

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Judiciary
and
Senate Committee on Ways and Means
Tuesday, April 5, 2022
10:05 a.m.
Room 211 and Via Videoconference**

**On the following measure:
H.B. 2405, H.D. 2, S.D. 1, RELATING TO INSURANCE**

WRITTEN TESTIMONY ONLY

Chair Rhoads, Chair Dela Cruz, and Members of the Committees:

My name is Colin M. Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department supports this bill.

The purposes of this bill are to: (1) prohibit health insurers, mutual benefit societies, and health maintenance organizations from applying categorical cosmetic or blanket exclusions to gender affirming treatments, (2) prohibit those entities from excluding gender affirming treatments as cosmetic services when prescribed as medically necessary; and (3) require those entities to provide applicants and insured persons with clear information about the coverage of gender transition services, including the process for appealing a claim denied on the basis of medical necessity.

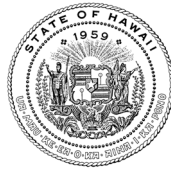
S.D. 1 of this bill includes a new Section 5 with amendments to HRS § 432D-26.3, addressing health maintenance organizations, that are similar to amendments to HRS §§ 431:10A-118.3 and 432:1-607.3 in Sections 3 and 4 of S.D. 1, which address insurers and mutual benefit societies. We prefer this approach to addressing health maintenance organizations in S.D. 1.

S.D. 1 of this bill will also prohibit blanket exclusions for covered services and help ensure that reviews of service denials are conducted by reviewers with relevant experience.

In addition, the Department concurs with requiring insurers to provide applicants and insureds with clear information about the coverage of gender transition services, including the process for appealing a claim denied on the basis of medical necessity.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

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ASSISTANT ADMINISTRATOR
DONNA A. TONAKI

WRITTEN ONLY

TESTIMONY BY DEREK MIZUNO
ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON JUDICIARY AND WAYS AND MEANS
ON HOUSE BILL NO. 2405 HD2 SD1

April 5, 2022
10:05 a.m.
Conference Room 016 & Videoconference

RELATING TO INSURANCE

Chairs Rhoads and Dela Cruz, Vice Chairs Keohokalole and Keith-Agaran, and Members of the Committees:

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees has not taken a position on this bill. EUTF staff would like to inform the Committee that passage of this bill is estimated by its health insurers to increase costs to the EUTF health plans by approximately \$2.4 million annually.

Thank you for the opportunity to testify.

HB-2405-SD-1

Submitted on: 4/1/2022 5:52:46 PM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Cameron Miyamoto	Testifying for LGBT Student Services, UH Manoa	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees: I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies. I am submitting this testimony as an individual with decades of professional experience at UH serving LGBTQ communities and this testimony does not reflect the official opinion of the university.

Private insurers denying transgender residents gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our māhū and trans community members!

Sincerely,
Cameron Miyamoto



April 1, 2022

The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Senate Committee on Judiciary

The Honorable Donovan M. Dela Cruz
The Honorable Gilbert S.C. Keith-Agaran
Senate Committee on Ways and Means

Re: HB 2405 HD2 SD1 – Relating to Insurance

Dear Chair Rhoads, Chair Dela Cruz, Vice Chair Keohokalole, Vice Chair Keith-Agaran, and
Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 2405, HD2, SD1, which prohibits health insurers, mutual benefit societies, and health maintenance organizations from applying categorical cosmetic or blanket exclusions to gender affirming treatments. Prohibits those entities from excluding gender affirming treatments as cosmetic services when prescribed as medically necessary. Requires those entities to provide applicants and insured persons with clear information about the coverage of gender transition services, including the process for appealing a claim denied on the basis of medical necessity. Effective 7/1/2060.

As a supporter of the LGBTQ+ community, HMSA offers gender transition benefits for many of our members. This policy covers gender identity and transition services based on medical necessity as defined by HRS 432E-1.4. HMSA is committed to providing clear information about our gender identity and transition services including our appeals process.

While we continue to have concerns with the latest version of the bill, we are supportive of the ongoing discussion on transgender health care benefits.

Thank you for the opportunity to testify on this measure. Your consideration of our comments is appreciated.

Sincerely,

Matthew W. Sasaki
Assistant Vice President
Government & External Relations

HB-2405-SD-1

Submitted on: 4/1/2022 9:23:19 PM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Testifying for Rainbow Family 808	Support	Written Testimony Only

Comments:

Rainbow Family 808 supports HB2405. Please pass this bill. Thanks.

Mike Golojuch, Sr., Secretary/Board Member, Rainbow Family 808

HB-2405-SD-1

Submitted on: 4/2/2022 6:59:22 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Golojuch Jr	Testifying for Stonewall Caucus of the Democratic Party of Hawaii	Support	Written Testimony Only

Comments:

Aloha Senators,

The Stonewall Caucus of the Democratic Party of Hawai‘i (formerly the LGBT Caucus) Hawai‘i’s oldest and largest policy and political LGBTQIA+ focused organization fully supports HB 2405 HD 2 SD 1.

We hope you all will support this important piece of legislation.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
Stonewall Caucus for the DPH



Aloha for All is Good Business

February 28, 2022

RE: Testimony in STRONG SUPPORT OF HB2405 HD2 SD1 Relating to Gender Affirming Treatment Act

Dear Senators,

The Hawaii Rainbow Chamber of Commerce has a mission to educate and advocate for the advancement of equality of economic and societal opportunities for Hawaii's LGBTQ+ community.

HB2405 HD2 SD1 is an important piece of legislation that provides essential health care to those seeking gender affirming treatments that are known to be important as related by other testimony you have received, especially the State Department of Health. This version of the bill seems to address concerns also made by previous testifiers.

We know that unless required by law, some health insurers, mutual benefit societies and health maintenance organizations have denied treatment to those in need based on the presumption that these are only cosmetic services, when in fact they are deemed medically necessary for the health and well-being of those seeking treatment. We know of specific instances where coverage has been denied, much to the detriment of those seeking treatment due to current policies and thus we find this coverage must be mandated by law. It is simply health coverage that is not currently being met uniformly.

The number of actual persons that this may affect is not overwhelming to our medical system nor costs, but vitally important to those needing this care in the LGBTQ+ community.

Thank you for this opportunity to testify.

Winston Welch
President, Hawaii Rainbow Chamber of Commerce

HB-2405-SD-1

Submitted on: 4/4/2022 6:35:36 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Rachel Kuenzi	Testifying for Planned Parenthood Alliance Advocates	Support	Written Testimony Only

Comments:

As a provider of sexual and reproductive health care services in Hawai'i, PPAA advocates for policies that positively impact all people's health and wellness. We believe everyone deserves high-quality, compassionate health care that is appropriate to a person's needs and concerns – no matter their gender identity, their income, or their insurance type. This bill takes a critical step towards ensuring transgender people in Hawai'i get the health care they need to survive and thrive.

April 4, 2022

The Honorable Karl Rhoads, *Chair*
The Honorable Jarrett Keohokalole, *Vice Chair*
Senate Committee on Judiciary
The Honorable Donovan M. Dela Cruz, *Chair*
The Honorable Gilbert S.C. Keith-Agaran, *Vice Chair*
Senate Committee on Ways and Means
415 South Beretania St.
Honolulu, HI 96813

RE: Support of House Bill 2405

Dear Chairs Rhoads and Dela Cruz and Vice Chairs Keohokalole and Keith-Agaran:

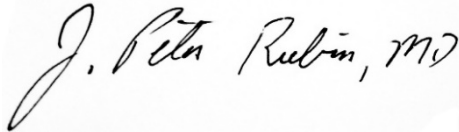
On behalf of the Northwest Society of Plastic Surgeons (NWSPS) and the American Society of Plastic Surgeons (ASPS), we are writing **in support of** House Bill 2405. ASPS is the largest association of plastic surgeons in the world, and in conjunction with NWSPS, represents more than 8,000 members and 93 percent of all board-certified plastic surgeons in the United States – including 38 board-certified plastic surgeons in Hawaii. Our mission is to advance quality care for plastic surgery patients, including those patients experiencing gender dysphoria, a condition in which a person experiences severe distress due to a disconnect between how they feel and their anatomic characteristics.

