

---

---

## A BILL FOR AN ACT

RELATING TO HEALTH CARE.

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

1           SECTION 1. The legislature finds that Hawaii has long been  
2 a leader in advancing reproductive rights, advocating the  
3 importance of access to reproductive health care without  
4 discrimination, and implementing forward thinking reproductive  
5 health care policy. However, gaps in coverage and care still  
6 exist, and Hawaii benefits and protections are constantly under  
7 attack by a hostile federal administration bent on repealing or  
8 undercutting the federal Patient Protection and Affordable Care  
9 Act and, in particular, access to sexual and reproductive health  
10 care benefits and protections.

11           The legislature finds that access to reproductive health  
12 care is critical for the health and economic security of all of  
13 Hawaii's people. Research shows that for every one dollar in  
14 public spending on reproductive health and family planning  
15 services, states save seven dollars in medicaid costs for  
16 pregnancy, labor and delivery, and children's health care.  
17 Ensuring that Hawaii's people receive comprehensive sexual and



1 reproductive health care makes good economic sense and improves  
2 the overall health of our communities and our State.

3 The legislature concludes that in order to safeguard access  
4 to abortion, to solidify the essential health benefits that have  
5 changed thousands of lives, and to improve overall access to  
6 care, it is vital to preserve certain important aspects of the  
7 Patient Protection and Affordable Care Act and expand access to  
8 care for residents of Hawaii.

9 Accordingly, the purpose of this Act is to ensure  
10 comprehensive coverage for the full spectrum of sexual and  
11 reproductive health care services, including family planning,  
12 abortion, and postpartum care, for all of Hawaii's people.

13 PART I

14 SECTION 2. Chapter 431, Hawaii Revised Statutes, is  
15 amended by adding two new sections to part I of article 10A to  
16 be appropriately designated and to read as follows:

17 **"§431:10A-A Preventive care; coverage; requirements. (a)**  
18 **Every individual policy of accident and health or sickness**  
19 **insurance issued or renewed in this State shall provide coverage**  
20 **for all of the following services, drugs, devices, products, and**



1 procedures for the policyholder or any dependent of the  
2 policyholder who is covered by the policy:

3       (1) Well-woman preventive care visit annually for women to  
4 obtain the recommended preventive services that are  
5 age and developmentally appropriate, including  
6 preconception care and services necessary for prenatal  
7 care. A well-woman visit, where appropriate, shall  
8 include other preventive services as listed in this  
9 section; provided that if several visits are needed to  
10 obtain all necessary recommended preventive services,  
11 depending upon a woman's health status, health needs,  
12 and other risk factors, coverage shall apply to each  
13 of the necessary visits;

14       (2) Counseling for sexually transmitted infections,  
15 including human immunodeficiency virus and acquired  
16 immune deficiency syndrome;

17       (3) Screening for: chlamydia; gonorrhea; hepatitis B;  
18 hepatitis C; human immunodeficiency virus and acquired  
19 immune deficiency syndrome; human papillomavirus;  
20 syphilis; anemia; urinary tract infection; pregnancy;



- 1           Rh incompatibility; gestational diabetes;  
2           osteoporosis; breast cancer; and cervical cancer;  
3       (4) Screening to determine whether counseling and testing  
4           related to the BRCA1 or BRCA2 genetic mutation is  
5           indicated and genetic counseling and testing related  
6           to the BRCA1 or BRCA2 genetic mutation, if indicated;  
7       (5) Screening and appropriate counseling or interventions  
8           for:  
9           (A) Tobacco use; and  
10          (B) Domestic and interpersonal violence;  
11       (6) Folic acid supplements;  
12       (7) Abortion;  
13       (8) Breastfeeding comprehensive support, counseling, and  
14           supplies;  
15       (9) Breast cancer chemoprevention counseling;  
16       (10) Any contraceptive supplies, as specified in section  
17           431:10A-116.6;  
18       (11) Voluntary sterilization, as a single claim or combined  
19           with the following other claims for covered services  
20           provided on the same day:



- 1           (A) Patient education and counseling on contraception
- 2                   and sterilization; and
- 3           (B) Services related to sterilization or the
- 4                   administration and monitoring of contraceptive
- 5                   supplies, including:
- 6                    (i) Management of side effects;
- 7                    (ii) Counseling for continued adherence to a
- 8                           prescribed regimen;
- 9                    (iii) Device insertion and removal; and
- 10                  (iv) Provision of alternative contraceptive
- 11                           supplies deemed medically appropriate in the
- 12                           judgment of the insured's health care
- 13                           provider;
- 14           (12) Pre-exposure prophylaxis, post-exposure prophylaxis,
- 15                   and human papillomavirus vaccination; and
- 16           (13) Any additional preventive services for women that must
- 17                   be covered without cost sharing under 42 United States
- 18                   Code section 300gg-13, as identified by the federal
- 19                   Preventive Services Task Force or the Health Resources
- 20                   and Services Administration of the federal Department
- 21                   of Health and Human Services, as of January 1, 2017.



