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CATHERINE P. AWAKUNI COLÓN
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TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Tuesday, March 29, 2016
9:30 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON HOUSE BILL NO. 2084, H.D. 2, S.D. 1 – RELATING TO INSURANCE.

TO THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department submits the following comments.

The national trend is to prohibit discrimination in health care coverage, services, and treatment on the basis of actual or perceived gender identity. In Hawaii, Article I, section 5 of the Hawaii State Constitution broadly prohibits discrimination because of race, religion, sex, or ancestry.

Furthermore, section 1557 of the Affordable Care Act (2010) (“ACA”) is the first federal civil rights law to specifically prohibit discrimination on the basis of sex in health care. This section makes it unlawful for health care providers and insurers that receive any federal funding, including through the insurance marketplace exchange and health programs, to discriminate against an individual based on race, color, national origin, sex, age, or disability. The federal government is currently considering the adoption of

regulations promulgated under section 1557 of the ACA. Vol. 80, no. 173, Federal Register at 54172 (September 8, 2015). Pursuant to sections 431:10A-105.5, 432:1-107, and 432D-28, Hawaii Revised Statutes (“HRS”), health insurers, mutual benefit societies, and health maintenance organizations must comply with applicable federal law.

Sections 2, 3 and 4 of the bill would prohibit denying, canceling, limiting, or refusing to issue or renew a policy or plan, denying or limiting coverage for a health insurance claim, or imposing additional cost sharing or other limitations or restrictions on access to covered health care services on the basis of actual or perceived gender identity. The Department supports the intent of these sections.

The Department takes no position on the expansion to all health benefit plans under chapter 87A, HRS, in section 5 of the bill.

We thank this Committee for the opportunity to present testimony on this matter.

COUNTY COUNCIL

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Council Services Division
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March 24, 2016

TESTIMONY OF KIPUKAI KUALI'I
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
HB 2084, HD2, SD1, RELATING TO INSURANCE
Senate Committee on Judiciary and Labor
Tuesday, March 29, 2016
9:30 a.m.
Conference Room 016

Dear Chair Keith-Agaran and Members of the Committee:

Thank you for this opportunity to provide testimony in strong support of HB 2084, HD2, SD1, Relating to Insurance. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council, Chair of the Kaua'i County Council Economic Development & Intergovernmental Relations Committee, and member of the National Association of Counties Board of Directors.

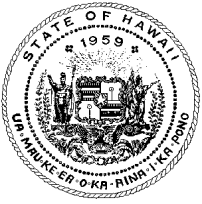
The purpose of this measure is to prohibit health insurers, mutual benefit societies, and health maintenance organizations from discriminating with respect to participation and coverage under a policy, contract, plan, or agreement against any person on the basis of actual gender identity or perceived gender identity. The practice of denying health insurance coverage and access to healthcare to a person based on gender identity or gender expression is against public policy.

For the reasons stated above, I urge the Senate Committee on Judiciary and Labor to support this measure. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

KIPUKAI KUALI'I
Councilmember, Kaua'i County Council

AMK:mn



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 29, 2016
Rm. 016, 9:30 a.m.

To: The Honorable Gilbert Keith-Agaran, Chair
Members of the Senate Committee on Judiciary and Labor

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. No. 2084, H.D.2, S.D.1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

H.B. No. 2084, H.D.2, S.D.1, if enacted, will amend HRS chapter 431, article 10A (accident and health or sickness insurance), chapter 432, article 1 (mutual benefit societies), and chapter 432D (health maintenance organizations), to prohibit the denial, exclusion, or limitation of health care services or treatment on the basis of actual or perceived gender identity. The S.D.1 also clarifies that such discrimination will be prohibited in EUTF plans under chapter 87A.

The HCRC supports H.B. No. 2084, H.D.2, S.D.1.

The HCRC has a state civil rights law enforcement interest in eliminating discrimination in employment-based health benefit plans, with jurisdiction and authority to enforce Hawai‘i state fair employment law, which prohibits employers from discriminating on the basis of race, **sex, including gender identity or expression**, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, or domestic violence or sexual violence victim status, in “compensation or in the terms, conditions, or privileges of employment.” HRS § 378-2(a)(1)(A).

It is a well-accepted fair employment law principle that an employer is legally responsible for discriminatory fringe benefit plans offered by third parties whom the employer selects to provide a benefit plan for employees. Employers are ultimately responsible for discriminatory compensation, terms, conditions, and privileges of employment, regardless of whether third parties are also involved in the discrimination. *Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans, et al., v. Norris*, 463 U.S. 1073 (1983), 1089-1090.

