

JAN 23 2025

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 since the enactment
2 of Act 39, Session Laws in Hawaii 2022, known and cited as the
3 Gender Affirming Treatment Act, health insurance companies,
4 health maintenance organizations, and mutual benefit societies
5 (collectively referred to as "insurance carriers") have been
6 continuing to deny transgender persons' coverage for gender
7 transition-related medical care, according to reports of patient
8 and providers in the State.

9 The legislature further finds that the gender transition-
10 related medical care being denied by insurance carriers is often
11 known to be medically necessary, classified as the standard of
12 care according to the World Professional Association for
13 Transgender Health ("WPATH") Standards of Care, and supported by
14 scientific evidence. Moreover, these denials are routinely
15 being overturned through the external review process.

16 The legislature also finds that since the enactment of the
17 Gender Affirming Treatment Act, WPATH has released Version 8 of



1 its Standards of Care for the Health of Transgender and Gender
2 Diverse People ("SOC8") and these updated guidelines have
3 generally been adopted by insurance carriers across the
4 continental United States. However, insurance carriers in
5 Hawai'i have taken varying approaches with adopting SOC8, with
6 some insurance carriers having reached near full adoption and
7 others continuing to lag. This has resulted in transgender
8 persons in Hawai'i experiencing different coverage standards for
9 gender affirming care.

10 The legislature additionally finds that despite the
11 enactment of the Gender Affirming Treatment Act and its
12 transparency requirements, insurance carriers, when denying
13 gender affirming care on the basis of medical necessity, are not
14 consistently providing transparent and thorough information
15 clearly explaining the reason the requested care was deemed not
16 medically necessary.

17 As well, the legislature finds that the transgender
18 community faces numerous health disparities, among which include
19 an alarmingly increased risk for suicide and suicidal ideation.
20 Research has found that transgender youth are about 4.6 times
21 more likely to attempt suicide and about 13.4 times more likely



1 to have seriously considered suicide recently than cisgender
2 youth. Transgender adults have been found to be about 4.4 times
3 more likely to attempt suicide and about twelve times more
4 likely to have seriously considered suicide recently than
5 cisgender adults. Denials of gender transition-related medical
6 coverage and care contribute to the likelihood of suicide and
7 suicidal ideations. A 2023 federal directive from the Office of
8 Personnel Management underscores the importance of aligning
9 health coverage policies with updated standards of care,
10 including WPATH's latest guidelines.

11 The legislature therefore finds that the intent of this Act
12 is to better implement the 2022 Gender Affirming Treatment Act.
13 Because this Act does not establish new health insurance
14 requirements, it is not subject to the section 23-51, Hawaii
15 Revised Statutes, review.

16 Accordingly, the purpose of this Act is to:

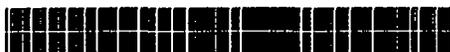
- 17 (1) Prohibit health insurers, mutual benefit societies,
18 and health maintenance organizations from arbitrarily
19 denying coverage requests for gender affirming care
20 services when the requested care is known to be



- 1 considered a standard of care for which scientific
2 evidence exists;
- 3 (2) Improve transparency of medical necessity reviews by
4 health insurers, mutual benefit societies, and health
5 maintenance organizations and the relevant
6 requirements; and
- 7 (3) Codify reasonable standards, protections, and best
8 practices to ensure that the State's transgender and
9 gender diverse population are afforded access to the
10 health care coverage that they need to live and
11 thrive.

12 SECTION 2. Section 431:10A-118.3, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "**§431:10A-118.3 Nondiscrimination on the basis of actual**
15 **gender identity or perceived gender identity; coverage for**
16 **services.** (a) No individual or group accident and health or
17 sickness 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, non-renewing or
4 otherwise refusing to issue or renew an insurance
5 policy, contract, plan, or agreement on the basis of a
6 transgender person's or a person's transgender family
7 member's actual gender identity or perceived gender
8 identity;

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

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

18 (4) Denying, canceling, or limiting coverage for services
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; provided further that it shall
6 not be required that a health care service
7 covered for gender transition be routinely
8 available and covered for services not related to
9 gender transition; and

10 (B) Health care services that are ordinarily or
11 exclusively available to individuals of any
12 sex[-] or of any gender assigned at birth.

13 (c) The medical necessity of any [~~treatment~~] health care
14 service for a transgender person, or any person, on the basis of
15 actual gender identity or perceived gender identity shall be
16 determined pursuant to the insurance policy, contract, plan, or
17 agreement and shall [~~be defined in accordance with~~] take into
18 account the recommendations in the most recent edition of the
19 Standards of Care for the Health of Transgender and Gender
20 Diverse People, issued by the World Professional Association for
21 Transgender Health, and other applicable law. No health care

1 service shall be deemed not medically necessary on the basis
2 that the person's actual or perceived gender identity may be
3 classified as a behavioral health condition.

