
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 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



- 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. No
13 treatment or service shall be denied on the basis that it is not
14 medically necessary unless a health care provider with
15 experience in prescribing or delivering gender affirming
16 treatment first reviews and confirms the appropriateness of the
17 adverse benefit determination.

18 (d) All health care services related to gender transition
19 treatments shall be considered medically necessary and not
20 cosmetic; provided that the policy also provides coverage for
21 those services when the services are offered for purposes other



1 than gender transition. These services may include, but are not
2 limited to:

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

17 (e) Each individual and group accident and health or
18 sickness policy, contract, plan, or agreement shall provide
19 applicants and insured persons with clear information about the
20 coverage of gender transition services and the requirements for
21 determining medically necessary treatments related to these



1 services, including the process for appealing a claim denied on
2 the basis of medical necessity.

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

10 ~~(e)~~ (g) As used in this section unless the context
11 requires otherwise:

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

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

18 "Perceived gender identity" means an observer's impression
19 of another person's actual gender identity or the observer's own
20 impression that the person is male, female, a gender different



1 from the gender assigned at birth, or a transgender person [~~—or~~
2 ~~neither male nor female~~].

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

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

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

19 (b) Discrimination under this section includes the
20 following:



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



1 services when the services are not related to
2 gender transition; and

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

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

20 (d) All health care services related to gender transition
21 treatments shall be considered medically necessary and not



1 cosmetic; provided that the policy also provides coverage for
2 those services when the services are offered for purposes other
3 than gender transition. These services may include, but are not
4 limited to:

- 5 (1) Hormone therapies;
 - 6 (2) Hysterectomies;
 - 7 (3) Mastectomies;
 - 8 (4) Vocal training;
 - 9 (5) Feminizing vaginoplasties;
 - 10 (6) Masculinizing phalloplasties;
 - 11 (7) Metaoidioplasties;
 - 12 (8) Breast augmentations;
 - 13 (9) Masculinizing chest surgeries;
 - 14 (10) Facial feminization surgeries;
 - 15 (11) Reduction thyroid chondroplasties;
 - 16 (12) Voice surgeries and therapies;
 - 17 (13) Electrolysis or laser hair removal; and
 - 18 (14) Smoking cessation therapies.
- 19 (e) Each individual and group hospital and medical service
20 policy, contract, plan, or agreement shall provide applicants
21 and members with clear information about the coverage of gender



1 transition services and the requirements for determining
2 medically necessary treatments related to these services,
3 including the process for appealing a claim denied on the basis
4 of medical necessity.

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

12 [~~(e)~~] (g) As used in this section unless the context
13 requires otherwise:

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

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

20 "Perceived gender identity" means an observer's impression
21 of another person's actual gender identity or the observer's own



1 impression that the person is male, female, a gender different
2 from the gender assigned at birth, or a transgender person[, ~~or~~
3 ~~neither male nor female~~].

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

10 SECTION 4. Section 432D-26.3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§432D-26.3 Nondiscrimination on the basis of actual
13 gender identity or perceived gender identity; coverage for
14 services. (a) No health maintenance organization policy,
15 contract, plan, or agreement shall discriminate with respect to
16 participation and coverage under the policy, contract, plan, or
17 agreement against any person on the basis of actual gender
18 identity or perceived gender identity.

19 (b) Discrimination under this section includes the
20 following:



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



1 services when the services are not related to
2 gender transition; and

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

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

20 (d) All health care services related to gender transition
21 treatments shall be considered medically necessary and not



1 cosmetic; provided that the policy also provides coverage for
2 those services when the services are offered for purposes other
3 than gender transition. These services may include, but are not
4 limited to:

- 5 (1) Hormone therapies;
 - 6 (2) Hysterectomies;
 - 7 (3) Mastectomies;
 - 8 (4) Vocal training;
 - 9 (5) Feminizing vaginoplasties;
 - 10 (6) Masculinizing phalloplasties;
 - 11 (7) Metaoidioplasties;
 - 12 (8) Breast augmentations;
 - 13 (9) Masculinizing chest surgeries;
 - 14 (10) Facial feminization surgeries;
 - 15 (11) Reduction thyroid chondroplasties;
 - 16 (12) Voice surgeries and therapies;
 - 17 (13) Electrolysis or laser hair removal; and
 - 18 (14) Smoking cessation therapies.
- 19 (e) Each health maintenance organization policy, contract,
20 plan, or agreement shall provide applicants and subscribers with
21 clear information about the coverage of gender transition



1 services and the requirements for determining medically
2 necessary treatments related to these services, including the
3 process for appealing a claim denied on the basis of medical
4 necessity.

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

11 [~~(e)~~] (g) As used in this section unless the context
12 requires otherwise:

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

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

19 "Perceived gender identity" means an observer's impression
20 of another person's actual gender identity or the observer's own
21 impression that the person is male, female, a gender different



1 from the gender assigned at birth, or a transgender person [~~or~~
2 ~~neither male nor female~~].

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

9 SECTION 5. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 6. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

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



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. (SD1)

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