The HCRC's jurisdiction covers employers, but health insurance providers are not within HCRC jurisdiction, except to the extent that there is aider and abettor liability under HRS chapter 378, part I. In addition, most but not all of Hawai'i residents who are covered by private health plans are covered by employment-based plans.

The statutory protections provided by H.B. No. 2084, H.D.2, S.D.1 are timely and appropriate, given the slow movement of health plan insurance carriers to voluntarily eliminate discriminatory coverage exclusions in the absence of express statutory prohibition, with continuing exclusions of health care services relating to "sex transformation," gender reassignment, and gender dysphoria.

In considering enactment of H.B. No. 2084, H.D.2, S.D.1, the Hawai'i Legislature joins an increasing number of states, including California, Colorado, Connecticut, Illinois, Massachusetts, New York, Oregon, Vermont, Washington State, and the District of Columbia, that have laws and policies protecting against discriminatory exclusions and denials of treatment based on gender identity in at least some circumstances.

The federal government is also currently acting to address the issue of discriminatory exclusions in health plans. The U.S. Department of Health and Human Services has issued a Notice of Proposed Rule on Nondiscrimination in Health Programs and Activities, which implements the nondiscrimination provisions of the Affordable Care Act, including proposed rules expressly prohibiting discrimination in health plans on the basis of sex, gender identity, or sexual orientation. Vol. 80, No. 173, Federal Register, September 8, 2015. The proposed rule expressly states that an explicit categorical exclusion of (employee health benefit plan) coverage for all health services related to gender transition is unlawful on its face. 80 FR 54190. (*see also*, fn. 93 on 80 FR 54191).

The HCRC urges your favorable consideration of H.B. No. 2084, H.D.2, S.D.1.



Committee: Committee on Judiciary and Labor
Hearing Date/Time: Tuesday, March 29, 2016, 9:30 a.m.
Place: Conference Room 016
Re: Testimony of the ACLU of Hawaii in Support of H.B. 2084, H.D.2, S.D.1, Relating to Insurance

Dear Chair Keith-Agaran and Members of the Committee:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of H.B. 2084, H.D.2, S.D.1, which prohibits discrimination in health insurance on the basis of gender identity or perceived gender identity.

Hawaii’s transgender community faces discrimination in healthcare

In Hawaii, most health insurance plans contain discriminatory blanket exclusions of benefits connected to “sex-transitioning.” Many of these plans cover the exact same treatment, such as hormone replacement therapy, for conditions unrelated to transitioning. This is discrimination, plain and simple. According to a 2011 study, 19% of transgender people report being denied access to medical services simply because they are transgender.¹ The ACLU of Hawaii has received reports that health insurance plans in Hawaii are using these exclusions to deny coverage for services unrelated to transitioning, merely because the patient’s file notes that they are transgender.

This denial of medical services results in transgender people paying thousands of dollars out of pocket for the same services that are covered for cisgender (non-transgender) patients under the same insurance plan. This perpetuates the disproportionate rates of poverty experienced by the transgender community.²

Transition-related services constitute medically necessary care

The same medical treatment excluded from coverage in most Hawaii health insurance plans has been consistently regarded as medically necessary care by the medical community and courts. In 2008, the American Medical Association passed a resolution recognizing “an established body of medical

¹Jaime M. Grant et al., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, 72 (2011), http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf.

²Fifteen percent of transgender survey respondents reported extreme poverty, with annual incomes of less than \$10,000, as compared to 4% of the overall population. Center for American Progress and Movement Advancement Project, *Paying an Unfair Price: The Financial Penalty for Being Transgender in America*, 3 (2015), <http://www.lgbtmap.org/file/paying-an-unfair-price-transgender.pdf>.

American Civil Liberties Union of Hawaii
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Chair Keith-Agaran and Members of the Committee
March 29, 2016
Page 2 of 2

research” that “demonstrates the effectiveness and medical necessity of mental health care, hormone therapy, and sex reassignment surgery as forms of therapeutic treatment for many patients diagnosed with [Gender Dysphoria].”³ Although not every transgender person has Gender Dysphoria, those who do often require treatment in the form of hormone therapy and/or surgery.

H.B. 2084, H.D.2, S.D.1 is in line with current state and federal policy

State law prohibits discrimination on the basis of gender identity in the areas of housing, employment, and public accommodations. This measure would be consistent with existing public policy and scientific data. Recently, the U.S. Department of Health and Human Services issued a proposed rule relating to section 1557 of the Affordable Care Act (“ACA”), clarifying that health insurance plans with blanket exclusions of coverage for transition-related services violate the ACA.⁴ Accordingly, Hawaii’s major health insurance providers will inevitably need to update certain plans to comply with the ACA. This legislation is necessary, however, to protect the remaining patients under health insurance plans not covered by the ACA’s requirements.

