

JAN 22 2021

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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 transgender  
2 persons have experienced discriminatory treatment from health  
3 insurance providers when seeking coverage for gender-confirming  
4 treatments. Insurance policies often cover therapies and  
5 surgeries like feminizing or masculinizing hormone therapies,  
6 voice therapies, chest augmentations or reductions, and genital  
7 surgeries for other purposes but deny the same treatments for  
8 purposes of gender affirmation.

9           The legislature finds that these arbitrary assessments of  
10 medical necessity are not evidence-based and interfere with the  
11 patient-physician relationship. They also place transgender  
12 persons who are denied treatment at higher risk of suicide and  
13 depression.

14           The legislature recognizes that, while federal health care  
15 guidelines previously prohibited health insurance and healthcare  
16 providers from discriminating on the basis of gender identity,  
17 these protections have been largely rolled back.



1           Accordingly, the purpose of this Act is to require health  
2 insurance companies to provide applicants and policy holders  
3 with clear information on the policy's coverage of gender  
4 transition treatments and to prohibit insurance companies from  
5 discriminating on the basis of gender identity.

6           SECTION 2. Section 431:10A-118.3, Hawaii Revised Statutes,  
7 is amended to read as follows:

8           "§431:10A-118.3 Nondiscrimination on the basis of actual  
9 gender identity or perceived gender identity; coverage for  
10 services. (a) No individual and group accident and health or  
11 sickness policy, contract, plan, or agreement that provides  
12 health care coverage shall discriminate with respect to  
13 participation and coverage under the policy, contract, plan, or  
14 agreement against any person on the basis of actual gender  
15 identity or perceived gender identity.

16           (b) Discrimination under this section includes the  
17 following:

18           (1) Denying, canceling, limiting, or refusing to issue or  
19 renew an insurance policy, contract, plan, or  
20 agreement on the basis of a transgender person's or



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1           the person's family member's actual gender identity or  
2           perceived gender identity;

3           (2) Demanding or requiring a payment or premium that is  
4           based on a transgender person's or the person's family  
5           member's actual gender identity or perceived gender  
6           identity;

7           (3) Designating a transgender person's or the person's  
8           family member's actual gender identity or perceived  
9           gender identity as a preexisting condition to deny,  
10          cancel, or limit coverage; and

11          (4) Denying, canceling, or limiting coverage for services  
12          on the basis of actual gender identity or perceived  
13          gender identity including but not limited to the  
14          following:

15               (A) Health care services related to gender  
16               transition; provided that there is coverage under  
17               the policy, contract, plan, or agreement for the  
18               services when the services are not related to  
19               gender transition; and



1 (B) Health care services that are ordinarily or  
2 exclusively available to individuals of ~~[one]~~ any  
3 sex.

4 (c) The medical necessity of any treatment for a  
5 transgender person or any person on the basis of actual gender  
6 identity or perceived gender identity shall be determined  
7 pursuant to the insurance policy, contract, plan, or agreement  
8 and shall be defined in ~~[a manner that is consistent with other~~  
9 ~~covered services.]~~ accordance with the most recent edition of  
10 the Standards of Care for the Health of Transsexual,  
11 Transgender, and Gender Nonconforming People, issued by the  
12 World Professional Association for Transgender Health.

13 (d) All health care services related to gender transition  
14 treatments shall be considered medically necessary and not  
15 cosmetic; provided the policy also provides coverage for those  
16 services when the services are offered for purposes other than  
17 gender transition. These services may include, but are not  
18 limited to:

19 (1) Hormone therapies;

20 (2) Hysterectomies;

21 (3) Mastectomies;



- 1        (4) Vocal training;
- 2        (5) Feminizing vaginoplasties;
- 3        (6) Masculinizing phalloplasties;
- 4        (7) Metaoidioplasties;
- 5        (8) Breast Augmentations;
- 6        (9) Masculinizing chest surgeries;
- 7        (10) Facial feminization surgeries;
- 8        (11) Reduction thyroid chondroplasties;
- 9        (12) Voice surgeries;
- 10       (13) Laser hair removal; and
- 11       (14) Smoking cessation therapies.
  
- 12       (e) Each individual and group accident and health or
- 13 sickness policy, contract, plan, or agreement shall provide
- 14 applicants and insured persons with clear information about the
- 15 coverage of gender transition services and the requirements for
- 16 determining medically necessary treatments related to these
- 17 services, including the process for appealing a claim denied on
- 18 the basis of medical necessity.
  
