

---

---

# A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1           SECTION 1. This Act shall be known and cited as the Gender  
2 Affirming Treatment Act.

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

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

16           The legislature recognizes that, while federal health care  
17 guidelines previously prohibited health insurance and health



1 care providers from discriminating on the basis of gender  
2 identity, these protections have been largely rolled back.

3 Accordingly, the purpose of this Act is to:

4 (1) Prohibit health insurers, mutual benefit societies,  
5 and health maintenance organizations from applying  
6 categorical cosmetic or blanket exclusions to gender  
7 affirming treatments or excluding gender affirming  
8 treatments as cosmetic services when prescribed as  
9 medically necessary; and

10 (2) Require health insurers, mutual benefit societies, and  
11 health maintenance organizations to provide applicants  
12 and insured persons with clear information about the  
13 coverage of gender transition services, including the  
14 process for appealing a claim denied on the basis of  
15 medical necessity.

16 SECTION 3. Section 431:10A-118.3, Hawaii Revised Statutes,  
17 is amended to read as follows:

18 "**§431:10A-118.3 Nondiscrimination on the basis of actual**  
19 **gender identity or perceived gender identity; coverage for**  
20 **services.** (a) No individual [~~and~~] or group accident and health  
21 or sickness policy, contract, plan, or agreement that provides



1 health care coverage, including any health maintenance  
2 organization governed by chapter 432D, shall discriminate with  
3 respect to participation and coverage under the policy,  
4 contract, plan, or agreement against any person on the basis of  
5 actual gender identity or perceived gender identity.

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

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

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

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



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]~~ any  
12 sex.

13 (c) The medical necessity of any treatment for a  
14 transgender person or any person on the basis of actual gender  
15 identity or perceived gender identity shall be determined  
16 pursuant to the insurance policy, contract, plan, or agreement  
17 and shall be defined in ~~[a manner that is consistent with other~~  
18 ~~covered services.]~~ accordance with the most recent information  
19 provided by evidenced-based peer-reviewed medical guidance.

20 (d) A health carrier shall not apply categorical cosmetic  
21 or blanket exclusions to gender affirming treatments. When



1 prescribed as a medically necessary gender affirming treatment,  
2 a health carrier shall not categorically exclude as cosmetic  
3 services facial feminization surgeries and other facial gender  
4 affirming treatment, such as tracheal shaves; hair electrolysis  
5 or laser hair removal; mastectomies; breast reductions; breast  
6 implants; voice surgeries and therapies; smoking cessation; or  
7 other care, including any combination of gender affirming  
8 procedures and revisions to prior treatments.

9 (e) Each individual or 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~~ or group accident and health or sickness  
20 policy, contract, plan, or agreement that are no less favorable  
21 than the copayment, deductible, and coinsurance provisions for



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

3 (g) Nothing in this section shall be construed to mandate  
4 coverage of a service that is not medically necessary.

5 ~~[(e)]~~ (h) 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 4. 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~~] or group hospital [~~and~~] or  
8 medical service policy, contract, plan, or agreement that  
9 provides health care coverage, including any health maintenance  
10 organization governed by chapter 432D, shall discriminate with  
11 respect to participation and coverage under the policy,  
12 contract, plan, or agreement against any person on the basis of  
13 actual gender identity or perceived gender identity.

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

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



- 1 (2) Demanding or requiring a payment or premium that is  
2 based on a transgender person's or the person's family  
3 member's actual gender identity or perceived gender  
4 identity;
- 5 (3) Designating a transgender person's or the person's  
6 family member's actual gender identity or perceived  
7 gender identity as a preexisting condition to deny,  
8 cancel, or limit coverage; and
- 9 (4) Denying, canceling, or limiting coverage for services  
10 on the basis of actual gender identity or perceived  
11 gender identity, including but not limited to the  
12 following:
- 13 (A) Health care services related to gender  
14 transition; provided that there is coverage under  
15 the policy, contract, plan, or agreement for the  
16 services when the services are not related to  
17 gender transition; and
- 18 (B) Health care services that are ordinarily or  
19 exclusively available to individuals of [~~one~~] any  
20 sex.





1 (c) The medical necessity of any treatment for a  
2 transgender person or any person on the basis of actual gender  
3 identity or perceived gender identity shall be determined  
4 pursuant to the [~~insurance~~] hospital or medical service policy,  
5 contract, plan, or agreement and shall be defined in [~~a manner~~  
6 ~~that is consistent with other covered services.~~] accordance with  
7 the most recent information provided by evidenced-based peer-  
8 reviewed medical guidance.

9 (d) A health carrier shall not apply categorical cosmetic  
10 or blanket exclusions to gender affirming treatments. When  
11 prescribed as a medically necessary gender affirming treatment,  
12 a health carrier shall not categorically exclude as cosmetic  
13 services facial feminization surgeries and other facial gender  
14 affirming treatment, such as tracheal shaves; hair electrolysis  
15 or laser hair removal; mastectomies; breast reductions; breast  
16 implants; voice surgeries and therapies; smoking cessation; or  
17 other care, including any combination of gender affirming  
18 procedures and revisions to prior treatments.

19 (e) Each individual or group hospital or medical service  
20 policy, contract, plan, or agreement, including any health  
21 maintenance organization governed by chapter 432D, shall provide



1 applicants and members with clear information about the coverage  
 2 of gender transition services and the requirements for  
 3 determining medically necessary treatments related to these  
 4 services, including the process for appealing a claim denied on  
 5 the basis of medical necessity.

6 ~~(d)~~ (f) Any coverage provided shall be subject to  
 7 copayment, deductible, and coinsurance provisions of an  
 8 individual ~~and~~ or group hospital ~~and~~ or medical service  
 9 policy, contract, plan, or agreement that are no less favorable  
 10 than the copayment, deductible, and coinsurance provisions for  
 11 substantially all other medical services covered by the policy,  
 12 contract, plan, or agreement.

13 (g) Nothing in this section shall not be construed to  
 14 mandate coverage of a service that is not medically necessary.

15 ~~(e)~~ (h) As used in this section unless the context  
 16 requires otherwise:

17 "Actual gender identity" means a person's internal sense of  
 18 being male, female, a gender different from the gender assigned  
 19 at birth, or a transgender person~~[, or neither male nor female].~~



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

4 "Perceived gender identity" means an observer's impression  
5 of another person's actual gender identity or the observer's own  
6 impression that the person is male, female, a gender different  
7 from the gender assigned at birth, or a transgender person[~~or~~  
8 ~~neither male nor female~~].

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

15 SECTION 5. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18 SECTION 6. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 7. This Act shall take effect on July 1, 2060.

21



**Report Title:**

Gender Affirming Treatment Act; Insurance; Nondiscrimination;  
Transgender; Gender Affirming Treatments

**Description:**

Prohibits health insurers, mutual benefit societies, and health maintenance organizations from applying categorical cosmetic or blanket exclusions to gender affirming treatments. Prohibits those entities from excluding gender affirming treatments as cosmetic services when prescribed as medically necessary. Requires those entities 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.  
(HD2)

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