1        (b) An insurer shall not impose any cost-sharing  
2 requirements, including copayments, coinsurance, or deductibles,  
3 on a policyholder or an individual covered by the policy with  
4 respect to the coverage and benefits required by this section,  
5 except to the extent that coverage of particular services  
6 without cost-sharing would disqualify a high-deductible health  
7 plan from eligibility for a health savings account pursuant to  
8 26 United States Code section 223. For a qualifying high-  
9 deductible health plan, the insurer shall establish the plan's  
10 cost-sharing for the coverage provided pursuant to this section  
11 at the minimum level necessary to preserve the insured's ability  
12 to claim tax-exempt contributions and withdrawals from the  
13 insured's health savings account under 26 United States Code  
14 section 223.

15        (c) A health care provider shall be reimbursed for  
16 providing the services pursuant to this section without any  
17 deduction for coinsurance, copayments, or any other cost-sharing  
18 amounts.

19        (d) Except as otherwise authorized under this section, an  
20 insurer shall not impose any restrictions or delays on the  
21 coverage required under this section.



1        (e) This section shall not require a policy of accident  
2 and health or sickness insurance to cover:

3        (1) Experimental or investigational treatments;

4        (2) Clinical trials or demonstration projects;

5        (3) Treatments that do not conform to acceptable and  
6 customary standards of medical practice; or

7        (4) Treatments for which there is insufficient data to  
8 determine efficacy.

9        (f) If services, drugs, devices, products, or procedures  
10 required by this section are provided by an out-of-network  
11 provider, the insurer shall cover the services, drugs, devices,  
12 products, or procedures without imposing any cost-sharing  
13 requirement on the policyholder if:

14        (1) There is no in-network provider to furnish the  
15 service, drug, device, product, or procedure that  
16 meets the requirements for network adequacy under  
17 section 431:26-103; or

18        (2) An in-network provider is unable or unwilling to  
19 provide the service, drug, device, product, or  
20 procedure in a timely manner.



1        (g) Every insurer shall provide written notice to its  
 2 policyholders regarding the coverage required by this section.  
 3 The notice shall be in writing and prominently positioned in any  
 4 literature or correspondence sent to policyholders and shall be  
 5 transmitted to policyholders beginning with calendar year 2020  
 6 when annual information is made available to policyholders or in  
 7 any other mailing to policyholders, but in no case later than  
 8 December 31, 2020.

9        (h) This section shall not apply to policies that provide  
 10 coverage for specified diseases or other limited benefit health  
 11 insurance coverage, as provided pursuant to section 431:10A-  
 12 102.5.

13        (i) If the commissioner concludes that enforcement of this  
 14 section may adversely affect the allocation of federal funds to  
 15 the State, the commissioner may grant an exemption to the  
 16 requirements, but only to the minimum extent necessary to ensure  
 17 the continued receipt of federal funds.

18        (j) For purposes of this section, "contraceptive supplies"  
 19 shall have the same meaning as in section 431:10A-116.6.

20        **§431:10A-B Nondiscrimination; reproductive health care;**  
 21 **coverage.** (a) An individual, on the basis of actual or



1 perceived race, color, national origin, sex, gender identity,  
2 sexual orientation, age, or disability, shall not be excluded  
3 from participation in, be denied the benefits of, or otherwise  
4 be subjected to discrimination in the coverage of, or payment  
5 for, the services, drugs, devices, products, and procedures  
6 covered by section 431:10A-A or 431:10A-116.6.

7 (b) Violation of this section shall be considered a  
8 violation pursuant to chapter 481.

9 (c) Nothing in this section shall be construed to limit  
10 any cause of action based upon any unfair or discriminatory  
11 practices for which a remedy is available under state or federal  
12 law."

