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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. 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 shall discriminate with respect to  
2 participation and coverage under the policy, contract, plan, or  
3 agreement against any person on the basis of actual gender  
4 identity or perceived gender identity.

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

- 7 (1) Denying, canceling, limiting, or refusing to issue or  
8 renew an insurance policy, contract, plan, or  
9 agreement on the basis of a transgender person's or  
10 [~~the~~] a person's transgender family member's actual  
11 gender identity or perceived gender identity;
- 12 (2) Demanding or requiring a payment or premium that is  
13 based on a transgender person's or [~~the~~] a person's  
14 transgender family member's actual gender identity or  
15 perceived gender identity;
- 16 (3) Designating a transgender person's or [~~the~~] a person's  
17 transgender family member's actual gender identity or  
18 perceived gender identity as a preexisting condition  
19 to deny, cancel, or limit coverage; and
- 20 (4) Denying, canceling, or limiting coverage for services  
21 on the basis of actual gender identity or perceived



1 gender identity, including but not limited to the  
2 following:

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

8 (B) Health care services that are ordinarily or  
9 exclusively available to individuals of ~~one~~ any  
10 sex.

11 (c) The medical necessity of any treatment for a  
12 transgender person, or any person, on the basis of actual gender  
13 identity or perceived gender identity shall be determined  
14 pursuant to the insurance policy, contract, plan, or agreement  
15 and shall be defined in ~~[a manner that is consistent with other~~  
16 ~~covered services.]~~ accordance with the most recent edition of  
17 the Standards of Care for the Health of Transsexual,  
18 Transgender, and Gender Nonconforming People, issued by the  
19 World Professional Association for Transgender Health. No  
20 treatment or service shall be denied on the basis that it is  
21 cosmetic or not medically necessary unless a health care



1 provider with experience in prescribing or delivering gender  
2 affirming treatment first reviews and confirms the  
3 appropriateness of the adverse benefit determination.

4 (d) An insurer shall not apply categorical cosmetic or  
5 blanket exclusions to gender affirming treatments or procedures,  
6 or any combination of services or procedures or revisions to  
7 prior treatments, when prescribed as medically necessary;  
8 provided that the policy, contract, plan, or agreement also  
9 provides coverage for those services when the services are  
10 offered for purposes other than gender transition. These  
11 services may include but are not limited to:

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



1        (11) Reduction thyroid chondroplasties;

2        (12) Voice surgeries and therapies;

3        (13) Electrolysis or laser hair removal; and

4        (14) Smoking cessation therapies.

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

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

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



1           ~~[(e)]~~ (h) As used in this section unless the context  
2 requires otherwise:

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

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

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

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

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



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

9           (b) Discrimination under this section includes the  
10 following:

- 11           (1) Denying, canceling, limiting, or refusing to issue or  
12 renew an insurance policy, contract, plan, or  
13 agreement on the basis of a transgender person's or  
14 [~~the~~] a person's transgender family member's actual  
15 gender identity or perceived gender identity;
- 16           (2) Demanding or requiring a payment or premium that is  
17 based on a transgender person's or [~~the~~] a person's  
18 transgender family member's actual gender identity or  
19 perceived gender identity;
- 20           (3) Designating a transgender person's or [~~the~~] a person's  
21 transgender family member's actual gender identity or





1           perceived gender identity as a preexisting condition  
2           to deny, cancel, or limit coverage; and

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

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

12          (B) Health care services that are ordinarily or  
13          exclusively available to individuals of ~~[one]~~ any  
14          sex.

15          (c) The medical necessity of any treatment for a  
16          transgender person, or any person, on the basis of actual gender  
17          identity or perceived gender identity shall be determined  
18          pursuant to the ~~[insurance]~~ hospital or medical service policy,  
19          contract, plan, or agreement and shall be defined in ~~[a manner~~  
20          ~~that is consistent with other covered services.]~~ accordance with  
21          the most recent edition of the Standards of Care for the Health



1 of Transsexual, Transgender, and Gender Nonconforming People,  
2 issued by the World Professional Association for Transgender  
3 Health. No treatment or service shall be denied on the basis  
4 that it is cosmetic or not medically necessary unless a health  
5 care provider with experience in prescribing or delivering  
6 gender affirming treatment first reviews and confirms the  
7 appropriateness of the adverse benefit determination.

8 (d) A mutual benefit society shall not apply categorical  
9 cosmetic or blanket exclusions to gender affirming treatments or  
10 procedures, or any combination of services or procedures or  
11 revisions to prior treatments, when prescribed as medically  
12 necessary; provided that the policy, contract, plan, or  
13 agreement also provides coverage for those services when the  
14 services are offered for purposes other than gender transition.  
15 These services may include but are not limited to:

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



- 1        (7) Metaoidioplasties;  
2        (8) Breast augmentations;  
3        (9) Masculinizing chest surgeries;  
4        (10) Facial feminization surgeries;  
5        (11) Reduction thyroid chondroplasties;  
6        (12) Voice surgeries and therapies;  
7        (13) Electrolysis or laser hair removal; and  
8        (14) Smoking cessation therapies.