As surgeons who provide care for transgender individuals, our members know firsthand the effects of gender dysphoria. Individuals with gender dysphoria often describe being born in the wrong body, and plastic surgery is an important step in aligning their bodies with whom they know themselves to be. Care of individuals with gender dysphoria requires a multidisciplinary approach that may include mental health professionals, primary care physicians, endocrinologists, and plastic surgeons. ASPS strongly supports H.B. 2405 and the clear effort to improve the delivery of transgender services in Hawaii by ensuring all related medically necessary services are covered by insurers and guaranteeing that transgender individuals cannot be discriminated against by health insurers.

We would like to applaud Hawaii for recognizing that gender affirming surgeries are an important part of transgender patients' overall transition-related care that help them better identify with their gendered self, which in turn enhances their psychological well-being and overall health. It is our firm belief that by working together, health care teams and insurers – both private and public – can help meet the World Professional Association for Transgender Health's high standards to enhance health, happiness, and contentment. H.B. 2405 is a critical step in the right direction of achieving that goal and ensuring transgender individuals can obtain comprehensive and quality health care.

For these reasons outlined above, we support H.B. 2405 and the protection they ensure for the transgender community in Hawaii. Thank you for your consideration of ASPS's comments. Please do not hesitate to contact Patrick Hermes, Director of Advocacy and Government Relations, at phermes@plasticsurgery.org or (847) 228-3331 with any questions or concerns.

Sincerely,



J. Peter Rubin, MD, MBA, FACS
President, American Society of Plastic Surgeons



Nicholas Carr, MD, FRCSC
President, Northwest Society of Plastic Surgeons

cc: Members, Senate Committee on Judiciary
Members, Senate Committee on Ways and Means



HIPHI Board

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For Children in Hawai'i

Garret Sugai
Pharmacare Hawai'i

Titiimaea Ta'ase, JD
State of Hawai'i, Deputy Public Defender

HIPHI Initiatives

Coalition for a
Tobacco-Free Hawai'i

Community Health
Worker Initiative

COVID-19 Response

Hawai'i Drug & Alcohol Free
Coalitions

Hawai'i Farm to School Hui

Hawai'i Oral Health Coalition

Hawai'i Public Health Training Hui

Healthy Eating + Active Living

Kūpuna Food Security Coalition

Date: April 4, 2022

To: Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Members of the Committee on Judiciary

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Members of the Committee on Ways and Means

Re: Support HB 2405, HD2, SD1, Relating to Insurance

Hrg: April 5, 2022 at 10:05 AM, Conference Room 211 & via
Videoconference

The Hawai'i Public Health Instituteⁱ is in **support of HB 2405, HD2, SD1**, which clarifies existing state law regarding nondiscrimination in insurance coverage of gender-affirming care.

HIPHI strives to eliminate health disparities and injustices to improve the health and wellness of all people. Gender-affirming care saves lives, and denying access to health care services and treatments on the basis of gender identity runs contrary to public health by perpetuating stigma and exacerbating existing health disparities. For us, eliminating health disparities means moving beyond advocating *for* equity, but rather amplifying our work *against* inequity.

Health insurance denials constitute one of the most oft-cited discriminatory barriers for transgender communities, with one quarter of people identifying as transgender reporting having been denied insurance coverage on the basis of their gender identity.ⁱⁱ Although the nondiscrimination provision of the federal Affordable Care Act and Hawai'i lawⁱⁱⁱ prohibit such denials, local patients report continued denials of insurance coverage for services that otherwise meet the standard of medically necessary care.

Major public health and medical associations recognize the benefits of and support access to gender-affirming care, and have acknowledged the devastating health consequences of discrimination against transgender communities.^{iv} The American Medical Association,^v American Academy of Pediatrics,^{vi} Association of American Medical Colleges,^{vii} American Psychological Association,^{viii} and American Public Health Association,^{ix} support public and private practices and policies that are inclusive of transgender, gender diverse, and nonbinary people.

HB 2405 is a step forward in eliminating barriers to health care for transgender communities in Hawai'i by clarifying that gender-affirming care is medically necessary and therefore must be covered so long as those same services are covered for reasons unrelated to gender affirmation. This will ensure parity in coverage and compliance with existing law. For these reasons, HIPHI respectfully requests that the Committee support this measure.

Mahalo,



Amanda Fernandes, JD
Policy and Advocacy Director

ⁱ Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

ⁱⁱ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality.

ⁱⁱⁱ Hawai'i Revised Statutes §431:10A-118.3.

^{iv} American Medical Association, *Issue Brief: Health insurance coverage for gender-affirming care of transgender patients*, 2019. <https://www.ama-assn.org/system/files/2019-03/transgender-coverage-issue-brief.pdf>.

^v American Medical Association Issue Brief, *supra*; "The AMA opposes the denial of health insurance on the basis of sexual orientation or gender identity." American Medical Association Policy H-180.980. <https://policysearch.ama-assn.org/policyfinder/detail/H-180.980?uri=%2FAMADoc%2FHOD.xml-0-1086.xml>.

^{vi} "Proper gender-affirming care can mitigate a patient's clinical distress and lead to significant improvements in the overall well-being of youth and adolescents who are at risk of or have been diagnosed with gender dysphoria." Brandt et al., v. Rutledge, 4:21-CV-00450-JM, US. District Court Eastern District of Arkansas Central Division, *Amicus Brief of American Academy of Pediatrics*, filed June 23, 2021.

^{vii} "Efforts to restrict the provision of gender-affirming health care for transgender individuals will reduce health care access for transgender Americans, promote discrimination, and widen already significant health inequities." American Association of Medical Colleges Statement on Gender-affirming Health Care for Transgender Youth, April 9, 2021. <https://www.aamc.org/news-insights/press-releases/aamc-statement-gender-affirming-health-care-transgender-youth>.

^{viii} Resolution on Supporting Sexual/Gender Diverse Children and Adolescents in Schools, American Psychological Association, 2020. <https://www.apa.org/pi/lgbt/resources/policy/gender-diverse-children>.

^{ix} "APHA urges Congress, state legislatures, and other public and private entities to ensure that policies and practices across all sectors are explicitly inclusive of transgender and gender-nonconforming people." American Public Health Association, Policy No. 20169, Nov 01, 2016. <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2017/01/26/promoting-transgender-and-gender-minority-health-through-inclusive-policies-and-practices>.

HB-2405-SD-1

Submitted on: 4/4/2022 8:49:58 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Ashley Galacgac	Testifying for AF3IRM Hawaii	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

Thank you for the opportunity to testify in **strong support of HB2405 HD2 SD1** which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender-affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies. Our trans relatives deserve access to safe gender-affirming healthcare services.