13 SECTION 3. Chapter 431, Hawaii Revised Statutes, is  
14 amended by adding two new sections to part II of article 10A to  
15 be appropriately designated and to read as follows:

16 **"§431:10A-C Preventive care; coverage; requirements. (a)**  
17 Every group policy of accident and health or sickness insurance  
18 issued or renewed in this State shall provide coverage for all  
19 of the following services, drugs, devices, products, and  
20 procedures for any subscriber or any dependent of the subscriber  
21 who is covered by the policy:



- 1       (1) Well-woman preventive care visit annually for women to  
2       obtain the recommended preventive services that are  
3       age and developmentally appropriate, including  
4       preconception care and services necessary for prenatal  
5       care. A well-woman visit, where appropriate, shall  
6       include other preventive services as listed in this  
7       section; provided that if several visits are needed to  
8       obtain all necessary recommended preventive services,  
9       depending upon a woman's health status, health needs,  
10      and other risk factors, coverage shall apply to each  
11      of the necessary visits;
- 12      (2) Counseling for sexually transmitted infections,  
13      including human immunodeficiency virus and acquired  
14      immune deficiency syndrome;
- 15      (3) Screening for: chlamydia; gonorrhea; hepatitis B;  
16      hepatitis C; human immunodeficiency virus and acquired  
17      immune deficiency syndrome; human papillomavirus;  
18      syphilis; anemia; urinary tract infection; pregnancy;  
19      Rh incompatibility; gestational diabetes;  
20      osteoporosis; breast cancer; and cervical cancer;



- 1        (4) Screening to determine whether counseling and testing  
2        related to the BRCA1 or BRCA2 genetic mutation is  
3        indicated and genetic counseling and testing related  
4        to the BRCA1 or BRCA2 genetic mutation, if indicated;
- 5        (5) Screening and appropriate counseling or interventions  
6        for:
- 7        (A) Tobacco use; and  
8        (B) Domestic and interpersonal violence;
- 9        (6) Folic acid supplements;  
10       (7) Abortion;  
11       (8) Breastfeeding comprehensive support, counseling, and  
12       supplies;  
13       (9) Breast cancer chemoprevention counseling;  
14       (10) Any contraceptive supplies, as specified in section  
15       431:10A-116.6;  
16       (11) Voluntary sterilization, as a single claim or combined  
17       with the following other claims for covered services  
18       provided on the same day:
- 19       (A) Patient education and counseling on contraception  
20       and sterilization; and



- 1           (B) Services related to sterilization or the
- 2           administration and monitoring of contraceptive
- 3           supplies, including:
- 4           (i) Management of side effects;
- 5           (ii) Counseling for continued adherence to a
- 6           prescribed regimen;
- 7           (iii) Device insertion and removal; and
- 8           (iv) Provision of alternative contraceptive
- 9           supplies deemed medically appropriate in the
- 10           judgment of the subscriber's or dependent's
- 11           health care provider;
- 12        (12) Pre-exposure prophylaxis, post-exposure prophylaxis,
- 13        and human papillomavirus vaccination; and
- 14        (13) Any additional preventive services for women that must
- 15        be covered without cost sharing under 42 United States
- 16        Code section 300gg-13, as identified by the federal
- 17        Preventive Services Task Force or the Health Resources
- 18        and Services Administration of the federal Department
- 19        of Health and Human Services, as of January 1, 2017.
- 20        (b) An insurer shall not impose any cost-sharing
- 21        requirements, including copayments, coinsurance, or deductibles,



1 on a subscriber or an individual covered by the policy with  
2 respect to the coverage and benefits required by this section,  
3 except to the extent that coverage of particular services  
4 without cost-sharing would disqualify a high-deductible health  
5 plan from eligibility for a health savings account pursuant to  
6 26 United States Code section 223. For a qualifying high-  
7 deductible health plan, the insurer shall establish the plan's  
8 cost-sharing for the coverage provided pursuant to this section  
9 at the minimum level necessary to preserve the subscriber's  
10 ability to claim tax-exempt contributions and withdrawals from  
11 the subscriber's health savings account under 26 United States  
12 Code section 223.

13 (c) A health care provider shall be reimbursed for  
14 providing the services pursuant to this section without any  
15 deduction for coinsurance, copayments, or any other cost-sharing  
16 amounts.

17 (d) Except as otherwise authorized under this section, an  
18 insurer shall not impose any restrictions or delays on the  
19 coverage required under this section.

20 (e) This section shall not require a policy of accident  
21 and health or sickness insurance to cover:



- 1        (1) Experimental or investigational treatments;
- 2        (2) Clinical trials or demonstration projects;
- 3        (3) Treatments that do not conform to acceptable and
- 4        customary standards of medical practice; or
- 5        (4) Treatments for which there is insufficient data to
- 6        determine efficacy.

7        (f) If services, drugs, devices, products, or procedures  
8 required by this section are provided by an out-of-network  
9 provider, the insurer shall cover the services, drugs, devices,  
10 products, or procedures without imposing any cost-sharing  
11 requirement on the subscriber if:

- 12        (1) There is no in-network provider to furnish the
- 13        service, drug, device, product, or procedure that
- 14        meets the requirements for network adequacy under
- 15        section 431:26-103; or
- 16        (2) An in-network provider is unable or unwilling to
- 17        provide the service, drug, device, product, or
- 18        procedure in a timely manner.