9        (e) Each individual or group hospital or medical service  
10 policy, contract, plan, or agreement shall provide applicants  
11 and members with clear information about the coverage of gender  
12 transition services and the requirements for determining  
13 medically necessary treatments related to these services,  
14 including the process for appealing a claim denied on the basis  
15 of medical necessity.

16        [~~d~~] (f) Any coverage provided shall be subject to  
17 copayment, deductible, and coinsurance provisions of an  
18 individual [~~and~~] or group hospital [~~and~~] or medical service  
19 policy, contract, plan, or agreement that are no less favorable  
20 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, 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, 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 5. Section 432D-26.3, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§432D-26.3 Nondiscrimination on the basis of actual  
6 gender identity or perceived gender identity; coverage for  
7 services. (a) No health maintenance organization policy,  
8 contract, plan, or agreement shall discriminate with respect to  
9 participation and coverage under the policy, contract, plan, or  
10 agreement against any person on the basis of actual gender  
11 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~~] a person's transgender family member's actual  
18 gender identity or perceived gender identity;

19 (2) Demanding or requiring a payment or premium that is  
20 based on a transgender person's or [~~the~~] a person's



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

3           (3) Designating a transgender person's or [~~the~~] a person's  
4           transgender family member's actual gender identity or  
5           perceived gender identity as a preexisting condition  
6           to deny, 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~~] health maintenance organization  
2 policy, contract, plan, or agreement and shall be defined in [a  
3 ~~manner that is consistent with other covered services.~~]  
4 accordance with the most recent edition of the Standards of Care  
5 for the Health of Transsexual, Transgender, and Gender  
6 Nonconforming People, issued by the World Professional  
7 Association for Transgender Health. No treatment or service  
8 shall be denied on the basis that it is cosmetic or not  
9 medically necessary unless a health care provider with  
10 experience in prescribing or delivering gender affirming  
11 treatment first reviews and confirms the appropriateness of the  
12 adverse benefit determination.

13 (d) A health maintenance organization shall not apply  
14 categorical cosmetic or blanket exclusions to gender affirming  
15 treatments or procedures, or any combination of services or  
16 procedures or revisions to prior treatments, when prescribed as  
17 medically necessary; provided that the policy, contract, plan,  
18 or agreement also provides coverage for those services when the  
19 services are offered for purposes other than gender transition.  
20 These services may include but are not limited to:

21 (1) Hormone therapies;



- 1        (2) Hysterectomies;
- 2        (3) Mastectomies;
- 3        (4) Vocal training;
- 4        (5) Feminizing vaginoplasties;
- 5        (6) Masculinizing phalloplasties;
- 6        (7) Metaoidioplasties;
- 7        (8) Breast augmentations;
- 8        (9) Masculinizing chest surgeries;
- 9        (10) Facial feminization surgeries;
- 10       (11) Reduction thyroid chondroplasties;
- 11       (12) Voice surgeries and therapies;
- 12       (13) Electrolysis or laser hair removal; and
- 13       (14) Smoking cessation therapies.
- 14       (e) Each health maintenance organization policy, contract,
- 15 plan, or agreement shall provide applicants and subscribers with
- 16 clear information about the coverage of gender transition
- 17 services and the requirements for determining medically
- 18 necessary treatments related to these services, including the
- 19 process for appealing a claim denied on the basis of medical
- 20 necessity.





1        [~~d~~] (f) Any coverage provided shall be subject to  
2 copayment, deductible, and coinsurance provisions of a health  
3 maintenance organization policy, contract, plan, or agreement  
4 that are no less favorable than the copayment, deductible, and  
5 coinsurance provisions for substantially all other medical  
6 services covered by the policy, contract, plan, or agreement.

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

9        [~~e~~] (h) As used in this section unless the context  
10 requires otherwise:

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

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

17        "Perceived gender identity" means an observer's impression  
18 of another person's actual gender identity or the observer's own  
19 impression that the person is male, female, a gender different  
20 from the gender assigned at birth, a transgender person, or  
21 neither male nor female.



1 "Transgender person" means a person who has [~~gender~~  
2 ~~identity disorder or~~] gender dysphoria, has received health care  
3 services related to gender transition, [~~adopts the appearance or~~  
4 ~~behavior of the opposite sex,~~] or otherwise identifies as a  
5 gender different from the gender assigned to that person at  
6 birth."

7 SECTION 6. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

10 SECTION 7. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect on November 20,  
13 2022.



**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 11/20/2022. (SD1)

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