Private insurers denying transgender residents gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender-affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender-affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out-of-context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. **The bill codifies investment in the health, wellness, and safety of our māhū and trans community members in our health care systems.**

HB-2405-SD-1

Submitted on: 4/4/2022 9:13:15 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Rev. T. J. FitzGerald	Testifying for First Unitarian Church of Honolulu	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committee:

I strongly support HB2405 HD2 SD1 (Gender Affirming Treatment Act), which clarifies the language of the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials for gender-affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies. I also ask that you pass the bill as it stands presently.

For more than a decade, medical communities around the world have held that care for transgender persons is medically necessary. Federal officials stated that insurers that do not provide these services are discriminating against transgender persons in contravention of federal law. And Johns Hopkins, in a well known study, showed that providing transgender-related care is cost-effective over the longer term because it greatly reduces incidence of depression, anxiety, and other kinds of lingering, long-term conditions that affect well being and overall productivity.

I am called minister to all of the world's people exactly as they are in ways that affirm their worth and dignity. The honor to serve the world in this way led to the deeply humbling opportunity to participate in the Honolulu Transgender Day of Remembrance. If you don't know that the Transgender Day of Remembrance is, it is a day each year when we remember by name each member of the worldwide transgender community who is the victim of deadly violence.

The list of names is long. So is the list of violence. And we read every name together and hold each other in the loving and understanding embrace of aloha. What is served by denying the most vulnerable of our siblings the dignity of being their true selves and the medically necessary treatments they need?

I was shocked to learn that in this state, insurance companies are permitted to withhold care for our transgender siblings over definitions of procedures. Studies show these procedures have the power to pull our siblings out of depression, anxiety and despair. Federal officials state that denying these procedures violates federal law. Insurance companies welcomed into these islands, who receive millions of state tax dollars to care for residents, are denying these medically necessary procedures to this very small group whose members have suffered enough.

Do not perpetuate this harm any further. Please pass HB2405 HD2 SD1 (Gender Affirming Treatment Act) as it stands. Insurance companies who are permitted to operate in these lands must fund all gender affirming care for the precious siblings for whom the medical community has stated are necessary.

Rev. T. J. FitzGerald
Senior Minister
First Unitarian Church of Honolulu

LATE



**Statement of the Democratic Party of Hawai'i
Comments on HB2045 HD2 SD1, Relating to Insurance**

The [Democratic Party of Hawai'i](#) supports HB2045 HD2 SD1, Relating to Insurance, to the extent that it aligns with our Party's [platform](#). The bill would prohibit health insurers, mutual benefit societies, and health maintenance organizations from applying categorical cosmetic or blanket exclusions to gender affirming treatments; prohibit those entities from excluding gender affirming treatments as cosmetic services when prescribed as medically necessary; and require those entities to provide applicants and insured persons with clear information about the coverage of gender transition services, including the process for appealing a claim denied on the basis of medical necessity.

The Democratic Party of Hawai'i believes that healthcare is a right, not a privilege - one that extends to people of all genders regardless of their gender identity. Our platform notes that the high costs of insurance and insufficient coverage mean that many people do not have access to the care they need - particularly those from ethnic, sexual, or gender minority backgrounds. We further believe we must take steps to prohibit discrimination in healthcare based on gender.

We support this bill as it would clarify that insurance companies cannot categorically deny medically-necessary surgeries. The bill would align Hawai'i's anti-discrimination insurance statute with the current medical majority understanding of trans-affirming care, which is important as Hawai'i has the highest trans population per capita of any state in the U.S.

Mahalo nui for the opportunity to provide these comments in support of this important bill.

DEMOCRATIC PARTY OF HAWAII'I

PO Box 2041 • Honolulu, HI 96805 • (808) 596-2980 • www.hawaiidemocrats.org

LATE



HAWAI‘I CIVIL RIGHTS COMMISSION

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

Tuesday, April 5, 2022, 10:05 a.m.
Via Videoconference, and Conference Rm 211

To: The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Members of the Senate Committee on Judiciary

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair
Members of the Senate Committee on Ways and Means

From: Liann Ebesugawa, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. No. 2405, 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.

The HCRC supports H.B. No. 2405, H.D.2, S.D.1, known as the Gender Affirming Treatment Act, which would prohibit health insurers from applying blanket exclusions to gender affirming treatments, and prohibit exclusions of gender affirming treatments as cosmetic services when prescribed as a medically necessary gender affirming treatment. The bill further requires insurance companies to provide applicants and insured persons with clear information about the coverage of gender transition services, including the process for appealing a claim denied on the

basis of medical necessity.

The HCRC supports the rights of the LGBTQ+ community. This bill adds some important safeguards to current law, including a prohibition of denial or cancellation of a policy based on transgender status, and the right to gender transition treatments. HCRC supports the rights of transgender individuals to access to coverage for gender affirmation.

Our previous concerns about coverage of a person who has a transgender family member (child or spouse) have been addressed in this draft. **The HCRC supports H.B. No. 2405, H.D. 2, S.D.1.**



FOR YOUTH DEVELOPMENT®
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

4th April, 2022

Aloha Chairs Rhoads and De la Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 (Gender Affirming Treatment Act), which clarifies the language of the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials for gender-affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies. Please pass this measure "as is" to ensure that private insurers follow the WPATH standards and that there is a review of adverse determinations by gender-affirming care experts.¹

Insurers are willfully discriminating against one Hawai'i's most vulnerable communities

Unfortunately, insurers like HMSA say certain gender-affirming surgeries and treatments are considered cosmetic and say it is unclear how the surgeries/treatments are gender-affirming, but that's because they ignore leading the data and research from significant medical associations, physicians, and WPATH.² Here is the exact language in HMSA's current policy [on](#)

¹ HMSA's current reviewers are experts on pediatric care and general medicine with no specific expertise in gender affirming care.

² See e.g., American College of Obstetricians and Gynecologists, ACOG Releases Guidance on Health Care for Transgender and Gender Diverse Individuals (Feb. 18, 2021) *available at* <https://www.acog.org/news/news-releases/2021/02/acog-guidance-health-care-for-transgender-gender-diverse-individuals>; Kaiser Permanente Northwest, Transgender Procedures Medically Necessary Criteria at 183 (2021) *available at* <https://www.hca.wa.gov/sites/default/files/pebb/kaiser-preauthreqs.pdf>; The World Medical Association, WMA Statement on Transgender People, *available at* <https://www.wma.net/policies-post/wma-statement-on-transgender-people>; The American Medical Association, Issue Brief, *available at* <https://www.ama-assn.org/system/files/2019-03/transgender-coverage-issue-brief.pdf>; Wylie C Hembree & Peggy T Cohen-Ketten et al., J. of Clinical Endocrinology & Metabolism Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline (Sept. 13, 2017) *available at* https://academic.oup.com/jcem/article/102/11/3869/4157558?source=post_page-----, The Endocrine Society, Transgender Health, An Endocrine Society Position Statement (Dec. 15, 2020) *available at* <https://www.endocrine.org/advocacy/position-statements/transgender-health>; American Academy of Child & Adolescent Psychiatry, AACAP Statement Responding to Efforts to ban Evidence-Based Care for Transgender and Gender Diverse Youth (Nov. 8, 2018) *available at* https://www.aacap.org/AACAP/Latest_News/AACAP_Statement_Responding_to_Efforts_to_ban_Evidence-Based_Care_for_Transgender_and_Gender_Diverse.aspx, World Professional Association for Transgender Health (2011) *available at* https://e-space.mmu.ac.uk/625048/1/2011_WPATH_Standards_of_Care_V7-%202011.pdf; the American Public Health Association (Nov. 1, 2016) *available at*

[page 11](#) that unlawfully goes against Act 135 (2016): "Additional surgeries have been proposed to feminize or masculinize a patient's appearance. Procedures such as breast augmentation, liposuction, Adam's apple reduction, rhinoplasty, and facial reconstruction are usually considered cosmetic and their impact on relieving gender dysphoria is unclear."³ These types of policies ignoring the majority of medical opinion are categorical denials, which are discriminatory under Act 135 (2016) and are why it is necessary to have HB2405 HD2 SD1 passed "as is." HMSA's discriminatory policy highlights the importance of retaining the provisions in HB2405 HD2 SD1 for WPATH standards and gender-affirming care expert review of adverse determinations, so the insurers are accountable to gender-affirming care standards, not their own made up and harmful standards.

