" means a person who has gender identity  
17 disorder or gender dysphoria, has received health care services  
18 related to gender transition, adopts the appearance or behavior  
19 of the opposite sex, or otherwise identifies as a gender  
20 different from the gender assigned to that person at birth."



1 SECTION 4. Chapter 432D, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§432D- Non-discrimination on the basis of actual gender  
5 identity or perceived gender identity; coverage for services;  
6 definitions. (a) No health maintenance organization policy,  
7 contract, plan, or agreement shall discriminate with respect to  
8 participation and coverage under the policy, contract, plan, or  
9 agreement against any person on the basis of actual gender  
10 identity or perceived gender identity.

11 (b) Discrimination under this section includes the  
12 following:

13 (1) Denying, canceling, limiting, or refusing to issue or  
14 renew an insurance policy, contract, plan, or  
15 agreement on the basis of a person's or the person's  
16 family member's actual gender identity or perceived  
17 gender identity;

18 (2) Demanding or requiring a payment or premium that is  
19 based on a person's or the person's family member's  
20 actual gender identity or perceived gender identity;



- 1       (3) Designating a person's or the person's family member's  
2       actual gender identity or perceived gender identity as  
3       a preexisting condition to deny, cancel, or limit  
4       coverage;
  
- 5       (4) Denying, canceling, or limiting coverage for services  
6       on the basis of actual gender identity or perceived  
7       gender identity including but not limited to the  
8       following:
  - 9           (A) Health care services related to gender  
10           transition; provided that there is coverage under  
11           the policy, contract, plan, or agreement for the  
12           services when the services are not related to  
13           gender transition; and
  - 14           (B) Health care services that are ordinarily or  
15           exclusively available to individuals of one sex.
  
- 16       (c) The medical necessity of any treatment shall be  
17       determined pursuant to the insurance policy, contract, plan, or  
18       agreement and shall be defined in a manner that is consistent  
19       with other covered services.
  
- 20       (d) Any coverage provided shall be subject to copayment,  
21       deductible, and coinsurance provisions of a health maintenance



1 organization policy, contract, plan, or agreement that are no  
2 less favorable than the copayment, deductible, and coinsurance  
3 provisions for substantially all other medical services covered  
4 by the policy, contract, plan, or agreement.

5 (e) As used in this section unless the context requires  
6 otherwise:

7 "Actual gender identity" means a person's internal sense of  
8 being male, female, a gender different from the gender assigned  
9 at birth, a transgender person, or neither male nor female.

10 "Gender transition" means the process of a person changing  
11 the person's outward appearance or sex characteristics to accord  
12 with the person's actual gender identity.

13 "Perceived gender identity" means an observer's impression  
14 of another person's actual gender identity or the observer's own  
15 impression that the person is male, female, a gender different  
16 from the gender designed at birth, a transgender person, or  
17 neither male nor female.

18 "Transgender person" means a person who has gender identity  
19 disorder or gender dysphoria, has received health care services  
20 related to gender transition, adopts the appearance or behavior



1 of the opposite sex, or otherwise identifies as a gender  
2 different from the gender assigned to that person at birth."

3 SECTION 5. Notwithstanding any other law to the contrary,  
4 the non-discrimination provisions required under sections 2, 3,  
5 and 4 of this Act shall apply to all health benefits plans under  
6 chapter 87A, Hawaii Revised Statutes, issued, renewed, modified,  
7 altered, or amended on or after the effective date of this Act.

8 SECTION 6. New statutory material is underscored.

9 SECTION 7. This Act shall take effect upon its approval.

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**Report Title:**

Health Insurance; Insurers; Participation and Coverage; Non-discrimination; Gender Identity

**Description:**

Prohibits all insurers in the state, including health insurers, mutual benefit societies, health maintenance organizations, and health benefits plans under chapter 87A, Hawaii Revised Statutes, from discriminating with respect to participation and coverage under a policy, contract, plan, or agreement against any person on the basis of a person's actual gender identity or perceived gender identity. (SD1)

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

