
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 health
2 insurance policies and programs exclude transgender people from
3 accessing care. Transgender people routinely experience serious
4 and life-threatening discrimination, and the practice of denying
5 health insurance coverage to a person based on gender identity
6 or gender expression is against public policy.

7 The purpose of this Act is to prohibit the denial,
8 exclusion, or limitation of health care services or treatment to
9 a person on the basis of a person's actual gender identity or
10 perceived gender identity.

11 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
12 amended by adding a new section to article 10A to be
13 appropriately designated and to read as follows:

14 "§431:10A- Non-discrimination on the basis of actual
15 gender identity or perceived gender identity; coverage for
16 services; definitions. (a) No individual and group accident
17 and health or sickness policy, contract, plan, or agreement that



1 provides 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 person's or the person's
10 family member's actual gender identity or perceived
11 gender identity;

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

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

19 (4) Denying, canceling, or limiting coverage for services
20 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 sex.

10 (c) The medical necessity of any treatment shall be
11 determined pursuant to the insurance policy, contract, plan, or
12 agreement and shall be defined in a manner that is consistent
13 with other covered services.

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



1 (e) As used in this section unless the context requires
2 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 designed at birth, a transgender person, or
13 neither male nor female.

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

19 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
20 amended by adding a new section to article 1 to be appropriately
21 designated and to read as follows:



1 "§432:1- Non-discrimination on the basis of actual
2 gender identity or perceived gender identity; coverage for
3 services; definitions. (a) No individual and group hospital
4 and 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 person's or the person's
14 family member's actual gender identity or perceived
15 gender identity;

16 (2) Demanding or requiring a payment or premium that is
17 based on a person's or the person's family member's
18 actual gender identity or perceived gender identity;

19 (3) Designating a person's or the person's family member's
20 actual gender identity or perceived gender identity as



1 a preexisting condition to deny, cancel, or limit
2 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 sex.

14 (c) The medical necessity of any treatment shall be
15 determined pursuant to the insurance policy, contract, plan, or
16 agreement and shall be defined in a manner that is consistent
17 with other covered services.

18 (d) Any coverage provided shall be subject to copayment,
19 deductible, and coinsurance provisions of an individual and
20 group hospital and medical service policy, contract, plan, or
21 agreement that are no less favorable than the copayment,



1 deductible, and coinsurance provisions for substantially all
2 other medical services covered by the policy, contract, plan, or
3 agreement.

4 (e) As used in this section unless the context requires
5 otherwise:

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

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

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

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



1 SECTION 4. Chapter 432D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§432D- Non-discrimination on the basis of actual gender
5 identity or perceived gender identity; coverage for services;
6 definitions. (a) No health maintenance organization policy,
7 contract, plan, or agreement shall discriminate with respect to
8 participation and coverage under the policy, contract, plan, or
9 agreement against any person on the basis of actual gender
10 identity or perceived gender identity.

11 (b) Discrimination under this section includes the
12 following:

13 (1) Denying, canceling, limiting, or refusing to issue or
14 renew an insurance policy, contract, plan, or
15 agreement on the basis of a person's or the person's
16 family member's actual gender identity or perceived
17 gender identity;

18 (2) Demanding or requiring a payment or premium that is
19 based on a person's or the person's family member's
20 actual gender identity or perceived gender identity;



- 1 (3) Designating a person's or the person's family member's
2 actual gender identity or perceived gender identity as
3 a preexisting condition to deny, cancel, or limit
4 coverage; and
- 5 (4) Denying, canceling, or limiting coverage for services
6 on the basis of actual gender identity or perceived
7 gender identity including but not limited to the
8 following:
- 9 (A) Health care services related to gender
10 transition; provided that there is coverage under
11 the policy, contract, plan, or agreement for the
12 services when the services are not related to
13 gender transition; and
- 14 (B) Health care services that are ordinarily or
15 exclusively available to individuals of one sex.
- 16 (c) The medical necessity of any treatment shall be
17 determined pursuant to the insurance policy, contract, plan, or
18 agreement and shall be defined in a manner that is consistent
19 with other covered services.
- 20 (d) Any coverage provided shall be subject to copayment,
21 deductible, and coinsurance provisions of a health maintenance



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

5 (e) As used in this section unless the context requires
6 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 designed at birth, a transgender person, or
17 neither male nor female.

18 "Transgender person" means a person who has gender identity
19 disorder or gender dysphoria, received health care services
20 related to gender transition, adopts the appearance or behavior



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

3 SECTION 5. New statutory material is underscored.

4 SECTION 6. This Act shall take effect upon its approval;
5 provided that sections 2, 3, and 4 shall apply to all policies,
6 contracts, plans, or agreements issued or renewed in the State
7 after January 1, 2017.



Report Title:

Health Insurance Coverage; Discrimination; Gender Identity

Description:

Prohibits health insurers, mutual benefit societies, and health maintenance organizations from discriminating with respect to participation and coverage under a policy, contract, plan, or agreement against any person on the basis of actual gender identity or perceived gender identity. (HB2084 HD2)

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