Thank you for the opportunity to testify.

Sincerely,



Mandy Finlay
Advocacy Coordinator
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.

³ American Medical Association, Res. 122 A-08: Removing Financial Barriers to Care for Transgender Patients, available at http://www.tgender.net/taw/ama_resolutions.pdf; see also <https://www.ama-assn.org/ss13/ecommm/PolicyFinderForm.pl?site=www.ama-assn.org&uri=/resources/html/PolicyFinder/policyfiles/HnE/H-185.950.HTM>.

⁴ U.S. Department of Health and Human Services, 80 Fed. Reg. 75,487 (proposed December 02, 2015), available at <http://www.hhs.gov/civil-rights/for-individuals/section-1557/nondiscrimination-health-programs-and-activities-proposed-rule/index.html>.

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27 March 2016

Chair Gilbert S.C. Keith-Agaran
Vice Chair Maile S.L. Shimabukuro
Committee on Judiciary and Labor
Senate, State of Hawai'i
Honolulu, HI

***House Bill 2084, HD2, SD1 Relating to Insurance
Testifying in STRONG SUPPORT***

Dear Chair Keith-Agaran, Vice Chair Shimabukuro and Committee Members:

Thank you for the opportunity to submit testimony on behalf of this important bill. I write on behalf of Equality Hawai'i, the state's largest political, social justice and advocacy organization for the LGBT community and our allies, and wish to register our support for HB 2084, HD2, SD1 Relating to Insurance.

Today, more than 3 million transgender individuals are estimated to reside in the United States, and perhaps as many as 15,000 live in Hawai'i. These individuals face discrimination in their health care through transgender-specific exclusions included in some form in virtually all insurance policies offered by health insurance companies in Hawai'i. Gender identity discrimination occurs when individuals are denied equal access to health care and services. Thus, transgender individuals are excluded from health insurance coverage not based on lack of medical necessity of treatment, but based simply on their gender identity or perceived gender identity, and even though the same and similar care is covered for non-transgender policy holders.

A state law preventing these types of exclusions, for many, is a matter of life and death. Individuals who are prevented from obtaining healthcare to aid in transition face high rates of suicide, and a lack of even more generalized health care due to anti-transgender stigmas that are, in part, exacerbated by these types of discriminatory insurance policies. These discriminatory exclusions not only impact transition related services, they also prevent transgender individuals from obtaining treatment of what is generally considered common wellness care. We are also in favor of this legislation since, at its core, it protects against discrimination aimed at a vulnerable, under-served, often low socio-economic population, many of whom are unable to obtain any health care due to the lack of insurance coverage – and not just because they have no coverage, but because the coverage they do have includes these exclusions. Also, these discriminatory exclusions not only impact individual lives, but also the availability of care providers willing to serve this vulnerable population.

Leading medical and psychological authorities including the American Medical Association, American Psychiatric Association, American Academy of Family Physicians,



National Association of Social Workers, World Professional Association for Transgender Health, National Commission on Correctional Health Care, American Public Health Association, and the American College of Obstetrician and Gynecologists all recognize the importance of transgender healthcare and preventing health care discrimination based on a person's gender identity or gender expression. In fact, the AMA has specifically passed a resolution geared at eliminating these types of discriminatory insurance policy barriers to health care coverage. Ensuring transgender healthcare obviously also reduces future health care costs faced by private insurers and the state in the long run.

It is exactly because of the interest in ensuring the availability of health care, that there is a current trend in other states to put in place policies preventing transgender health care exclusions – with 10 other jurisdictions including the District of Columbia already establishing such policies. This is clearly the trend, and it is rapidly gaining momentum.

We remain willing to work with the insurance companies and all interested parties to ensure an easy transition. Transgender people and the transgender community are a strong, diverse and vibrant part of our Hawai'i ohana, and HB 2084, HD2, SD1 represents an exciting opportunity to make a real, positive difference in their lives. Justice deferred, as the time-honored maxim goes, is justice denied, and transgender people have been denied justice for far too long through a requirement that a growing number of states and professional associations say must be changed.

We respectfully ask your support in delivering a measure of justice this session through voting for HB 2084, HD2, SD1.

Mahalo,

Rebecca Copeland
Equality Hawai'i



HAWK HEALTH

Date: January 30, 2016

To: Hawaii State House of Representatives
Hawaii State Senate

From: Dr. Samuel Hawk

RE: HB2084, Health Insurance Coverage

Position: Strong Support

Dear Representatives and Senators,

I'm presenting this testimony in strong support of HB2084, Health Insurance coverage.