Raising "costs" as an issue is another example of private insurers ignoring the majority of data and research when it comes to the transgender community, so they can continue to discriminate⁴

According to a 2016 survey by the Williams Institute at UCLA, there are 8,450 transgender individuals in Hawai'i. According to the EUTF, they cover approximately 68,000 active employees plus 60,000 of their dependents, and 47,000 retirees plus 20,000 of their dependents. The likelihood of a significant number of those individuals being transgender or requiring a gender-affirming procedure is statistically very small. In fact, transgender people are more likely to be underemployed and not covered by insurance, which is why anti-discrimination bills like this are important since they improve the quality of life of trans individuals who face discrimination at nearly every turn due to systemic transphobia and cis-hetero patriarchy. The time to be concerned about "costs" was in 2016 when the bill we're amending, [Act 135](#), first became law. Made-up costs should not stand in the way of stopping private insurers from discriminating against Hawai'i's transgender community.

<https://apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2017/01/26/promoting-transgender-and-gender-minority-health-through-inclusive-policies-and-practices>; Barry Anton, Proceedings of the American Psychological Association For the Legislative Year 2009: Minutes of the Annual Meeting of the Council of Representatives and Minutes of the Meetings of the Board of Directors (2009) available at <https://psycnet.apa.org/record/2010-14198-008>.

³ See HMSA, Gender Identity Services (2021) available at <https://hmsa.workfrontdam.com>.

⁴ Data shows that there are little to no costs to insurers to stopping their discriminatory practices and providing gender affirming care. See e.g., Johns Hopkins University, Study: Covering transgender Health Care Would Be cost-effective for Insurance Companies (2015) available at <https://hub.jhu.edu/2015/12/03/transgender-health-insurance-cost-effective/>.

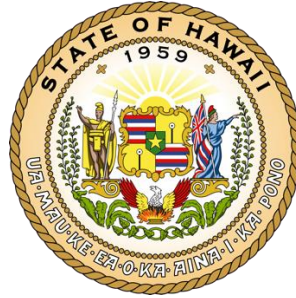
Please **pass** the Gender Affirming Treatment Act (as is) to ensure that our transgender community members receive needed healthcare coverage. Mahalo for investing in the health and safety of our trans community members!

Respectfully,

Reina

Reina Purvis

LATE



**‘O kēia ‘ōlelo hō’ike no ke
Komikina Kūlana Olakino o Nā Wāhine**

**Testimony on behalf of the
Hawai‘i State Commission on the Status of Women**

IN SUPPORT of H.B. 2405, HD2, SD1

Dear Chairs Rhoads and Dela Cruz, and Honorable Members,

The Hawai‘i State Commission on the Status of Women **strongly supports** H.B. 2405, HD2, SD1, which clarifies Act 135 (2016) and prohibits health insurers, mutual benefit societies, and health maintenance organizations from applying categorical cosmetic or blanket exclusions to gender affirming treatments. This measure further prohibits those entities from excluding gender affirming treatments as cosmetic services when prescribed as medically necessary. Finally, this measure requires those entities to provide applicants and insured persons with clear information about the coverage of gender transition services, including the process for appealing a claim denied on the basis of medical necessity.

Hawai‘i State Commission on the Status of Women is the State’s primary advocate for women and supports the rights of transgender people. Transgender patients should be treated with non-discrimination. Too many transgender people postpone or avoid gender affirming treatments due to concerns about discrimination and cost. This can result in experiences of depression, anxiety, and desperation. The scientific and medical consensus is that gender affirming treatments are medically necessary, not cosmetic or elective.¹

Accordingly, Hawai‘i State Commission on the Status of Women asks that the Committee pass this measure.

Mahalo,
Khara Jabola-Carolus
Executive Director

¹ https://www.wpath.org/media/cms/Documents/SOC%20v7/Standards%20of%20Care_V7%20Full%20Book_English.pdf
[<https://perma.cc/CWT9-D5DF>].



LATE

April 1, 2022

The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Senate Committee on Judiciary

The Honorable Donovan M. Dela Cruz
The Honorable Gilbert S.C. Keith-Agaran
Senate Committee on Ways and Means

House Bill 2405 HD2 SD1 – Relating to Insurance

Dear Chair Rhoads, Chair Dela Cruz, Vice Chair Keohokalole, Vice Chair Keith-Agaran, and
Members of the Committee:

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to provide testimony on HB 2405 HD2 SD1. HAHP is a statewide partnership of Hawaii’s health plans and affiliated organizations to improve the health of Hawaii’s communities together. The vast majority of Hawaii residents receive their health coverage through a health plan associated with one of our organizations.

HAHP supports the intent of this measure to ensure non-discrimination in coverage based on gender identity and to require clear information about coverage of gender transition services, including the process for appealing a claim denied on the basis of medical necessity.

While we appreciate the amendments made in the last committee, we continue to have concerns with the language in this bill and look forward to continuing discussions on this important issue.

Thank you for allowing us to provide **comments** on HB 2405 HD2 SD1.

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members

hahp.org | 818 Keeaumoku St., Honolulu, HI 96814 | info@hahp.org

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I very strongly support HB2405 HD2 SD1, which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016), to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

As the mother of a transgender child who has had to battle insurance in order to get my child their gender-affirming medication, nothing would mean more to me than the passing of this bill. Starting in 2016, I have had to swim upstream in order for my child to simply exist in this world. I am a single mother, who does not know how I am going to pay rent next month, never mind the out of pocket expenses to keep puberty from hitting and causing irreversible traits that will ultimately cost more to only slightly remedy with affirming procedures in the future.

Private insurers denying transgender residents gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments can come at the cost of the lives of those in our community.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our mähū and trans community members!

With Warmest Regards,

Wendy Wink Taylor

HB-2405-SD-1

Submitted on: 4/1/2022 5:32:57 PM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Thaddeus Pham	Individual	Support	Written Testimony Only

Comments:

Dear Chairs, Vice Chairs, and Members of the JDC and WAM Committees,

As a public health professional and concerned member of the LGBTQIA+ community, I strongly support HB2405 HD2 SD1 which updates the language on the transgender anti-discrimination health insurance law and requires insurance companies in Hawai'i to post their policies.

There is an overwhelming and growing consensus among major medical organizations that transition-related health care services, including surgical treatments, to alleviate gender dysphoria are medically necessary and should be fully covered by patients' insurance. Without insurance coverage of these medically necessary procedures (that are provided for the cisgender people), trans lives are put at risk for depression and suicidal ideation.

Please make sure that insurance companies are not ignoring the majority of medical opinion and forming their own internal policies (e.g HMSA Policy Number: MM.06.026 & Kaiser 2022 policy page 41) that ignore the law and medical necessity of gender-affirming care by passing this bill.