4 (d) No health care service shall be denied coverage on the
5 basis that it is cosmetic or not medically necessary unless a
6 health care provider or mental health professional with current
7 experience in prescribing or delivering gender affirming care
8 services first reviews and confirms the appropriateness of the
9 adverse benefit determination. In the event of a denial of
10 coverage on the basis that a service is cosmetic or not
11 medically necessary, unless otherwise prohibited by law, the
12 denial shall, without requiring a separate request, include the
13 following:

- 14 (1) The training and expertise held by the individuals who
15 determined the service to be cosmetic or not medically
16 necessary; and
- 17 (2) A statement, in plain language, explaining the reason
18 the service was determined to be cosmetic or not
19 medically necessary that is specific to the person
20 requesting the coverage.



1 (e) In the event of an appeal of a claim denied on the
2 basis of medical necessity of the [~~treatment, such~~] service, the
3 appeal shall be [~~decided in a manner consistent with applicable~~
4 ~~law and~~] reviewed for medical necessity in consultation with a
5 health care provider or mental health professional with current
6 experience in prescribing or delivering gender affirming
7 [~~treatment who shall provide input on the appropriateness of the~~
8 ~~denial of the claim.~~] care services. In the event an appeal
9 upholds a denial on the basis of medical necessity, unless
10 otherwise prohibited by law, the appeal determination shall,
11 without requiring a separate request, include the following:

12 (1) The training and expertise held by the individuals who
13 determined the service to be cosmetic or not medically
14 necessary; and

15 (2) A statement, in plain language, explaining the reason
16 the service was determined to be cosmetic or not
17 medically necessary that is specific to the person
18 requesting the coverage.

19 [~~(d)~~] (f) An insurer shall not apply categorical cosmetic
20 or blanket exclusions to gender affirming [~~treatments~~] care
21 services or procedures, or any combination of services or



1 procedures or revisions to prior [~~treatments, when determined to~~
2 ~~be medically necessary pursuant to applicable law, only~~]
3 services or procedures, if the policy, contract, plan, or
4 agreement also provides coverage for those services or
5 procedures when the services or procedures are offered for
6 purposes other than gender transition. It shall not be required
7 that a health care service or procedure covered for gender
8 transition also be routinely available and covered for services
9 or procedures not related to gender transition. These services
10 and procedures may include but are not 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~~] Feminizing breast surgeries, including
19 augmentations;
- 20 (9) Masculinizing chest surgeries;



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

3 ~~[(g)]~~ (i) Nothing in this section shall be construed to
4 mandate coverage of a service that is determined to be not
5 medically necessary~~[-]~~; provided that the determination has been
6 made in accordance with this section.

7 ~~[(h)]~~ (j) As used in this section unless the context
8 requires otherwise:

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

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

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

20 "Transgender person" means a person who has gender
21 dysphoria, has received health care services related to gender



1 transition, or otherwise identifies as a gender different from
2 the gender assigned to that person at birth."

3 SECTION 3. 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 or group hospital or medical
8 service policy, contract, plan, or agreement that provides
9 health care coverage shall discriminate with respect to
10 participation and coverage under the policy, contract, plan, or
11 agreement against any person on the basis of actual gender
12 identity or perceived gender identity.

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

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



1 available and covered for services not related to
2 gender transition; and

3 (B) Health care services that are ordinarily or
4 exclusively available to individuals of any
5 sex[-] or of any gender assigned at birth.

6 (c) The medical necessity of any [~~treatment~~] health care
7 service for a transgender person, or any person, on the basis of
8 actual gender identity or perceived gender identity shall be
9 determined pursuant to the hospital or medical service policy,
10 contract, plan, or agreement and shall [~~be defined in accordance~~
11 ~~with~~] take into account the recommendations in the most recent
12 edition of the Standards of Care for the Health of Transgender
13 and Gender Diverse People, issued by the World Professional
14 Association for Transgender Health, and other applicable law.
15 No health care service shall be deemed not medically necessary
16 on the basis that the person's actual or perceived gender
17 identity may be classified as a behavioral health condition.