I own a primary care practice (Hawk Health) in Honolulu and have been working as a primary care physician for the past 4 years. I'm also the founder and CEO of The Lavender Clinic (non-profit) that specializes in Transgender and LGBTQ services. At both my clinics, I teach medical students and post-graduate health education as an Adjunct Faculty with various health/medical schools. I treat people of all ages and backgrounds and military members (active duty, reserve, and veterans). I specialize in transgender health care and am currently the only clinic in the State of Hawaii, with exception of Kaiser, that offers transgender health services. However, I'm the only clinic that manages our transgender patients according to current medical standards for the treatment and health care of transgender individuals (World Professional Association for Transgender Health). I treat adults, adolescent and kids and work with other organizations and health professionals to provide complete medical treatment of transgender patients, behavioral services, support groups, school staff training, and documentation services.

The consequences to the transgender community of being discriminated against by the health care insurance field and thus by proxy the health care system and health care providers is profound and affects this community at all levels from our children and teens

to adults. Our transgender youth have the highest rate of suicidality than any other group - 40%. This is a community that needs our help. These are our children. These are our family members. I have patients who have not received any health care for 20+ years due to feeling unwanted and uncomfortable with seeking help in the medical community. I also have patients who refuse to have necessary life saving medical procedures done due to feeling uncomfortable and mistreated by the medical community. Since I opened my practice doors, I have found untreated and undiagnosed diabetes, hypertension, heart arrhythmias, parathyroid issues, etc. With any of these conditions left untreated or treatment is delayed, there is risk of irreversible consequences to the individual health including death.

This delay to treatment also greatly impacts health care as a whole with increased ER admissions, hospital admissions, and increased long-term care needs. *Increased health* care expenditures, health insurance premiums and increased demand for physician time, which is already overstrained, are consequences of discriminating against an entire community of people to receive equal treatment and access to our health care system.

The discrimination to the transgender community has even impacted health profession training. Medical schools do not teach transgender health, residency programs do not offer training in transgender health, and currently the only way for a health professional to receive training of this type is individually seeking out rotation sites and conferences. The first step in correcting the problem is equal access to health care for the transgender community.

Hindering individuals from transitioning physically and emotionally and having health care needs met can lead to poor grades, not graduating high school, not attending college, limited employment opportunities, limited means to support oneself, increased risk of homelessness, increased risk of drug use, and increased use of the welfare system all of which impacts all of us not just the transgender community. By eliminating this discrimination and creating full access to health care, we can empower this entire community which will improve the lives of all of us and our home - Hawaii.

Let us become a state that promotes and supports all our communities to make a better life for ourselves and our families and improve the world around us.

Passing HB2084 is vital to the transgender community and all our communities here in Hawaii.

Thank you so much for the opportunity to share my testimony with you.

Kind Regards,



Dr. Samuel Hawk



An Independent Licensee of the Blue Cross and Blue Shield Association

March 29, 2016

The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Maile S. L. Shimabukuro, Vice Chair
Senate Committee on Judiciary and Labor

Re: HB 2084, HD2, SD1– Relating to Insurance

Dear Chair Keith-Agaran, Vice-Chair Shimabukuro and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to offer comments supporting the intent of HB 2084, HD2, SD1 which seeks to prohibit 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 or perceived gender identity.

HMSA is empathetic to the intent of this Bill and we recognize the considerable movement toward broadly expanding health care services to this population. To this point, in response to the Department of Health and Human Services ruling in 2014, HMSA created and currently offers a gender reassignment policy under our Federal 087 plan. As written, we see HB 2084, HD2, SD1 as seeking to ensure equal access to current benefits provided in a plan rather than an expansion of benefits.

Thank you for allowing us to testify on HB 2084, HD2, SD1.

Sincerely,

Jennifer Diesman
Vice President, Government Relations



HUMAN
RIGHTS
CAMPAIGN[®]

The Honorable Sen. Gilbert S.C. Keith-Agaran
Chair, Senate Committee on Judiciary and Labor
Hawaii State Capitol, Room 221
415 South Beretania Street
Honolulu, HI 96813

March 16, 2016

Re: SUPPORT for HB 2084, Testimony from the Human Rights Campaign in support of the bill to prohibit discrimination based on gender identity in health insurance

Dear Chairperson Keith-Agaran and Members of the Senate Committee on Judiciary and Labor:

My name is Sarah Warbelow, and I am the Legal Director for the Human Rights Campaign (HRC), America's largest civil rights organization working to achieve lesbian, gay, bisexual, and transgender (LGBT) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBT citizens and realize a nation that achieves fundamental fairness and equality for all. On behalf of our more than 1,500,000 members and supporters nationwide—including nearly 5,000 in Hawaii—I am writing you today in support of HB 2084, a critically important bill that will prohibit discrimination on the basis of gender identity in health insurance participation and coverage.