19        (g) Every insurer shall provide written notice to its  
20 subscribers regarding the coverage required by this section.

21 The notice shall be in writing and prominently positioned in any



1 literature or correspondence sent to subscribers and shall be  
2 transmitted to subscribers beginning with calendar year 2020  
3 when annual information is made available to subscribers or in  
4 any other mailing to subscribers, but in no case later than  
5 December 31, 2020.

6 (h) This section shall not apply to policies that provide  
7 coverage for specified diseases or other limited benefit health  
8 insurance coverage, as provided pursuant to section 431:10A-  
9 102.5.

10 (i) If the commissioner concludes that enforcement of this  
11 section may adversely affect the allocation of federal funds to  
12 the State, the commissioner may grant an exemption to the  
13 requirements, but only to the minimum extent necessary to ensure  
14 the continued receipt of federal funds.

15 (j) For purposes of this section, "contraceptive supplies"  
16 shall have the same meaning as in section 431:10A-116.6.

17 **§431:10A-D Nondiscrimination; reproductive health care;**  
18 **coverage.** (a) An individual, on the basis of actual or  
19 perceived race, color, national origin, sex, gender identity,  
20 sexual orientation, age, or disability, shall not be excluded  
21 from participation in, be denied the benefits of, or otherwise



1 be subjected to discrimination in the coverage of, or payment  
2 for, the services, drugs, devices, products, and procedures  
3 covered by section 431:10A-C or 431:10A-116.6.

4 (b) Violation of this section shall be considered a  
5 violation pursuant to chapter 481.

6 (c) Nothing in this section shall be construed to limit  
7 any cause of action based upon any unfair or discriminatory  
8 practices for which a remedy is available under state or federal  
9 law."

10 SECTION 4. Chapter 432, Hawaii Revised Statutes, is  
11 amended by adding two new sections to article 1 to be  
12 appropriately designated and to read as follows:

13 **"§432:1-A Preventive care; coverage; requirements. (a)**  
14 Every individual or group hospital or medical service plan  
15 contract issued or renewed in this State shall provide coverage  
16 for all of the following services, drugs, devices, products, and  
17 procedures for the subscriber or member or any dependent of the  
18 subscriber or member who is covered by the plan contract:

19 (1) Well-woman care, as prescribed by the commissioner by  
20 rule consistent with guidelines published by the  
21 federal Health Resources and Services Administration;





- 1        (2) Counseling for sexually transmitted infections,  
2        including human immunodeficiency virus and acquired  
3        immune deficiency syndrome;
- 4        (3) Screening for: chlamydia; gonorrhea; hepatitis B;  
5        hepatitis C; human immunodeficiency virus and acquired  
6        immune deficiency syndrome; human papillomavirus;  
7        syphilis; anemia; urinary tract infection; pregnancy;  
8        Rh incompatibility; gestational diabetes;  
9        osteoporosis; breast cancer; and cervical cancer;
- 10       (4) Screening to determine whether counseling and testing  
11       related to the BRCA1 or BRCA2 genetic mutation is  
12       indicated and genetic counseling and testing related  
13       to the BRCA1 or BRCA2 genetic mutation, if indicated;
- 14       (5) Screening and appropriate counseling or interventions  
15       for:
- 16       (A) Tobacco use; and  
17       (B) Domestic and interpersonal violence;
- 18       (6) Folic acid supplements;  
19       (7) Abortion;  
20       (8) Breastfeeding comprehensive support, counseling, and  
21       supplies;



- 1        (9) Breast cancer chemoprevention counseling;
- 2        (10) Any contraceptive supplies, as specified in section
- 3            431:10A-116.6;
- 4        (11) Voluntary sterilization, as a single claim or combined
- 5            with the following other claims for covered services
- 6            provided on the same day:
  - 7            (A) Patient education and counseling on contraception
  - 8                    and sterilization; and
  - 9            (B) Services related to sterilization or the
  - 10                   administration and monitoring of contraceptive
  - 11                   supplies, including:
    - 12                    (i) Management of side effects;
    - 13                    (ii) Counseling for continued adherence to a
    - 14                            prescribed regimen;
    - 15                    (iii) Device insertion and removal; and
    - 16                    (iv) Provision of alternative contraceptive
    - 17                            supplies deemed medically appropriate in the
    - 18                            judgment of the subscriber's or member's
    - 19                            health care provider;
- 20        (12) Pre-exposure prophylaxis, post-exposure prophylaxis,
- 21            and human papillomavirus vaccination; and



1        (13) Any additional preventive services for women that must  
2        be covered without cost sharing under 42 United States  
3        Code section 300gg-13, as identified by the federal  
4        Preventive Services Task Force or the Health Resources  
5        and Services Administration of the federal Department  
6        of Health and Human Services, as of January 1, 2017.