When insurance companies categorically deny certain gender-affirming procedures by saying they are cosmetic in their policies, insurers attempt to take themselves out of HRS §432E-1.4(a) (Medical Necessity Statute). The Medical Necessity Statute requires coverage of a procedure if (1) it is not specifically excluded (2) is recommended by a licensed healthcare provider and (3) is medically necessary. Because (1) the anti-discrimination law prohibits insurance companies from categorically excluding surgeries like facial feminization and breast augmentation for transgender people (a protected gender identity) in their policies, (2) licensed doctors are recommending these procedures, and (3) gender-affirming procedures (even those that HMSA and Kaiser have categorically) are supported by the majority of medical opinion, insurance companies are subject to the controlling definition of medical necessity in the HRS 432E.

Thank you for investing in the health and safety of our māhū and trans community members!

With gratitude,

Thaddeus Pham (he/him)



Hi there! My name is Breanna Zoey, my pronouns are she/her, and I am transgender. I appreciate the opportunity to submit this testimony **IN SUPPORT** of HB2405 HD2 SD1 and the JDC/WAM decision making in favor of this legislation, which would help end much of the discrimination and unlawful health insurance denials that I have personally faced in the last year, and that many of my fellow trans and gender nonconforming folx continue to face routinely.

I have two specific requests for the decision making of JDC and WAM (in addition to obviously passing this legislation):

#1- please KEEP the language in the bill which reads *No treatment or service shall be denied on the basis that it is cosmetic or not medically necessary unless a health care provider with experience in prescribing or delivering gender affirming treatment first reviews and confirms the appropriateness of the adverse benefit determination.*

Why this language is critical to the bill... This language is critical because as I have demonstrated to the insurance commissioner and his office countless times in 2021, and as has been confirmed by HMSA's own legal team in writing to the commissioner, my insurance company does not utilize medical directors in the review process who have familiarity or expertise with transgender health care, nor do they believe they are required to involve such experts in the review process today (more on this later in my testimony). Please don't let an insurance company mislead the legislature with incomplete facts or argue that this bill language is not required or should be removed because HMSA claims they are already using 'reviewers who are experts in their fields.' The expertise of HMSA's reviewers is not appropriate for transgender-related reviews, and we must keep this language in the bill.

#2- please KEEP the language in the bill which reads *The medical necessity of any treatment for a transgender person, or any person, on the basis of actual gender identity or perceived gender identity shall be determined pursuant to the insurance policy, contract, plan, or agreement and shall be defined in accordance with the most recent edition of the Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People, issued by the World Professional Association for Transgender Health.*

Why this language is critical to the bill... WPATH is considered to be one of the most knowledgeable bodies when it comes to transgender health care. WPATH's standards of care and guidelines are based on evidence-based clinical guidance, medical consensus and scientific and peer-reviewed research, and WPATH's recommendations are what the vast majority of the world rely on when assessing transgender coverage requests. The only reason an insurance company would request the removal of the WPATH-related language in this bill is because WPATH confirms the appropriateness and medical necessity for transgender health care services that insurance flat-out would prefer not to have to cover (like breast augmentation, facial gender confirmation surgery, voice surgery, and facial hair removal, just to name a few). On Feb 17, 2022, the Office of Personnel Management (OPM) issued a call letter ([link](#), and copy attached to the end of my testimony) to carriers who provide health plans for federal workers. In that call letter the federal government emphasizes that carriers (like HMSA and Kaiser) ***"must adopt an acceptable standard of care; in doing so Carriers should look to one or more recognized entities for coverage of gender affirming care and services such as: the World Professional Association of Transgender Health (WPATH), the Endocrine Society, and the Fenway Institute. These entities provide FEHB Carriers with evidence-based clinical guidance to inform their medical policies and benefits coverage to assist transgender and gender diverse people with safe and effective pathways that maximize their overall health, including physical and psychological well-being."*** There is absolutely NO reason why an insurance company should not be required to cover, at a minimum, the care that WPATH has established as medically necessary for trans folx. Any insurance company who doesn't





want WPATH referenced in this legislation is simply trying to get out of having to cover certain things that the world already knows to be medically necessary and proven. Shame on any company who tries to request removing the WPATH aspect of HB2405 HD2 SD1. On a personal note, WPATH has established that facial hair removal by laser or electrolysis is clinically indicated and medically necessary for trans folx/gender dysphoria, however HMSA has been denying my access to coverage for this care for half a year now... I've been filing complaints with the insurance commissioner's office to rectify the discriminatory medical policy my insurance company has regarding this care, but it remains unresolved and the insurance discrimination continues to this day. If we had legislation like this in place today, I wouldn't have to be fighting so hard just to get covered for health care that WPATH has already established as being medically necessary and life saving. Please, pass this legislation and keep this language in the bill so that other trans people do not need to endure such awful fights and discrimination as I am currently facing.

I'd also like to point out to anyone reading this that HMSA finally stopped publicly opposing this legislation in their testimony as of the CPN's hearing on 3/16/22 for HB2405 HD2. Prior, they were the **only** ones opposing this legislation, and now even they have backed away from that position, probably after seeing and hearing the momentum on this legislation this year. So many states around the country have introduced anti-trans legislation this year... Now is the time for our trans health care legislation to pass and for us to show the country that Hawaii is a place where the trans community is supported and can live their most authentic lives, free of discrimination (at least when it comes to health care and coverage).

Highlights of my testimony and personal experience with insurance as a trans person (*trigger warning: mention of suicide*)

1. My insurance company has arbitrarily denied my transgender health care coverage requests over and over in 2021. They keep calling my care "not medically necessary" and say that it will not improve the quality of my life. Insurance says these things despite the outside world having already shown this care to be medically necessary, appropriate, and in fact **life saving**
2. Despite my strength and resilience, even the strongest folks can only take so much discrimination sometimes. My insurance company's persistent discrimination and hurtful, arbitrary, and wrongful comments and adverse determinations led me to the brink of **suicide** a few times in 2021, some of the darkest moments of my entire life. Thank goodness I hung in there and did not let an insurance company get the best of me and end my life, because now that I'm winning the insurance fights and accessing the health care coverage that I need, my quality of life has never been better!!! But this is unfortunately what happens far too often when trans people are denied access to the health care and coverage they need. **Approving medically necessary trans health care saves lives, plain and simple, and I'm a living example of that.**
3. My insurance company consistently uses non-experts in the review and denial process who seem to have no clinical experience treating or prescribing gender affirming care, and who refuse to accept the medical consensus that the world knows to be factual and which is provided to them time and time again. Every time I've been denied, my insurance company has used a run-of-the-mill pediatrician (Dr. A and/or Dr. P) and a general hospitalist (Dr. G), who from the public domain perspective have no experience treating or prescribing care for trans adults, and who I argue have never demonstrated that they've even reviewed or considered any of the information that I or my providers have submitted. It's so nonsense
4. My insurance company has denied or initially refused (heavily) to provide me with so much health care coverage in 2021. When I've challenged the insurance company, I have ultimately been approved for **breast**



**augmentation, facial gender confirmation surgery, tracheal shave, and electrolysis prior to bottom surgery.**

This goes to show the arbitrary insurance denials on trans care have no merit or grounds to stand on, and the overturns demonstrate how our Hawaii insurance companies are issuing denials that are not appropriate or grounded in reality

5. My health care needs are not inherently special or unique. Other trans people need coverage for the same care I've been able to get approved for in 2021, yet my insurance company continues to deny my friends' health care as "not medically necessary" even after the company has already been overturned on my care and provided with enough scientific evidence and research to cover it for other people
6. This legislation would not be a new mandate. Insurance companies already cover the same health care services for non-transgender individuals and conditions, and I have it in writing from my insurance company that this is the case for my facial gender confirmation surgery, tracheal shave, and facial electrolysis (and we know breast reconstruction/augmentation is covered per the Women's Health and Cancer Rights Act of 1997). I'm happy to provide documents to the committee or members where HMSA confirmed (*in writing to me and also to the insurance commissioner*) that my requested trans health care is already a benefit of my HMSA plan for non-trans conditions

Our insurance companies in general have been flagrantly violating existing non-discrimination laws by continuing to deny so much trans health care and arbitrarily calling it "not medically necessary." The scientific literature, the peer-reviewed research, the academic journals, the global professional and expert associations who write the rules and recommendations for trans health care, they have all already evidenced that trans health care is medically necessary and can be vital to an individual's well-being and safety.

