

JAN 17 2025

S.B. NO. 1041

A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that the right of every
2 individual to make informed decisions about their own health
3 care is the foundation of patient autonomy and a fundamental
4 part of public health policy. Access to transparent and
5 comprehensive information about available medical procedures is
6 essential for enabling patients to make knowledgeable choices
7 about their care and treatment options.

8 The legislature further finds that nonmedical refusals to
9 provide certain health care services based on nonmedical
10 reasons, such as sterilization, abortion, contraceptive
11 services, infertility treatments, or end-of-life care are often
12 rooted in institutional policies or ideologies that are not
13 explicitly disclosed to patients. These refusals
14 disproportionately affect vulnerable and marginalized
15 populations, including individuals from the LGBTQ+ community,
16 people of low socioeconomic status, and those residing in rural
17 or underserved areas.



1 The legislature also finds that the lack of disclosure
2 regarding nonmedical service refusals by health care facilities
3 can lead to delays in treatment, emotional trauma, and increased
4 health risks, thereby compromising public trust in the health
5 care system. Furthermore, the State has a compelling interest
6 in protecting public health and ensuring that patients receive
7 timely, accurate, and accessible information about the services
8 that health care facilities are willing or unwilling to provide.
9 Other states, such as Colorado, have successfully enacted
10 legislation requiring health care facilities to disclose
11 up-front the medical services they refuse to provide for
12 nonmedical reasons, thus promoting transparency to patients.

13 Accordingly, the purpose of this Act is to:

- 14 (1) Require the department of health to develop a service
15 availability form to be completed by covered entities
16 to convey to patients and the public certain health
17 care services unavailable at the facility and publish
18 and maintain on its website a list of covered entities
19 and the service availability form for each covered
20 entity;



(2) Require the department of health to adopt rules to implement the requirements of this Act, including a process to receive and investigate complaints and assess fines against covered entities in violation; and

(3) Require each covered entity to provide patients with the current service availability form as part of the informed consent process before initiating a health care service and maintain a record of the patient's receipt of the form.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

PATIENTS' RIGHT TO KNOW ACT

§ -1 Definitions. As used in this chapter:

"Covered entity" means any general hospital, community clinic, freestanding emergency department, maternity hospital, or rehabilitation hospital. "Covered entity" does not include a health care professional.



1 "Denial of care" means any refusal by a covered entity to
2 provide a health care service, or to provide a referral for a
3 health care service, for nonmedical reasons. "Denial of care"
4 includes the following practices, whether based on formal or
5 informal policies or practices, that are not based on generally
6 accepted standards of care:

7 (1) Selective refusal to provide a health care service to
8 some, but not all, patients based on race, color,
9 religion, age, sex, including gender identity or
10 expression, sexual orientation, marital status,
11 national origin, ancestry, disability, the covered
12 entity's objections to a health care service, or for
13 other nonmedical reasons; and

14 (2) A significant restriction on the availability of
15 health care services.

16 "Department" means the department of health.

17 "Health care professional" means any person who is
18 licensed, certified, registered, or otherwise authorized or
19 permitted by law to administer health care or dispense
20 medication in the ordinary course of business or practice of a
21 profession.



"Health care service" means the provision of treatment, care, advice or guidance, or services or supplies, including:

(1) Preventative, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care;

(2) Counseling, assessment, procedures, or other services; or

(3) Selling, dispensing, or administering a prescription or nonprescription drug, device, or equipment.

"Nonmedical reasons" means nonclinical criteria, rules, or policies, whether written or unwritten, that restrict a health care professional providing health care services at a covered entity from providing types of care that a health care professional is authorized under law to provide and that the covered entity is licensed to provide.

"Service availability form" means the form created by the department pursuant to section -2 and completed by a covered entity.