The unfortunate reality is that many health care plans explicitly contain “transgender exclusions” that prohibit coverage for medical care related to gender transition, otherwise known as transition-related health care. Even when health care plans do not explicitly contain “transgender exclusions,” coverage of transition-related care is still often denied on the basis that it is cosmetic or experimental, and therefore perceived by the insurer to be not medically necessary. Furthermore, transgender people are even denied coverage for many of the procedures routinely provided to people who are not transgender (such as hysterectomies for transgender men).

These discriminatory exclusions persist despite the fact that the nation's top professional health associations—including the American Medical Association and the American Psychological Association—have unequivocally denounced the notion that transition-related care is cosmetic or experimental and affirmed that transition-related health care is medically necessary for the health and well-being of many transgender people.

Prohibiting these discriminatory practices is a matter of basic fairness and equality. Like everyone else, transgender citizens deserve equal access to essential medically necessary care. Their health and well-being depend on it.

Thank you for the opportunity to submit testimony in favor of this critical bill to ensure that transgender citizens have equal access to health care coverage.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Warbelow".

Sarah Warbelow
Legal Director
Human Rights Campaign



March 24, 2016

Senate's Committee on Judiciary and Labor
Hawaii State Capitol
415 South Beretania Street, Room 016
Honolulu, HI 96813

Hearing: Wednesday, March 29, 2016 – 9:30 a.m.

RE: **STRONG SUPPORT for House Bill 2084 HD 2 SD 1 – RELATING TO INSURANCE**

Aloha Chairperson Baker, Vice Chair Kidani and fellow committee members,

I am writing in STRONG SUPPORT to House Bill 2084 HD 2 SD 1 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. HB 2084 HD 2 SD 1 will ensure that members of the transgender will be covered by their insurance plans for their health needs.

This bill is desperately needed as it is a matter of health and safety for the members of our transgender 'ohana. No one should be denied health coverage based on their gender identity or perceived gender identity. This is exactly what is happening right now here in the Aloha state. Insurance companies are denying health care coverage based solely on their gender identity and that is not showing Aloha by any stretch of the imagination.

Without this assurance of health insurance coverage members of Hawaii's transgender 'ohana are not receiving the medical care that they need. The medical needs for each person is unique and that is the same for transgender 'ohana members. We don't allow insurance companies deny coverage based on any other protected class except gender identity, we need to fix that and this bill will do just that.

This bill is also a matter of human decency - life is hard enough our government shouldn't make it harder by legalized discrimination against our transgender 'ohana – so please pass House Bill 2084, it is the right and moral thing to do.

We look forward to you passing this bill and bring another plank of our Party's into reality and in the process move our Founding Father's promise to form a more perfect union. Not passing this bill would be an injustice and as Dr. King told us: "Injustice ANYWHERE is threat to justice EVERYWHERE."

Mahalo nui loa,

Michael Golojuch, Jr.
Chair

**Testimony on HB2084 relating to health insurance for transgender individuals.
BJ Avery 17 February 2016**

I have a hormone imbalance that requires me to receive injections of estrogen on a regular basis in order to maintain my physical health. My body does not produce either estrogen or testosterone on its own and as a result if I go without hormone treatment for an extended period of time, my health deteriorates dramatically and I am no longer to be healthy and active due to my body's lack of sufficient hormones. When I was unable to afford hormones for close to a year in 2013-14, my muscles deteriorated to the point that exercise was extremely difficult, in spite of having retained a regular exercise routine throughout the year my physical fitness deteriorated dramatically. I became unable to maintain my own body temperature and had hot and cold flashes several times a day. It became difficult to maintain an active energy level throughout the day and I had to drop many of my usual social activities as my health deteriorated. I was told by my doctor that my symptoms and hormone levels were similar to those experienced by many post-menopausal women, although I was only 25 years old at the time. When I receive sufficient dosages of hormones, I'm able to avoid this deterioration of health and live a happy, healthy, and active lifestyle.

In spite of this, when I first came to Hawaii I was extremely hesitant to approach this subject with my doctor. My body's inability to produce hormones on its own is a direct result of surgeries I received years ago in pursuit of a physical transition from my birth sex of male, to my current legal and social sex of female. Even though this transition was years in the past and my need for hormones now is purely to maintain my physical health, the insurance documents I received when I began my new coverage in Hawaii clearly stated that all health services related to gender transition were explicitly excluded from coverage. I investigated different options for health insurance, but all the options available to me through my employer or through the insurance marketplace all included this exclusion. Even though many people require and regularly receive hormone treatments for many different reasons, I knew that if my doctor did not want to cover my hormones they were well within their legal rights to deny my treatment simply because I am trans. My need to maintain my own physical health could easily have been painted as a treatment "related to gender transition" and denied. Even more than that, I feared that if my insurance provider knew I was trans, I could be denied for all sorts of other medical treatments at a whim.

