
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 health
16 care providers from discriminating on the basis of gender
17 identity, 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, including any health maintenance
13 organization governed by chapter 432D, shall discriminate with
14 respect to participation and coverage under the policy,
15 contract, plan, or agreement against any person on the basis of
16 actual gender identity or perceived gender identity.

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

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



- 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 information
10 provided by evidenced-based peer-reviewed medical guidance.

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

- 17 (1) Hormone therapies;
- 18 (2) Hysterectomies;
- 19 (3) Mastectomies;
- 20 (4) Vocal training;
- 21 (5) Feminizing vaginoplasties;



1 (6) Masculinizing phalloplasties;

2 (7) Metaoidioplasties;

3 (8) Breast augmentations;

4 (9) Masculinizing chest surgeries;

5 (10) Facial feminization surgeries;

6 (11) Reduction thyroid chondroplasties;

7 (12) Voice surgeries and therapies; and

8 (13) Electrolysis or laser hair removal.

9 (e) Each individual and group accident and health or
10 sickness policy, contract, plan, or agreement, including any
11 health maintenance organization governed by chapter 432D, shall
12 provide applicants and insureds with clear information about the
13 coverage of gender transition services and the requirements for
14 determining medically necessary treatments related to these
15 services, including the process for appealing a claim denied on
16 the basis of medical necessity.

17 [~~d~~] (f) Any coverage provided shall be subject to
18 copayment, deductible, and coinsurance provisions of an
19 individual and group accident and health or sickness policy,
20 contract, plan, or agreement that are no less favorable than the
21 copayment, deductible, and coinsurance provisions for



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

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

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



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

3 **"§432:1-607.3 Nondiscrimination on the basis of actual**
4 **gender identity or perceived gender identity; coverage for**
5 **services.** (a) No individual [~~and~~] or group hospital [~~and~~] or
6 medical service policy, contract, plan, or agreement that
7 provides health care coverage, including any health maintenance
8 organization governed by chapter 432D, shall discriminate with
9 respect to participation and coverage under the policy,
10 contract, plan, or agreement against any person on the basis of
11 actual gender identity or perceived gender identity.

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

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

19 (2) Demanding or requiring a payment or premium that is
20 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 person's or the transgender 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 information
4 provided by evidenced-based peer-reviewed medical guidance.

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

- 11 (1) Hormone therapies;
- 12 (2) Hysterectomies;
- 13 (3) Mastectomies;
- 14 (4) Vocal training;
- 15 (5) Feminizing vaginoplasties;
- 16 (6) Masculinizing phalloplasties;
- 17 (7) Metaoidioplasties;
- 18 (8) Breast augmentations;
- 19 (9) Masculinizing chest surgeries;
- 20 (10) Facial feminization surgeries;
- 21 (11) Reduction thyroid chondroplasties;



1 (12) Voice surgeries and therapies; and

2 (13) Electrolysis or laser hair removal.

3 (e) Each individual or group hospital or medical service
4 policy, contract, plan, or agreement, including any health
5 maintenance organization governed by chapter 432D, shall provide
6 applicants and members with clear information about the coverage
7 of gender transition services and the requirements for
8 determining medically necessary treatments related to these
9 services, including the process for appealing a claim denied on
10 the basis of medical necessity.

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

18 [~~e~~] (g) As used in this section unless the context
19 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.



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 on July 1, 2060.

4



Report Title:

Insurance; Nondiscrimination; Transgender; Gender Transition
Treatments

Description:

Permits health insurers, mutual benefit societies, and health maintenance organizations to consider gender transition treatments medically necessary if the policy covers the treatment for purposes other than gender transition. Requires health insurers, mutual benefit societies, and health maintenance organizations 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. Effective 7/1/2060.
(HD1)

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