7        (b) A mutual benefit society shall not impose any cost-  
8        sharing requirements, including copayments, coinsurance, or  
9        deductibles, on a subscriber or member or an individual covered  
10       by the plan contract with respect to the coverage and benefits  
11       required by this section, except to the extent that coverage of  
12       particular services without cost-sharing would disqualify a  
13       high-deductible health plan from eligibility for a health  
14       savings account pursuant to 26 United States Code section 223.  
15       For a qualifying high-deductible health plan, the mutual benefit  
16       society shall establish the plan's cost-sharing for the coverage  
17       provided pursuant to this section at the minimum level necessary  
18       to preserve the subscriber's or member's ability to claim tax-  
19       exempt contributions and withdrawals from the subscriber's or  
20       member's health savings account under 26 United States Code  
21       section 223.



1        (c) A health care provider shall be reimbursed for  
2 providing the services pursuant to this section without any  
3 deduction for coinsurance, copayments, or any other cost-sharing  
4 amounts.

5        (d) Except as otherwise authorized under this section, a  
6 mutual benefit society shall not impose any restrictions or  
7 delays on the coverage required under this section.

8        (e) This section shall not require an individual or group  
9 hospital or medical service plan contract to cover:

10        (1) Experimental or investigational treatments;

11        (2) Clinical trials or demonstration projects;

12        (3) Treatments that do not conform to acceptable and  
13 customary standards of medical practice; or

14        (4) Treatments for which there is insufficient data to  
15 determine efficacy.

16        (f) If services, drugs, devices, products, or procedures  
17 required by this section are provided by an out-of-network  
18 provider, the mutual benefit society shall cover the services,  
19 drugs, devices, products, or procedures without imposing any  
20 cost-sharing requirement on the subscriber or member if:



1       (1) There is no in-network provider to furnish the  
2           service, drug, device, product, or procedure that  
3           meets the requirements for network adequacy under  
4           section 431:26-103; or

5       (2) An in-network provider is unable or unwilling to  
6           provide the service, drug, device, product, or  
7           procedure in a timely manner.

8       (g) Every mutual benefit society shall provide written  
9       notice to its subscribers or members regarding the coverage  
10       required by this section. The notice shall be in writing and  
11       prominently positioned in any literature or correspondence sent  
12       to subscribers or members and shall be transmitted to  
13       subscribers or members beginning with calendar year 2020 when  
14       annual information is made available to subscribers or members  
15       or in any other mailing to subscribers or members, but in no  
16       case later than December 31, 2020.

17       (h) This section shall not apply to plan contracts that  
18       provide coverage for specified diseases or other limited benefit  
19       health insurance coverage, as provided pursuant to section  
20       431:10A-102.5.



1        (i) If the commissioner concludes that enforcement of this  
2 section may adversely affect the allocation of federal funds to  
3 the State, the commissioner may grant an exemption to the  
4 requirements, but only to the minimum extent necessary to ensure  
5 the continued receipt of federal funds.

6        (j) For purposes of this section, "contraceptive supplies"  
7 shall have the same meaning as in section 431:10A-116.6.

8        **§432:1-B Nondiscrimination; reproductive health care;**  
9 **coverage.** (a) An individual, on the basis of actual or  
10 perceived race, color, national origin, sex, gender identity,  
11 sexual orientation, age, or disability, shall not be excluded  
12 from participation in, be denied the benefits of, or otherwise  
13 be subjected to discrimination in the coverage of, or payment  
14 for, the services, drugs, devices, products, or procedures  
15 covered by section 432:1-A or 432:1-604.5.

16        (b) Violation of this section shall be considered a  
17 violation pursuant to chapter 481.

18        (c) Nothing in this section shall be construed to limit  
19 any cause of action based upon any unfair or discriminatory  
20 practices for which a remedy is available under state or federal  
21 law."



1 SECTION 5. 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-A Nondiscrimination; reproductive health care;**  
5 **coverage.** (a) An individual, on the basis of actual or  
6 perceived race, color, national origin, sex, gender identity,  
7 sexual orientation, age, or disability, shall not be excluded  
8 from participation in, be denied the benefits of, or otherwise  
9 be subjected to discrimination in the coverage of, or payment  
10 for, the services, drugs, devices, products, and procedures  
11 covered by section 431:10A-A or 431:10A-116.6.

12 (b) Violation of this section shall be considered a  
13 violation pursuant to chapter 481.