I have thankfully been able to get the care I need, through a combination of working with my insurer for some of my health issues, and paying out-of-pocket for others. However, the kind of discrimination I feared remains perfectly legal. If my insurer decides that they do not want to treat me at all because I am a transgender woman, it is currently perfectly legal. If my insurer decides to stop paying for the blood tests that I use to measure my hormone levels, in the absence of new legislation they will be within their legal rights to do so even if my doctors believe the tests to be medically necessary. This bill won't force my insurer to pay for treatments that are specific to my needs as a trans woman, but it will make it illegal for them to deny me routine care that is available to everyone else. This will allow me to go to the doctor and share my medical history and medical needs without fear that I risk losing my coverage entirely.

Please consider passing HB2084 into law so that all of Hawai'i's residents can have equal access to medical treatments that are already being offered to non-transgender people, but can currently be denied to transgender individuals.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 25, 2016 12:56 PM
To: JDLTestimony
Cc:
Subject: Submitted testimony for HB2084 on Mar 29, 2016 09:30AM

HB2084

Submitted on: 3/25/2016

Testimony for JDL on Mar 29, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Joe Wilson	Individual	Support	No

Comments: As the director of a Hawaii-based, culturally-centered educational campaign aimed at making our communities safe and inclusive for all – APlaceintheMiddle.org - I write personally in STRONG SUPPORT of HB2084 HD2 SD1. This effort to prohibit 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 or perceived gender identity is very important. Few groups confront as many barriers to healthcare as transgender patients. Trans individuals are frequently denied access to health services because of their gender identity or expression, and many report experiencing verbal and even physical harassment in medical offices and hospitals. Those who are able to locate care often find that they cannot actually access services, due to a lack of insurance or financial resources. Even transgender patients with health insurance have difficulty obtaining care. This is particularly true if the care sought is for transition related purposes, since most policies exclude coverage for gender-confirming interventions and surgeries. The transgender population's lack of access to care is all the more striking when considered alongside the group's elevated risk for a number of serious health problems. According to the Yale Journal of Health Policy, Law, and Ethics, for example, forty-one percent of transgender individuals have attempted suicide at some point in their lives. While the causes of suicide are complex, growing evidence links high rates of suicidality among transgender youth and adults in part to stigma and discrimination. Leading medical and psychological authorities, including the American Medical Association, American Psychiatric Association, American Academy of Family Physicians, National Association of Social Workers, World Professional Association for Transgender Health, National Commission on Correctional Health Care, American Public Health Association, and the American College of Obstetrician and Gynecologists, recognize the importance of transgender healthcare and preventing health care discrimination based on a person's gender identify or gender expression. In fact, the AMA has specifically passed a resolution geared at eliminating these types of discriminatory insurance policy barriers to health care coverage. It's time that Hawaii does the same.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

HEARING: On Tuesday, March 29, 2016, at 9:30 a.m., in Conference Room 016

IN STRONG SUPPORT FOR HB 2084, HD2, SD1 RELATING TO INSURANCE

To: Senator Gilbert S.C. Keith-Agaran, Chair, Maile S.L. Shimabukuro, Vice Chair, and Members

From: Josephine (Jo) Chang, LGBT parent support (DA MOMS) and community educator

Aloha, Chair Keith-Agaran, Vice Chair Shimabukuro, and members of the Committee on Judiciary and Labor. Although we have made much progress in providing legal rights and protections from discrimination for gays and lesbians, we have not done enough to also include and provide much needed protections and support for our transgender family members, friends, colleagues, and community members. While transgender persons experience discrimination in all areas of life, it is particularly harmful and life threatening when it is found in our health care systems, a basic necessity for all of us, and in health care insurance, that we all need to access needed health care and services. And yet, health insurance has been and remains largely discriminatory towards transgender persons, and particularly by the widespread categorical exclusion of gender transition services, a discriminatory exclusion that often puts their very lives in danger.

The continued discrimination and exclusions in health insurance ignores the support of major medical and mental health professional organizations in the U.S. for health care for transgender persons, including gender transition services. Examples of these organizations include the American Medical Association, American Psychiatric Association, American Psychological Association, and American Academy of Family Physicians, for the treatment of the diagnosis of gender dysphoria, in accordance with the Diagnostic and Statistical Manual of the American Psychiatric Association in determining medical necessity. See: http://www.lambdalegal.org/publications/fs_professional-org-statements-supporting-trans-health.