My experiences with insurance in 2021 as a trans person (trigger warning: mention of suicide)

My insurance company nearly cost me my life in 2021 by refusing to provide me with coverage for medically necessary care and through some of the horrific things that were said and done throughout the process of denying my care time and time again. In kindergarten language, because of my insurance company I was the blink of an eye away from ending my life by suicide last year (I had never felt such depression and hopelessness prior to the insurance discrimination). It's not because I am weak or that I am not resilient, and in fact to the contrary I think I've been incredibly strong and resilient as I've successfully challenged HMSA's denials and endured some of the greatest challenges of my life.

Trans people are already marginalized and struggle in so many ways, and when folks cannot access the gender affirming care they need and want it's been shown time and time again that the prevalence of self-harm and suicide go through the roof. Even the strongest of individuals cannot forever evade the realities of continued and persistent discrimination. I honestly do not know how I am still here today, but I am sure glad that I did not die otherwise I wouldn't be able to share my experiences or continue to advocate against big insurance and to help ensure we put an end to this discrimination. Since I've been able to access the gender affirming health care coverage I need, my quality of life has never been better and those feelings of depression and hopelessness have largely subsided. My insurance company literally told me in writing (see denial quotes on next page) that my health care wouldn't reduce the likelihood of self-harm or suicide, and that my health care wouldn't improve the quality of my life. I don't know how I can better demonstrate that my insurance company isn't getting things right, and that they need some external encouragement. I want no one else to have to suffer or endure some of the things my insurance company put me through in 2021 and continues to put me through today.





In the last 12 months alone, I have had to spend roughly 300 hours challenging HMSA and to successfully get them to approve coverage for:

- a- Gender affirming breast augmentation
- b- Facial gender confirmation surgery
- c- Tracheal shave (reduction thyroid chondroplasty)
- d- Electrolysis coverage prior to bottom surgery

Reasons why HMSA has denied my trans health care needs in 2021

These are just some of the reasons that HMSA issued to me in writing when denying my personal health care coverage requests over the last year or so (spoiler alert: every single reason is not an accurate reflection of reality and is false):

- 1) "nor is there proof that in those who self-harm that [the requested service] decreases that behavior"
- 2) "there is lack of support of improvement of quality of life"
- 3) "the requested procedures are not considered effective in improving health outcomes"
- 4) "gender dysphoria does not meet the definition of medical condition"
- 5) "published, peer-reviewed data does not support that the surgical procedure performed achieves outcomes in the treatment of gender dysphoria and/or gender incongruence that are superior to or equivalent to alternative interventions for treatment"
- 6) "exaggerate[s] masculine or feminine traits beyond the range of norms found within society"
- 7) "primarily serve[s] to beautify or otherwise enhance physical appearance"
- 8) "deny as does not meet current GIS policy criteria nor medical necessity, due to lack of supporting evidence that these procedures help to improve health outcomes"
- 9) "there is no decisive or definite absolute indication that health outcomes are improved with the use of facial feminization surgery"
- 10) "the research studies that show persistent improvement in quality of life in the long term are limited"
- 11) "there are very limited supporting data showing overall improved daily functioning following these procedures; therefore a conclusion that improved health outcomes will occur is not supported by clinical evidence. Therefore, the requested procedures are not medically necessary"
- 12) "there is limited literature review and research that support complete resolution or satisfaction upon completion of the surgical procedure"
- 13) "there is insufficient research studies that further support improvement in health outcome, daily functioning following successful completion of the surgery"
- 14) "removal of the facial hair is not critical for the process of gender reassignment"
- 15) "electrolysis of the facial hair would not improve the overall health outcome as measured by length or quality of the patient's life"
- 16) "there is no evidence of expert opinion that supports the attestation that electrolysis of facial hair improves the overall health outcome"

This is just a handful of the bogus and uninformed reasons my insurance company had denied my care for in the past 12 months, and they are all not true. To emphasize the severity of the situation we're dealing with in Hawaii, take another look at #1 above where HMSA says access to gender affirming care doesn't reduce the likelihood of self-harm and suicide. Seriously? There is no better way to demonstrate that Hawaii insurance companies do not understand trans health care at all. Since I've been able to access and get approved for gender affirming care, my





quality of life has increased significantly and my depression, anxiety, and unwanted desires to self-harm have all decreased immensely, just as the research says happens when people can access gender affirming health care and coverage. The fact insurance here continues to say trans health care doesn't save lives and doesn't/won't improve quality of life is a kick in the gut to say the least and makes absolutely no sense.

Not accessing health care is not an option for most people because all that results in is increased depression and anxiety, increased gender dysphoria and misgendering, decreased social functioning, increased likelihood of physical harm and hate crimes, and unfortunately increased suicides and attempts. Access to gender affirming care quite literally saves lives, and I am a living example of that.

Financial impacts when my trans health care was denied

- While I was fighting my insurance company on their denials last year I had to take out a 401k loan to self-finance breast augmentation (which eventually was overturned and paid for by insurance)
- I was then moments away from needing to take out a second mortgage in order to keep my facial surgeries moving along (fortunately I overturned HMSA's denials using the ACA's protections before the 2nd mortgage was executed)
- In 2022 I've had to take a second/part-time job (in addition to my regular/full-time job) in order to pay for my health care needs (facial electrolysis) while I continue to challenge HMSA's denials using the ACA's protections and prepare for potential litigation/lawsuit
- I've even seriously considered renting out my apartment and living out of my car for 6-12 months out of desperation and in order to be able to help pay for my health care needs (which let me remind you are already viewed as a medical necessity and covered by existing state law, whether or not my insurance company will agree or admit it)

I've had to do and consider all of these things as a direct result of my insurance company discriminating against me and denying my medically necessary health care. No one should be required to do such things in order to access lifesaving health care that the world already views as being medically necessary.

Costs when insurance is allowed to discriminate and deny trans care unjustly

Think about this, what would the costs be for refusing to provide medically necessary health care coverage for trans people? And I don't just mean *'well, by refusing to cover the health care the financial costs would be zero, duh.'* I mean the costs associated with everything else like overall mental health, anxiety, depression, gender dysphoria, social functioning, increased discrimination with respect to life (housing, employment, and other disparities)... all of these things often result in ***increased costs*** such as for example:

- increased therapy sessions re: gender dysphoria, and all the things associated with it...
- unnecessarily elevated anxiety...
- unnecessarily worse depression...
- increased medications for patients who need them for anxiety/depression that could have been alleviated if care was approved...





- increased ER visits for patients who are forcefully kept in an unstable place through health care denials....
- other unsafe coping mechanisms like drugs and alcohol...
- increased risky behaviors like selling drugs or prostitution in an attempt to fund health care that insurance denied...
- potentially unstable housing and challenges gaining or retaining employment...
- and possibly one of the worst would be increased suicides and attempts as a result of all of the costs such as these.

Not only does covering trans health care save lives, but it reduces costs in so many ways.