18 (d) No health care service shall be denied coverage on the
19 basis that it is cosmetic or not medically necessary unless a
20 health care provider or mental health professional with current
21 experience in prescribing or delivering gender affirming care



1 services first reviews and confirms the appropriateness of the
2 adverse benefit determination. In the event of a denial of
3 coverage on the basis that a service is cosmetic or not
4 medically necessary, unless otherwise prohibited by law, the
5 denial shall, without requiring a separate request, include the
6 following:

7 (1) The training and expertise held by the individuals who
8 determined the service to be cosmetic or not medically
9 necessary; and

10 (2) A statement, in plain language, explaining the reason
11 the service was determined to be cosmetic or not
12 medically necessary that is specific to the person
13 requesting the coverage.

14 (e) In the event of an appeal of a claim denied on the
15 basis of medical necessity of the [~~treatment, such~~] service, the
16 appeal shall be [~~decided in a manner consistent with applicable~~
17 ~~law and~~] reviewed for medical necessity in consultation with a
18 health care provider or mental health professional with current
19 experience in prescribing or delivering gender affirming
20 [~~treatment who shall provide input on the appropriateness of the~~
21 ~~denial of the claim.~~] care services. In the event an appeal



1 upholds a denial on the basis of medical necessity, unless
2 otherwise prohibited by law, the appeal determination shall,
3 without requiring a separate request, include the following:

4 (1) The training and expertise held by the individuals who
5 determined the service to be cosmetic or not medically
6 necessary; and

7 (2) A statement, in plain language, explaining the reason
8 the service was determined to be cosmetic or not
9 medically necessary that is specific to the person
10 requesting the coverage.

11 ~~(d)~~ (f) A mutual benefit society shall not apply
12 categorical cosmetic or blanket exclusions to gender affirming
13 ~~[treatments]~~ care services or procedures, or any combination of
14 services or procedures or revisions to prior ~~[treatments, when~~
15 ~~determined to be medically necessary pursuant to applicable law,~~
16 ~~only]~~ services or procedures, if the policy, contract, plan, or
17 agreement also provides coverage for those services or
18 procedures when the services or procedures are offered for
19 purposes other than gender transition. Is shall not be required
20 that a health care service or procedure covered for gender
21 transition also be routinely available and covered for services

1 or procedures not related to gender transition. These services
2 and procedures may include but are not 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]~~ Feminizing breast surgeries, including
11 augmentations;
- 12 (9) Masculinizing chest surgeries;
- 13 (10) ~~[Facial feminization]~~ Gender affirming facial
14 surgeries[+], including feminizing and masculinizing
15 surgeries;
- 16 (11) Reduction thyroid chondroplasties;
- 17 (12) Voice surgeries and therapies; and
- 18 (13) Electrolysis ~~[+]~~ and laser hair removal[-], not to be
19 limited to pre-surgical hair removal.

20 ~~[+]~~ (g) Each individual or group hospital or medical
21 service policy, contract, plan, or agreement 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. The information required by
6 this subsection shall also be made available on a publicly
7 accessible website.

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

15 [~~(g)~~] (i) Nothing in this section shall be construed to
16 mandate coverage of a service that is determined to be not
17 medically necessary[-]; provided that the determination has been
18 made in accordance with this section.

19 [~~(h)~~] (j) As used in this section unless the context
20 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, 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, a transgender person, or
11 neither male nor female.

12 "Transgender person" means a person who has gender
13 dysphoria, has received health care services related to gender
14 transition, or otherwise identifies as a gender different from
15 the gender assigned to that person at birth."

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

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



1 participation and coverage under the policy, contract, plan, or
2 agreement against any person on the basis of actual gender
3 identity or perceived gender identity.

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

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

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

16 (3) Designating a transgender person's or a person's
17 transgender family member's actual gender identity or
18 perceived gender identity as a preexisting condition
19 to deny, cancel, non-renew or otherwise limit
20 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; provided further that it shall
10 not be required that a health care service
11 covered for gender transition be routinely
12 available and covered for services not related to
13 gender transition; and

14 (B) Health care services that are ordinarily or
15 exclusively available to individuals of any
16 sex[-] or of any gender assigned at birth.

17 (c) The medical necessity of any [~~treatment~~] health care
18 service for a transgender person, or any person, on the basis of
19 actual gender identity or perceived gender identity shall [~~be~~
20 ~~defined in accordance with~~] take into account the
21 recommendations in the most recent edition of the Standards of



1 Care for the Health of Transgender and Gender Diverse People,
2 issued by the World Professional Association for Transgender
3 Health, and other applicable law. No health care service shall
4 be deemed not medically necessary on the basis that the person's
5 actual or perceived gender identity may be classified as a
6 behavioral health condition.