While economic impact is sometimes raised as a concern, other jurisdictions note that this is unfounded. For example, the State of California's department of insurance determined that prohibiting the kind of discrimination that HB 2084, HD2, SD1, would also address, "would have an insignificant and immaterial economic impact." See: "Economic Impact Assessment Gender Nondiscrimination in Health Insurance," State of California Department of Insurance, April 13, 2012; and "Why Gender Identity Nondiscrimination in Insurance Makes Sense," by Kellan Baker and Andrew Cray, May 2, 2013.

As a community as well as a society, we should not allow discrimination and categorical exclusion from critical health care to continue in our state through insurance provisions and unwarranted insurance practices, to the great harm and sometimes loss of life of transgender people in Hawaii. HB 2084, HD2, SD1, will make desperately needed health services accessible to some of our most disadvantaged and vulnerable members of our communities. Many who need these protections are part of our own families and extended families, are friends and colleagues, and everyday community members throughout Hawaii. This is long overdue!! Please support HB 2084, HD2, SD1. Mahalo!

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 24, 2016 1:03 PM
To: JDLEstimony
Cc:
Subject: Submitted testimony for HB2084 on Mar 29, 2016 09:30AM

HB2084

Submitted on: 3/24/2016

Testimony for JDL on Mar 29, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Support	No

Comments: Please pass HB2084.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Law Office of
Rebecca A. Copeland
LLC

March 27, 2016

Chair Gilbert S.C. Keith-Agaran
Vice Chair Maile S.L. Shimabukuro
Committee on Judiciary and Labor
Senate, State of Hawai'i
Honolulu, HI

***House Bill 2084, HD2. SD1 Relating to Insurance
Testifying in STRONG SUPPORT***

Dear Chair Keith-Agaran, Vice Chair Shimabukuro and Committee Members:

I write in strong support of HB2084, HD2, SD1 RELATING TO INSURANCE, a bill being considered by this Committee on Wednesday, March 29, 2016. As you know, this bill would modify existing Hawaii law to prevent transgender-only exclusions on health insurance policies.

I am a local attorney. As a member of the Hawaii State Bar Association, I am in my second term on the Board of Directors for the HSBA as an Oahu Director. I also serve as a Board Member on the City and County of Honolulu's Zoning Board of Appeals, a position I have held for several years. I am also a Board Member on the Hawaii LGBT Legacy Foundation, and a member of the Hawaii Judiciary's Commission on Professionalism. I provide you with my professional background to let you know that in many ways I am just like you and your fellow legislators – a hard-working professional who cares for her community.

My testimony is not submitted in my official capacity for any of the above organizations, but in my personal capacity as a mother. I have two children, an elementary aged daughter and a high school aged son. My son is transgender.

We support my son's journey to live an authentic life – the one he was meant to lead but which may sometimes be difficult because our son was assigned female at birth. Part of our son's transition has been to obtain Hormone Replacement Therapy ("HRT"). Outside of the Kaiser network, there is currently only one physician who provides healthcare services for the transgender community, Dr. Sam Hawk. Dr. Hawk's office offers our son, and others like him, not only transition related services but also primary and behavioral health related services. Many, if not most, of the individuals who seek treatment for these much needed services either do not have insurance coverage, or their insurance policies exclude services based only on their

status as transgender. Services like HRT as not covered because of transgender-specific health insurance exclusions. But, just as important, primary maintenance services, like yearly well exams, are excluded if the person's identifying sex does not match what the insurance company considers a gender-specific service (for example, a transgender male seeking coverage for a pap smear). By making these type of exclusions illegal in Hawaii (something that is a growing trend across the country), this bill will make a real (and in many cases life saving) change for members of our community.

I believe it is also important for this body to note that as a form of institutional discrimination, outlawing transgender exclusions on Hawaii health insurance policies would be in accord with Hawaii's existing policy of preventing discrimination against transgender individuals. *E.g.*, Hawaii Revised Statutes ("HRS") § 489-3 (prohibiting discrimination in places of public accommodation based on either gender identity or expression); HRS § 378-2 (prohibiting discriminatory employment practices based on gender identity or expression); HRS § 515-3 (prohibiting discriminatory practices in real property transactions based on gender identity and expression).

As a parent of a transgender teen, an ally to the LGBT community, and a resident of this state, I support the ability of all transgender individuals in this state to live a full and authentic and healthy life.

Mahalo for your consideration of HB2084, HD2, SD1.

Sincerely,

A handwritten signature in black ink that reads "Rebecca A. Copeland". The signature is written in a cursive, flowing style.