This legislation is not a new mandate

With respect to my insurance company, they already view all of my trans health care services as covered benefits when prescribed for non-trans conditions and treatments. Every time I challenge HMSA under the affordable care act, HMSA is required to check a yes/no box that asks if my requested health care would ordinarily be a covered benefit of the plan had they not deemed it to be not medically necessary for my gender dysphoria. When push comes to shove HMSA always checks the "yes" box, indicating that my requested care is already a benefit for non-trans conditions and when medically necessary. This legislation does not mandate the coverage of anything that isn't already covered and paid for by insurance... we're just tightening up the idea that insurance companies should not be discriminating against trans folks and denying health care on the basis of our gender identity and when the care is treating gender dysphoria, especially when the world already knows this health care to be medically necessary, appropriate, and well-supported. I am happy to provide written documentation, to any interested legislators or committees, where my insurance company put in writing that my trans health care requests are already covered benefits of my plan.

Insurance companies arbitrarily deny trans care by using non-expert reviewers

My insurance company has been denying much of my gender affirming care over the past 12 months by using reviewers who seem to have zero experience in treating trans patients or prescribing care for trans folks, who do not seem to understand trans health care, who do not seem to even review the science and evidence that I and my providers have been providing to them time and time again, and who simply have no business being involved in transgender decision making in my opinion. When I request coverage, HMSA requires me to submit letters of medical necessity from providers who are highly trained and experienced with trans care and who meet specific criteria and characteristics as defined by the insurance company and WPATH (like education and relevant clinical experience). However, my insurance company has not been using reviewers with comparable knowledge and expertise when reviewing and denying me. I alleged this problem last year via the insurance commissioner's office, and HMSA responded with the following:

"...the "Characteristics" set forth in Appendix A of the GIS Policy apply to a member's treating providers and not the clinical reviewers"

"...there is no requirement that a "reviewing body" must have such credentials."





In kindergarten language, my insurance company said that while they require my treating and referring providers to be highly skilled and trained in trans health care and meet specific criteria, HMSA's reviewers do not need to be comparable in knowledge and expertise, which would be fine ONLY IF HMSA would listen to and defer to the clinical judgements of the experts who are treating the patient (my insurance does not currently listen to or defer to the expertise of the experts they require me to bring into the process when requesting insurance coverage). Please tell me how that makes any sense at all. This all results in insurance companies not understanding transgender health care and they are making arbitrary and uninformed denials.

Health plans on the mainland already cover trans health care

The majority of insurance on the mainland already understand trans health care is medically necessary and routinely cover it. For example, **within blue cross blue shield alone nearly 85% of mainland states/companies already routinely cover breast augmentation for trans women, and about half routinely cover facial gender confirmation surgeries** (with more starting to cover it as of 2021 and 2022). HMSA does not routinely cover this care, and in fact they routinely DENY this medically necessary care for the reasons I've listed above. On the same notion, my facial electrolysis care is recognized as medically necessary and covered by MANY mainland BCBS companies (and the broader medical consensus and clinical evidence), yet here in Hawaii HMSA thinks they know better and they call my electrolysis care not medically necessary and they make me fight so hard.

Some of our Hawaii insurance companies are on the wrong side of history with all of this, and I'd love for someone to rationalize why my health care is widely viewed as medically necessary in the mainland and around the world, but because I live in Hawaii suddenly big insurance can call my care not medically necessary. It makes no sense and this shows that at least my insurance company is out of sync with the broader world.

The end

Please pass this commonsense legislation in 2022. There is quite literally no reason why this legislation should not pass, and there is no reason why we should allow Hawaii insurance companies to continue to flagrantly and arbitrarily deny trans health care and go against the grain of reality.

I am happy to speak more in depth with any member or committee regarding my personal experiences and challenges with our health insurance system/companies. Thank you for this opportunity. -Breanna Zoey (she/her)



Letter Number 2022-03

Date: February 17, 2022

Fee-for-service [3]

Experience-rated HMO [3]

Community-rated HMO [3]

Subject: Federal Employees Health Benefits Program Call Letter

Submission of Proposals

This is our annual call for benefit and rate proposals from Federal Employees Health Benefits (FEHB) Program Carriers. This letter sets forth the policy goals and initiatives for the FEHB Program for 2023. You must submit your benefit and rate proposals for the contract term beginning January 1, 2023 on or before May 31, 2022. OPM expects to complete benefit negotiations by July 31 and rate negotiations by mid-August to ensure a timely Open Season. As a reminder, Call Letter responsiveness is evaluated by your Contracting Officer as an element of Plan Performance Assessment (PPA).

FEHB Program Benefits and Initiatives

OPM's focus for the upcoming plan year is advancing health equity and ensuring the federal government, as the largest employer in the country, offers competitive, comprehensive health insurance benefits to its employees, annuitants, their families, and other eligible persons and groups. Our health equity initiatives for the 2023 plan year relate to maternal health, gender affirming care and services, and obesity. In our ongoing efforts to offer competitive benefits to meet consumer demand and address evolving medical evidence, we identify specific initiatives in areas such as assisted

reproductive technology, preventive health services, and coverage for necessary medical foods. We also continue our emphasis on the Coronavirus Disease 2019 (COVID-19) pandemic by maintaining equitable access to testing, vaccines, and therapeutics as well as ongoing efforts related to telehealth, mental health, and substance use disorders. Guidance and policy from previous Carrier Letters remain in effect unless superseded by this Call Letter.

We remain committed to reducing costs and, in particular, continue to encourage FEHB Carriers to manage specialty prescription drugs costs, which have experienced high-cost growth rate across the industry. The annual Consolidated Pharmacy Benefits Guidance, [Carrier Letter 2022-02](#), for the FEHB Program with comprehensive information about the pharmacy benefit was recently released. Carriers must comply with this guidance when preparing proposals.

We continue to require cost neutrality as outlined in [Carrier Letter 2019-01](#).

I. Health Equity

A growing body of evidence points to the role that [social determinants of health](#) play in shaping health outcomes and inequality. Beyond the life-altering consequences for individuals and families, such factors drive service utilization and costs in health and other governmental programs. Overlooking their role is a missed opportunity to improve the lives of individuals and families, reduce inequality, and address the often hidden societal costs.

Two of President Biden's Executive Orders, [Executive Order 13985](#), *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (EO 13985), and [Executive Order 14035](#), *Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce* (EO 14035), instruct agencies to assess, and work to redress, inequities in agency policies and programs that serve as barriers to equal opportunities.

In accordance with these Executive Orders, OPM remains committed to promoting health equity, and to improving care access, delivery, quality, and affordability in the FEHB Program. This Call Letter addresses these issues by focusing on specific conditions and services with known disparities.

Specifically, the FEHB Program is focused on improving maternal health access, quality, and outcomes for patient populations such as Black and American Indian/Alaska Native (AI/AN) women, who have borne a disproportionate share of maternal health morbidity and mortality. OPM is also committed to improving the health of LGBTQ+ individuals and promoting inclusivity through gender affirming care and services offered to the Federal Workforce as emphasized in EO 14035.

Maternal Health¹

The United States has one of the highest rates of maternal mortality among high-income countries despite significantly higher spending on maternity care.² Additionally, 50,000 women in the U.S. each year experience pregnancy complications or severe maternal morbidity (SMM), which includes unexpected and life-threatening outcomes of labor and delivery that result in significant short- or long-term consequences to their health.³ Black women are more than three times more likely and AI/AN women are more than twice as likely to die from a pregnancy-related cause than White women.⁴ The racial disparity between Black and White women persists even when controlling for education,⁵ income, maternal age, hypertension, and receipt of prenatal care.⁶ OPM is committed to addressing inequalities by

¹ OPM acknowledges that terminology related to pregnancy and childbirth is evolving. For purposes of this guidance, we use terms aligned with current medical terminology and references.