14 (c) Nothing in this section shall be construed to limit  
15 any cause of action based upon any unfair or discriminatory  
16 practices for which a remedy is available under state or federal  
17 law."

18 SECTION 6. Section 431:10A-116.6, Hawaii Revised Statutes,  
19 is amended to read as follows:

20 **"§431:10A-116.6 Contraceptive services.** (a)  
21 Notwithstanding any provision of law to the contrary, each



1 employer group policy of accident and health or sickness  
2 [~~policy, contract, plan, or agreement~~] insurance issued or  
3 renewed in this State on or after January 1, 2000, shall [~~cease~~  
4 ~~to exclude~~] provide coverage for contraceptive services or  
5 contraceptive supplies for the [~~subscriber~~] insured or any  
6 dependent of the [~~subscriber~~] insured who is covered by the  
7 policy, subject to the exclusion under section 431:10A-116.7 and  
8 the exclusion under section 431:10A-102.5[~~-~~]; provided that:

9       (1) If there is a therapeutic equivalent of a  
10           contraceptive supply approved by the federal Food and  
11           Drug Administration, an insurer may provide coverage  
12           for either the requested contraceptive supply or for  
13           one or more therapeutic equivalents of the requested  
14           contraceptive supply;

15       (2) If a contraceptive supply covered by the policy is  
16           deemed medically inadvisable by the insured's health  
17           care provider, the policy shall cover an alternative  
18           contraceptive supply prescribed by the health care  
19           provider;

20       (3) An insurer shall pay pharmacy claims for reimbursement  
21           of all contraceptive supplies available for over-





1            the-counter sale that are approved by the federal Food  
2            and Drug Administration; and

3            (4) An insurer may not infringe upon an insured's choice  
4            of contraceptive supplies and may not require prior  
5            authorization, step therapy, or other utilization  
6            control techniques for medically-appropriate covered  
7            contraceptive supplies.

8            ~~[(b) Except as provided in subsection (c), all policies,~~  
9            ~~contracts, plans, or agreements under subsection (a), that~~  
10           ~~provide contraceptive services or supplies, or prescription drug~~  
11           ~~coverage, shall not exclude any prescription contraceptive~~  
12           ~~supplies or impose any unusual copayment, charge, or waiting~~  
13           ~~requirement for such supplies.~~

14           ~~(c) Coverage for oral contraceptives shall include at~~  
15           ~~least one brand from the monophasic, multiphasic, and the~~  
16           ~~progestin only categories. A member shall receive coverage for~~  
17           ~~any other oral contraceptive only if:~~

18           ~~(1) Use of brands covered has resulted in an adverse drug~~  
19           ~~reaction; or~~

20           ~~(2) The member has not used the brands covered and, based~~  
21           ~~on the member's past medical history, the prescribing~~



1 ~~health care provider believes that use of the brands~~  
2 ~~covered would result in an adverse reaction.~~

3 ~~(d)]~~ (b) An insurer shall not impose any cost-sharing  
4 requirements, including copayments, coinsurance, or deductibles,  
5 on an insured with respect to the coverage required under this  
6 section. A health care provider shall be reimbursed for  
7 providing the services pursuant to this section without any  
8 deduction for coinsurance, copayments, or any other cost-sharing  
9 amounts.

10 (c) Except as otherwise provided by this section, an  
11 insurer shall not impose any restrictions or delays on the  
12 coverage required by this section.

13 (d) Coverage required by this section shall not exclude  
14 coverage for contraceptive supplies prescribed by a health care  
15 provider, acting within the provider's scope of practice, for:

16 (1) Reasons other than contraceptive purposes, such as  
17 decreasing the risk of ovarian cancer or eliminating  
18 symptoms of menopause; or

19 (2) Contraception that is necessary to preserve the life  
20 or health of an insured.



1        (e) Coverage required by this section shall include  
2 reimbursement to a prescribing health care provider or  
3 dispensing entity for prescription contraceptive supplies  
4 intended to last for up to a twelve-month period for an insured.

5        [~~e~~] (f) Coverage required by this section shall include  
6 reimbursement to a prescribing and dispensing pharmacist who  
7 prescribes and dispenses contraceptive supplies pursuant to  
8 section 461-11.6.

9        (g) Nothing in this section shall be construed to extend  
10 the practice or privileges of any health care provider beyond  
11 that provided in the laws governing the provider's practice and  
12 privileges.

13        [~~f~~] (h) For purposes of this section:

14        "Contraceptive services" means physician-delivered,  
15 physician-supervised, physician assistant-delivered, advanced  
16 practice registered nurse-delivered, nurse-delivered, or  
17 pharmacist-delivered medical services intended to promote the  
18 effective use of contraceptive supplies or devices to prevent  
19 unwanted pregnancy.