7 (d) No health care service shall be denied coverage on the
8 basis that it is cosmetic or not medically necessary unless a
9 health care provider or mental health professional with current
10 experience in prescribing or delivering gender affirming care
11 services first reviews and confirms the appropriateness of the
12 adverse benefit determination. In the event of a denial of
13 coverage on the basis that a service is cosmetic or not
14 medically necessary, unless otherwise prohibited by law, the
15 denial shall, without requiring a separate request, include the
16 following:

17 (1) The training and expertise held by the individuals who
18 determined the service to be cosmetic or not medically
19 necessary; and

20 (2) A statement, in plain language, explaining the reason
21 the service was determined to be cosmetic or not



1 medically necessary that is specific to the person
2 requesting the coverage.

3 (e) In the event of an appeal of a claim denied on the
4 basis of medical necessity of the [~~treatment, such~~] service, the
5 appeal shall be [~~decided in a manner consistent with applicable~~
6 ~~law and~~] reviewed for medical necessity in consultation with a
7 health care provider or mental health professional with current
8 experience in prescribing or delivering gender affirming
9 [~~treatment who shall provide input on the appropriateness of the~~
10 ~~denial of the claim.~~] care services. In the event an appeal
11 upholds a denial on the basis of medical necessity, unless
12 otherwise prohibited by law, the appeal determination shall,
13 without requiring a separate request, include the following:

14 (1) The training and expertise held by the individuals who
15 determined the service to be cosmetic or not medically
16 necessary; and

17 (2) A statement, in plain language, explaining the reason
18 the service was determined to be cosmetic or not
19 medically necessary that is specific to the person
20 requesting the coverage.



1 ~~[(d)]~~ (f) A health maintenance organization shall not
2 apply categorical cosmetic or blanket exclusions to gender
3 affirming ~~[treatments]~~ care services or procedures, or any
4 combination of services or procedures or revisions to prior
5 ~~[treatments, when determined to be medically necessary pursuant~~
6 ~~to applicable law, only]~~ services or procedures, if the policy,
7 contract, plan, or agreement also provides coverage for those
8 services or procedures when the services or procedures are
9 offered for purposes other than gender transition. It shall not
10 be required that a health care service or procedure covered for
11 gender transition also be routinely available and covered for
12 services or procedures not related to gender transition. These
13 services and procedures may include but are not limited to:

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



- 1 (8) ~~[Breast]~~ Feminizing breast surgeries, including
2 augmentations;
- 3 (9) Masculinizing chest surgeries;
- 4 (10) ~~[Facial feminization]~~ Gender affirming facial
5 surgeries~~[+]~~, including feminizing and masculinizing
6 surgeries;
- 7 (11) Reduction thyroid chondroplasties;
- 8 (12) Voice surgeries and therapies; and
- 9 (13) Electrolysis ~~[or]~~ and laser hair removal~~[+]~~, not to be
10 limited to pre-surgical hair removal.

11 ~~[(e)]~~ (g) Each health maintenance organization policy,
12 contract, plan, or agreement shall provide applicants and
13 subscribers with clear information about the coverage of gender
14 transition services and the requirements for determining
15 medically necessary ~~[treatments related to these]~~ services,
16 including the process for appealing a claim denied on the basis
17 of medical necessity. The information required by this
18 subsection shall be made available on a publicly accessible
19 website.

20 ~~[(f)]~~ (h) Any coverage provided shall be subject to
21 copayment, deductible, and coinsurance provisions of a health



1 maintenance organization policy, contract, plan, or agreement
2 that are no less favorable than the copayment, deductible, and
3 coinsurance provisions for substantially all other medical
4 services covered by the policy, contract, plan, or agreement.

5 ~~[(g)]~~ (i) Nothing in this section shall be construed to
6 mandate coverage of a service that is determined to be not
7 medically necessary[-]; provided that the determination has been
8 made in accordance with this section.

9 ~~[(h)]~~ (j) 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 dysphoria, has received health care services related to gender
3 transition, or otherwise identifies as a gender different from
4 the gender assigned to that person at birth."

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

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

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

11

INTRODUCED BY:





S.B. NO. 1224

Report Title:

Gender Affirming Treatment Act; Insurance; Nondiscrimination;
Transgender; Gender Affirming Care Services

Description:

Prohibits health insurers, mutual benefit societies, and health maintenance organizations from arbitrarily denying coverage requests for gender affirming health care services when the requested service is known to be considered a standard of care and for which scientific evidence exists that supports the service. Increases transparency of insurance carrier medical necessity reviews and requirements when coverage is denied.

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