§ -2 Department duties; service availability form; public access to information; complaint process; rules. (a) No later than December 1, 2026, the department shall:



- 1 (1) Identify health care services that are or may be
- 2 subject to denial of care;
- 3 (2) Develop a clear and simple service availability form
- 4 for the purpose of conveying to patients and to the
- 5 public which of the identified health care services
- 6 are and are not generally available or are subject to
- 7 significant restriction at a covered entity. The
- 8 service availability form shall include contact
- 9 information for the covered entity in case a patient
- 10 has specific questions about services available at the
- 11 covered entity; and
- 12 (3) Review, and if appropriate, update the form at least
- 13 biennially; provided that the department may develop
- 14 different versions of the service availability form
- 15 appropriate for different categories of covered
- 16 entities.
- 17 (b) No later than February 1, 2027, the department shall:
- 18 (1) Publish and maintain on its website a current list of
- 19 covered entities; and
- 20 (2) Provide the service availability form submitted by
- 21 each covered entity for public access;



1 provided that the department may use various methods to display
2 the information to enable patients to compare services available
3 at covered entities.

4 (c) The department shall adopt rules pursuant to chapter
5 91 necessary to carry out the purposes of this chapter; provided
6 that the rules shall include a process for receiving and
7 investigating a complaint regarding a covered entity that fails
8 to comply with this chapter and for assessing fines against any
9 covered entity.

10 § -3 Requirements for covered entities; non-compliance;
11 penalty. (a) Each covered entity shall submit to the
12 department:

13 (1) A completed service availability form no later than
14 sixty days after the department issues or updates the
15 service availability form; and

16 (2) An updated service availability form no later than
17 thirty days after making a change to the availability
18 of a health care service identified on the service
19 availability form.

20 (b) No later than February 1, 2027, each covered entity
21 shall adopt a policy to:



1 (1) Provide patients with its current service availability
2 form as a part of the informed consent process before
3 the initiation of the provision of any health care
4 service to the patient;

5 (2) Maintain a record of the patient's receipt of the
6 service availability form; and

7 (3) Encourage any health care professional who has
8 privileges with the covered entity to provide the
9 covered entity's service availability form to the
10 patient or the patient's representative before any
11 scheduled health care service at the covered entity.

12 (c) Beginning February 1, 2027, each covered entity shall:

13 (1) Provide the current service availability form to the
14 patient or the patient's representative as part of the
15 informed consent process before any provision of
16 health care service for the patient is initiated;
17 provided that if informed consent is impracticable due
18 to an emergency or other circumstances, the covered
19 entity may delay the provision of the service
20 availability form, as appropriate, until the informed
21 consent process is conducted;



(2) Maintain a record of the patient's or the patient's representative's receipt of the service availability form as part of the informed consent process; and

(3) Provide the current service availability form to any person upon request.

(d) Any covered entity that violates this section or any rule adopted by the department pursuant to this section shall be fined not more than \$1,000 for each separate violation. Each day the violation continues shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.

§ -4 **Construction; limitation.** (a) Nothing in this chapter shall be construed to:

(1) Permit or authorize denial of care or unlawful discrimination in the provision of any health care service; or

(2) Limit any cause of action under state or federal law, or limit any remedy in law or equity, against a covered entity, health care facility, or health care professional.



(b) Compliance with this chapter does not reduce or limit any potential liability for a covered entity, health care facility, or health care professional associated with denial of care or any violation of state or federal law.

§ -5 **Severability.** If any provision of this chapter or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____



S.B. NO. 1041

Report Title:

DOH; Patient's Right To Know Act; Unavailable Health Care Services for Nonmedical Reasons; Service Availability Form; Covered Entity; Penalty

Description:

Requires the Department of Health to develop a service availability form to be completed by covered entities to convey to patients and the public certain health care services unavailable at the entity before 12/1/2026, and to publish and maintain on its website a list of covered entities and the service availability form submitted by each covered entity before 02/1/2027. Requires the Department of Health to adopt rules, including a process for receiving and investigating complaints and assessing fines against covered entities in violation. Requires each covered entity to submit a completed service availability form to the Department of Health, adopt certain relevant policies by 2/1/2027, provide patients with their current service availability form as part of the informed consent process before initiating a health care service, and maintain a record of the patient's receipt of the form beginning 2/1/2027. Establishes penalties.

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