Rebecca A. Copeland
Attorney, Wife, Mother, and Ally

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: [REDACTED]
Subject: Submitted testimony for HB2084 on Mar 29, 2016 09:30AM
Date: Saturday, March 26, 2016 10:33:14 PM

HB2084

Submitted on: 3/26/2016

Testimony for JDL on Mar 29, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Rob Guzman	Individual	Support	No

Comments: In 1997 I helped run the then largest study of both the male to female and female to male transgender population in San Francisco. We found that those in this community faced discrimination in housing, employment, and access to critical health services. Our findings were published in the American Journal of Public Health in 2001. The experience of working with six members of this community was life changing for me. No group of people face the hostility, violence, and discrimination of others like trans people do. This legislation will be another important step in ending their mistreatment. I urge you to support this bill to help ensure access to health care for trans people in Hawaii. Mahalo, Robert Guzman, MPH Pahoehoe, HI

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Robert J. Bidwell, MD



Date: March 29, 2016
Conference Room 016 (9:30 AM)
State Capitol

To: Senator Keith-Agaran, Chair
Senator Shimabukuro, Vice-Chair
Senate Committee on Judiciary and Labor

From: Robert J. Bidwell, M.D.

Re: HB 2084 HD 2, SD 1 “Relating to Insurance”

Position: Strong Support

Dear Chair Keith-Agaran, Vice-Chair Shimabukuro, and Senate Committee on Judiciary and Labor Members:

I am presenting this testimony in **strong support of HB 2084 HD 2, SD 1** “Relating to Insurance.”

Over the past 25 years, through my position as Assistant Professor (1988-1994) and later Associate Professor of Pediatrics and Director of Adolescent Medicine at the UH John A. Burns School of Medicine, I have provided medical care and counseling to many of Hawai`i’s youth and young adults, including transgender young people requiring care related to gender transition. Addressing issues of gender and gender identity, including the dramatically changing field of transition treatment, has also been an important part of my teaching of medical students, resident physicians-in-training, community physicians and other health and social service providers, both in Hawai`i and the continental U.S. over the past 3 decades.

Throughout this period of time, my transgender patients consistently have been denied insurance coverage of medically necessary transition treatments prescribed by me, as also has been true for nearly all transgender patients seeking health care from other health providers across our state. The result has been that many of my patients have deferred these treatments, even though they represent the standard of care in the provision of transgender health services, or have paid for them out-of-pocket to the detriment of their personal and family financial situation. For example, some of my patients have put off going on to college or other life-enhancing post-high school plans because they were simply no longer able to afford them because of the cost of transition treatment. And over the years, too many of my patients have felt forced to consider pursuing ways of finding money that were self-harming in significant ways, such as engagement in street-life, simply in order to pay for medically-necessary treatments that were not covered by their insurance plans (assuming they were able to find insurance coverage at all).

The refusal of insurance companies to cover transgender individuals and the medically-necessary treatments prescribed by their physicians is a historical artifact of a time when transgender individuals were ignored and often pathologized by the medical profession, and disapproved of and discriminated against by the broader community.

This was as true in our islands as it was on the U.S. continent. This disapproving stance is out-dated and no longer reflects present-day medical opinion and policy related to the nature of transgenderism and the importance of access to health care by this population, including the essential part transition treatments play in the provision of that care. This refusal of coverage by insurance companies is rooted in an antiquated and uninformed misunderstanding of transgender people and their health care needs. This has caused significant and lasting harm to generations of transgender individuals in Hawai`i, as will be evidenced by the testimony presented for the Committee's hearing on HB 2084 HD 2, SD 1.

In contrast, the medical profession, through rigorous research and an increased openness to self-examination and willingness to listen to the voices of transgender patients, has advanced enormously in its understanding of the lives of transgender people and the health challenges and health care needs they face. It is for this reason that the medical profession now understands that transition health care is not experimental, cosmetic, elective or "optional" in any real meaning of that word. Research has demonstrated over and over again that access to appropriate health care, including transition care, is medically necessary for most transgender individuals, and significantly improves their physical, emotional and social well-being. This is no longer a debate within our profession. It is for these reasons that major medical professional organizations have developed policies vigorously supporting insurance coverage of transgender individuals, including the provision of medically-necessary transition care. Among these organizations are the American Medical Association (AMA), the American Psychiatric Association, the American Academy of Family Physicians, the American College of Obstetricians and Gynecologists, the World Professional Association for Transgender Health and others.

It is for the above reasons that, consistent with the position of the broader medical profession on these issues, I urge you to support HB 2084 HD 2, SD 1 "Relating to Insurance." It is vitally important to the health and well-being of my patients as well as the broader transgender community throughout our islands. My hope is that Hawai`i will join the growing number of states that are passing legislation consistent with AMA policy, which reflects mainstream opinion within the medical community.

Thank you so much for the opportunity to share my testimony with you.

Respectfully yours,

Robert J. Bidwell, MD