20        "Contraceptive supplies" means all United States Food and  
21 Drug Administration-approved contraceptive drugs [~~e~~], devices,



1 or products used to prevent unwanted pregnancy~~[-]~~, regardless of  
2 whether they are to be used by the insured or the partner of the  
3 insured, and regardless of whether they are to be used for  
4 contraception or exclusively for the prevention of sexually  
5 transmitted infections.

6 ~~[(g) Nothing in this section shall be construed to extend~~  
7 ~~the practice or privileges of any health care provider beyond~~  
8 ~~that provided in the laws governing the provider's practice and~~  
9 ~~privileges.]"~~

10 SECTION 7. Section 431:10A-116.7, Hawaii Revised Statutes,  
11 is amended by amending subsection (g) to read as follows:

12 "(g) For purposes of this section:

13 "Contraceptive services" means physician-delivered,  
14 physician-supervised, physician assistant-delivered, advanced  
15 practice registered nurse-delivered, nurse-delivered, or  
16 pharmacist-delivered medical services intended to promote the  
17 effective use of contraceptive supplies or devices to prevent  
18 unwanted pregnancy.

19 "Contraceptive supplies" means all United States Food and  
20 Drug Administration-approved contraceptive drugs ~~[or]~~, devices,  
21 or products used to prevent unwanted pregnancy~~[-]~~, regardless of



1 whether they are to be used by the insured or the partner of the  
2 insured, and regardless of whether they are to be used for  
3 contraception or exclusively for the prevention of sexually  
4 transmitted infections."

5 SECTION 8. Section 432:1-604.5, Hawaii Revised Statutes,  
6 is amended to read as follows:

7 **"§432:1-604.5 Contraceptive services. (a)**

8 Notwithstanding any provision of law to the contrary, each  
9 employer group [~~health policy, contract, plan, or agreement~~]  
10 hospital or medical service plan contract issued or renewed in  
11 this State on or after January 1, 2000, shall [~~cease to exclude~~]  
12 provide coverage for contraceptive services or contraceptive  
13 supplies, and contraceptive prescription drug coverage for the  
14 subscriber or member or any dependent of the subscriber or  
15 member who is covered by the policy, subject to the exclusion  
16 under section 431:10A-116.7[-]; provided that:

17 (1) If there is a therapeutic equivalent of a  
18 contraceptive supply approved by the federal Food and  
19 Drug Administration, a mutual benefit society may  
20 provide coverage for either the requested



1           contraceptive supply or for one or more therapeutic  
2           equivalents of the requested contraceptive supply;

3           (2) If a contraceptive supply covered by the plan contract  
4           is deemed medically inadvisable by the subscriber's or  
5           member's health care provider, the plan contract shall  
6           cover an alternative contraceptive supply prescribed  
7           by the health care provider;

8           (3) A mutual benefit society shall pay pharmacy claims for  
9           reimbursement of all contraceptive supplies available  
10           for over-the-counter sale that are approved by the  
11           federal Food and Drug Administration; and

12           (4) A mutual benefit society shall not infringe upon a  
13           subscriber's or member's choice of contraceptive  
14           supplies and shall not require prior authorization,  
15           step therapy, or other utilization control techniques  
16           for medically-appropriate covered contraceptive  
17           supplies.

18           ~~[(b) Except as provided in subsection (c), all policies,~~  
19           ~~contracts, plans, or agreements under subsection (a), that~~  
20           ~~provide contraceptive services or supplies, or prescription drug~~  
21           ~~coverage, shall not exclude any prescription contraceptive~~



1 ~~supplies or impose any unusual copayment, charge, or waiting~~  
2 ~~requirement for such drug or device.~~

3 ~~(e) Coverage for contraceptives shall include at least one~~  
4 ~~brand from the monophasic, multiphasic, and the progestin-only~~  
5 ~~categories. A member shall receive coverage for any other oral~~  
6 ~~contraceptive only if:~~

7 ~~(1) Use of brands covered has resulted in an adverse drug~~  
8 ~~reaction; or~~

9 ~~(2) The member has not used the brands covered and, based~~  
10 ~~on the member's past medical history, the prescribing~~  
11 ~~health care provider believes that use of the brands~~  
12 ~~covered would result in an adverse reaction.~~

13 ~~(d)]~~ (b) A mutual benefit society shall not impose any  
14 cost-sharing requirements, including copayments, coinsurance, or  
15 deductibles, on a subscriber or member with respect to the  
16 coverage required under this section. A health care provider  
17 shall be reimbursed for providing the services pursuant to this  
18 section without any deduction for coinsurance, copayments, or  
19 any other cost-sharing amounts.