- 19       [~~d~~] (f) Any coverage provided shall be subject to
- 20 copayment, deductible, and coinsurance provisions of an
- 21 individual and group accident and health or sickness policy,



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

5 ~~[(e)]~~ (g) As used in this section unless the context  
6 requires 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, or 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 assigned at birth, or a transgender person~~[, or  
17 neither male nor female]~~.

18 "Transgender person" means a person who has [~~gender  
19 identity disorder or~~] gender dysphoria, has received health care  
20 services related to gender transition, [~~adopts the appearance or  
21 behavior of the opposite sex,~~] or otherwise identifies as a



1 gender different from the gender assigned to that person at  
2 birth."

3 SECTION 3. Section 432:1-607.3, Hawaii Revised Statutes,  
4 is amended to read as follows:

5 "§432:1-607.3 Nondiscrimination on the basis of actual  
6 gender identity or perceived gender identity; coverage for  
7 services. (a) No individual and group hospital and medical  
8 service policy, contract, plan, or agreement that provides  
9 health care coverage shall discriminate with respect to  
10 participation and coverage under the policy, contract, plan, or  
11 agreement against any person on the basis of actual gender  
12 identity or perceived gender identity.

13 (b) Discrimination under this section includes the  
14 following:

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

20 (2) Demanding or requiring a payment or premium that is  
21 based on a transgender person's or the person's family



1 member's actual gender identity or perceived gender  
2 identity;

3 (3) Designating a transgender person's or the person's  
4 family member's actual gender identity or perceived  
5 gender identity as a preexisting condition to deny,  
6 cancel, or limit coverage; and

7 (4) Denying, canceling, or limiting coverage for services  
8 on the basis of actual gender identity or perceived  
9 gender identity including but not limited to the  
10 following:

11 (A) Health care services related to gender  
12 transition; provided that there is coverage under  
13 the policy, contract, plan, or agreement for the  
14 services when the services are not related to  
15 gender transition; and

16 (B) Health care services that are ordinarily or  
17 exclusively available to individuals of [~~one~~] any  
18 sex.

19 (c) The medical necessity of any treatment for a  
20 transgender person or any person on the basis of actual gender  
21 identity or perceived gender identity shall be determined





1 pursuant to the insurance policy, contract, plan, or agreement  
2 and shall be defined in [~~a manner that is consistent with other~~  
3 ~~covered services.~~] accordance with the most recent edition of  
4 the Standards of Care for the Health of Transsexual,  
5 Transgender, and Gender Nonconforming People, issued by the  
6 World Professional Association for Transgender Health.

7 (d) All health care services related to gender transition  
8 treatments shall be considered medically necessary and not  
9 cosmetic; provided the policy also provides coverage for those  
10 services when the services are offered for purposes other than  
11 gender transition. These services may include, but are not  
12 limited to:

- 13 (1) Hormone therapies;
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- 16 (4) Vocal training;
- 17 (5) Feminizing vaginoplasties;
- 18 (6) Masculinizing phalloplasties;
- 19 (7) Metaoidioplasties;
- 20 (8) Breast Augmentations;
- 21 (9) Masculinizing chest surgeries;



1        (10) Facial feminization surgeries;

2        (11) Reduction thyroid chondroplasties;

3        (12) Voice surgeries;

4        (13) Laser hair removal; and

5        (14) Smoking cessation therapies.

6        (e) Each individual and group accident and health or  
7 sickness policy, contract, plan, or agreement shall provide  
8 applicants and insured persons with clear information about the  
9 coverage of gender transition services and the requirements for  
10 determining medically necessary treatments related to these  
11 services, including the process for appealing a claim denied on  
12 the basis of medical necessity.

13        [~~(e)~~] (f) Any coverage provided shall be subject to  
14 copayment, deductible, and coinsurance provisions of an  
15 individual and group hospital and medical service policy,  
16 contract, plan, or agreement that are no less favorable than the  
17 copayment, deductible, and coinsurance provisions for  
18 substantially all other medical services covered by the policy,  
19 contract, plan, or agreement.

20        [~~(e)~~] (g) As used in this section unless the context  
21 requires 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, or 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 assigned at birth, or a transgender person[, ~~or~~  
11 ~~neither male nor female~~].

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

18 SECTION 4. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.



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1           SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 6. This Act shall take effect upon its approval.

4

INTRODUCED BY: 



# S.B. NO. 752

**Report Title:**

Insurance; Nondiscrimination; Transgender; Gender Transition Treatments

**Description:**

Prohibits health insurance companies from denying coverage on the basis of gender identity if the policy covers the treatment for purposes other than gender transition. Requires insurance companies to provide applicants and insured persons with clear information about the coverage of gender transition services, including the process for appealing a claim denied on the basis of medical necessity.

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