
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. This Act shall be known as "The Gender
7 Affirming Treatment Act".

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

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

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

20 (1) Denying, canceling, limiting, or refusing to issue or
21 renew an insurance policy, contract, plan, or



1 agreement on the basis of a transgender person's or
2 the person's transgender family member's actual gender
3 identity or perceived gender identity;

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

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

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

16 (A) Health care services related to gender
17 transition; provided that there is coverage under
18 the policy, contract, plan, or agreement for the
19 services when the services are not related to
20 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) A health care provider shall not apply categorical
14 cosmetic or blanket exclusions to gender affirming treatment.
15 When prescribed as medically necessary gender affirming
16 treatment, a health care provider shall not categorically
17 exclude as cosmetic services facial feminization surgeries and
18 other facial gender affirming treatment, such as tracheal
19 shaves, hair electrolysis, and other care such as mastectomies,
20 breast reductions, breast implants, electrolysis or laser hair
21 removal, voice surgeries and therapies, or any combination of



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

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

20 (e) Each individual and group accident and health or
21 sickness policy, contract, plan, or agreement shall provide



1 applicants and insured persons with clear information about the
2 coverage 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 group accident and health or sickness policy,
9 contract, plan, or agreement that are no less favorable than the
10 copayment, deductible, and coinsurance provisions for
11 substantially all other medical services covered by the policy,
12 contract, plan, or agreement.

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

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

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



1 "Perceived gender identity" means an observer's impression
2 of another person's actual gender identity or the observer's own
3 impression that the person is male, female, a gender different
4 from the gender assigned at birth, a transgender person, or
5 neither male nor female.

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

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

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



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



1 the policy, contract, plan, or agreement for the
2 services when the services are not related to
3 gender transition; and

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

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

16 (d) A health care provider shall not apply categorical
17 cosmetic or blanket exclusions to gender affirming treatment.
18 When prescribed as medically necessary gender affirming
19 treatment, a health care provider shall not categorically
20 exclude as cosmetic services facial feminization surgeries and
21 other facial gender affirming treatment, such as tracheal



1 shaves, hair electrolysis, and other care such as mastectomies,
2 breast reductions, breast implants, electrolysis or laser hair
3 removal, voice surgeries and therapies, or any combination of
4 gender affirming procedures, including revisions to prior
5 treatment; provided that the policy also provides coverage for
6 those services when the services are offered for purposes other
7 than gender transition. These services may include, but are not
8 limited to:

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



1 (14) Smoking cessation therapies.

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

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

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

18 "Actual gender identity" means a person's internal sense of
19 being male, female, a gender different from the gender assigned
20 at birth, 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, 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. Section 432D-26.3, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§432D-26.3 Nondiscrimination on the basis of actual
18 gender identity or perceived gender identity; coverage for
19 services. (a) No health maintenance organization policy,
20 contract, plan, or agreement shall discriminate with respect to
21 participation and coverage under the policy, contract, plan, or



1 agreement against any person on the basis of actual gender
2 identity or perceived gender identity.

3 (b) Discrimination under this section includes the
4 following:

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

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

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

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19 on the basis of actual gender identity or perceived
20 gender identity including but not limited to the
21 following:



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

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

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

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19 cosmetic or blanket exclusions to gender affirming treatment.
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21 treatment, a health care provider shall not categorically



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- 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;

2 (13) Electrolysis or laser hair removal; and

3 (14) Smoking cessation therapies.

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

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

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

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



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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 6. Nothing in this Act shall be construed to
16 mandate coverage of a service that is not medically necessary.
17 This Act shall not be subject to any requirement pursuant to
18 section 23-51, Hawaii Revised Statutes.

19 SECTION 7. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 30, 2075.



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. Takes effect 7/30/2075. (SD2)

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