1        (c) Except as otherwise provided by this section, a mutual  
2 benefit society shall not impose any restrictions or delays on  
3 the coverage required by this section.

4        (d) Coverage required by this section shall not exclude  
5 coverage for contraceptive supplies prescribed by a health care  
6 provider, acting within the provider's scope of practice, for:

7        (1) Reasons other than contraceptive purposes, such as  
8 decreasing the risk of ovarian cancer or eliminating  
9 symptoms of menopause; or

10       (2) Contraception that is necessary to preserve the life  
11 or health of a subscriber or member.

12       (e) Coverage required by this section shall include  
13 reimbursement to a prescribing health care provider or  
14 dispensing entity for prescription contraceptive supplies  
15 intended to last for up to a twelve-month period for a member.

16       [~~e~~] (f) Coverage required by this section shall include  
17 reimbursement to a prescribing and dispensing pharmacist who  
18 prescribes and dispenses contraceptive supplies pursuant to  
19 section 461-11.6.

20       (g) Nothing in this section shall be construed to extend  
21 the practice or privileges of any health care provider beyond





1 that provided in the laws governing the provider's practice and  
2 privileges.

3 [~~(f)~~] (h) For purposes of this section:

4 "Contraceptive services" means physician-delivered,  
5 physician-supervised, physician assistant-delivered, advanced  
6 practice registered nurse-delivered, nurse-delivered, or  
7 pharmacist-delivered medical services intended to promote the  
8 effective use of contraceptive supplies or devices to prevent  
9 unwanted pregnancy.

10 "Contraceptive supplies" means all Food and Drug  
11 Administration-approved contraceptive drugs or devices used to  
12 prevent unwanted pregnancy~~[-]~~, regardless of whether they are to  
13 be used by the subscriber or member or the partner of the  
14 subscriber or member, and regardless of whether they are to be  
15 used for contraception or exclusively for the prevention of  
16 sexually transmitted infections.

17 [~~(g)~~ ~~Nothing in this section shall be construed to extend~~  
18 ~~the practice or privileges of any health care provider beyond~~  
19 ~~that provided in the laws governing the provider's practice and~~  
20 ~~privileges.] "~~



1 SECTION 9. Section 432D-23, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§432D-23 Required provisions and benefits.**

4 Notwithstanding any provision of law to the contrary, each  
5 policy, contract, plan, or agreement issued in the State after  
6 January 1, 1995, by health maintenance organizations pursuant to  
7 this chapter, shall include benefits provided in sections  
8 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-  
9 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,  
10 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, 431:10A-132,  
11 431:10A-133, 431:10A-134, 431:10A-140, and [~~431:10A-134,~~  
12 431:10A-A, and chapter 431M."

13 SECTION 10. The insurance division of the department of  
14 commerce and consumer affairs shall submit a report to the  
15 legislature on the degree of compliance by insurers, mutual  
16 benefit societies, and health maintenance organizations  
17 regarding the implementation of this part, and of any actions  
18 taken by the insurance commissioner to enforce compliance with  
19 this part no later than twenty days prior to the convening of  
20 the regular session of 2020.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

PART II

SECTION 11. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§346-A Nondiscrimination; reproductive health care; coverage.** (a) An individual, on the basis of actual or perceived race, color, national origin, sex, gender identity, sexual orientation, age, or disability, shall not be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in the coverage of, or payment for, the services, drugs, devices, products, or procedures covered by section 432:1-A or 432:1-604.5 or in the receipt of medical assistance as that term is defined under section 346-1.

(b) Violation of this section shall be considered a violation pursuant to chapter 481.

(c) Nothing in this section shall be construed to limit any cause of action based upon any unfair or discriminatory practices for which a remedy is available under state or federal law."

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

PART III

SECTION 12. In codifying the new sections added by sections 2, 3, 4, 5, and 11 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect on July 1, 2020, and shall apply to all plans, policies, contracts, and agreements of health insurance issued or renewed by a health insurer, mutual benefit society, or health maintenance organization on or after January 1, 2020.

INTRODUCED BY:

Rindeelchizya

Geetha Khetan

Amy Peruss

[Signature]

Tim Withygon

[Signature]

[Signature]

Lyn DeCote

JAN 23 2019



# H.B. NO. 1087

**Report Title:**

Health Insurance; Required Benefits; Covered Benefits;  
Reproductive Health Care

**Description:**

Requires health insurers, mutual benefit societies, and health maintenance organizations to provide coverage for a comprehensive category of reproductive health services, drugs, devices, products, and procedures. Prohibits discrimination in the provision of reproductive health care services.

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