² Gunja, MZ et al. [What Is the Status of Women's Health and Health Care in the U.S. Compared to Ten Other Countries?](#) The Commonwealth Fund.

³ [Severe Maternal Morbidity in the United States](#), Centers for Disease Control and Prevention.

⁴ [Pregnancy Mortality Surveillance System](#), Centers for Disease Control and Prevention.

⁵ Artiga, S et al. [Racial Disparities in Maternal and Infant Health: An Overview](#), Kaiser Family Foundation.

⁶ Harper, MA et al. [Racial disparity in pregnancy-related mortality following a live birth outcome](#), Annals of Epidemiology.

improving prenatal and postpartum support and encouraging innovative methods for improving maternal outcomes in the FEHB Program.

Prenatal and Postpartum Support

Early and comprehensive coverage of prenatal care and responsive postpartum care are keys to reducing maternal mortality and SMM. Maternal mortality is highest in the first 42 days postpartum and represents 45% of total maternal mortality.⁷ Robust postpartum care can improve maternal outcomes and provide specialized support when needed, such as care for mental health and other chronic or disabling conditions. Coverage of this care is essential since pregnancy-related deaths occur during pregnancy, delivery, and up to 1 year postpartum, and most pregnancy-related deaths are preventable.⁸

OPM encourages FEHB Carriers to consider expanding coverage and services in support of prenatal and postpartum care including but not limited to childbirth education classes, group prenatal care, home visiting programs or home health care during pregnancy and postpartum, and care management for high-risk pregnancies. OPM also encourages FEHB Carriers to amplify communication efforts to FEHB members who are either pregnant or of childbearing age.

The Center for Disease Control and Prevention (CDC)'s [Hear Her Campaign](#) seeks to improve communication between patients and their healthcare providers. It is critical for health care professionals to really hear women's concerns during and after pregnancy and engage in an open conversation to make sure any issues are adequately addressed. OPM encourages FEHB Carriers to adopt the Hear Her Campaign for patients and healthcare

⁷ [Building U.S. Capacity to Review and Prevent Maternal Deaths](#). Report from nine maternal mortality review committees.

⁸ [Vital Signs: Pregnancy-Related Deaths, United States, 2011–2015, and Strategies for Prevention, 13 States, 2013–2017](#), Morbidity and Mortality Weekly Report, Centers for Disease Control and Prevention.

providers by providing information and raising awareness of potentially life-threatening warning signs during and after pregnancy.

Innovative Methods for Improving Maternal Health

OPM encourages FEHB Carriers to explore and utilize innovative methods to improve overall maternal outcomes.

One method is to pay more for high-value care than low-value care. This could include, for example, paying less for low-risk births where cesarean sections are not medically indicated or using bundled payments for prenatal care and delivery.⁹ Additional strategies for improving maternal health outcomes include increased reimbursement and expanded coverage for certified nurse midwives, birth centers, and perinatal support services such as doulas and nurse home visits.¹⁰

In addition, we encourage Carriers to monitor the Centers for Medicare & Medicaid Services (CMS) [announcement](#) on establishing a “Birthing-Friendly” designation for hospitals to improve perinatal health outcomes and maternal health equity. Since completion of the Maternal Morbidity Structural Measure will be a factor for the birthing friendly designation, we encourage FEHB Carriers to ensure hospitals with this designation are in their networks. We also encourage Carriers to consider utilizing this designation as a target for payment incentives or other innovative payment methods for network contracting.

Gender Affirming Care and Services

In the 2023 plan year, OPM is focused on furthering ways FEHB Carriers can improve access to gender affirming care for transgender and gender diverse individuals. This focus is in accordance with EO 14035, which directs OPM to

⁹ Pierce-Wrobel, Green K. [To Help Fix The Maternal Health Crisis, Look To Value-Based Payment](#), Health Affairs.

¹⁰ *Id.*

“promote equitable healthcare coverage and services for enrolled LGBTQ+ employees” and their covered family members through the FEHB Program.

As OPM and FEHB Carriers continue to stay informed about the evolving evidence-based treatments for transgender and gender diverse individuals, Carriers must be sensitive to the fact that such individuals have unique needs and the types of medically necessary services required will be specific to each individual. As Carriers are aware, since January 1, 2016, OPM has required that no FEHB Carrier have a general exclusion of services, drugs, or supplies related to the treatment of gender dysphoria. In [Carrier Letter 2021-05](#), we asked FEHB Carriers to review and update plan brochures for accurate description of benefits for those with gender dysphoria, provide assurance of non-discriminatory formularies, and review claims processing edits to ensure no improper denial of preventive services for individuals diagnosed with gender dysphoria.

We appreciate the efforts many FEHB Carriers have made to date in covering gender affirming care and services, and we strongly encourage Carriers to both continue and expand these efforts as we seek to better connect our members to medically necessary care.

Standards of Care

Acceptable standards of care are based on credible scientific evidence published in peer-reviewed medical literature and generally recognized by the relevant medical community and physician specialty society recommendations. FEHB Carriers must adopt an acceptable standard of care; in doing so Carriers should look to one or more recognized entities for coverage of gender affirming care and services such as: the World Professional Association of Transgender Health (WPATH), the Endocrine Society, and the Fenway Institute. These entities provide FEHB Carriers with evidence-based clinical guidance to inform their medical policies and benefits coverage to assist transgender and gender diverse people with safe and effective pathways that maximize their overall health, including physical and psychological well-being. This coverage should be comprehensive and

include: primary care (to include preventive services appropriate to the individual's circumstance), gynecologic and urologic care, mental health services (e.g., counseling, psychotherapy), hormonal treatments, other pharmacological therapies, and surgical treatments, among others.

Carriers should remain current in their medical policies such that coverage decisions reflect up to date standards of care.

Care Coordinator and Provider Networks

For Plan Year 2023, individuals diagnosed with and/or undergoing evaluation for gender dysphoria must be provided the option to use a Care Coordinator to assist and support them as they seek gender affirming care and services. This aligns with the practice of care coordination offered for other complex diagnoses or conditions (e.g., obesity, diabetes, advanced cardiovascular disease, kidney disease). The Technical Guidance will further expand upon expectations for care coordination for gender dysphoria care and services.

If network providers are not available to provide medically necessary treatment of gender dysphoria, FEHB Carriers should describe how members are directed to qualified providers with experience delivering this specialized care.

Formulary Access

Studies have shown that transgender individuals face additional cost and access barriers to clinically effective, evidence-based medications.^{11,12}

As a reminder, [Carrier Letter 2021-02](#) describes a non-discriminatory formulary design. OPM expects FEHB Carriers to have effective, evidence-based formularies that prevent selection bias or discrimination and facilitate appropriate access to affordable prescription drug choices. As emphasized in

¹¹ [Lesbian, Gay, Bisexual, and Transgender Health](#), Office of Disease Prevention and Health Promotion.

¹² Sachdeva I, Aithal S, Yu W, Toor P, Tan JCH. [The disparities faced by the LGBTQ+ community in times of COVID-19](#), Psychiatry Res.

[Carrier Letter 2021-05](#), a non-discriminatory formulary design does not have cost or access barriers imposed by disease or condition.

For plan year 2023, FEHB Carriers should review their formularies to ensure that transgender and gender diverse individuals have equitable access to medications including medically necessary hormonal therapies. Clinical criteria should be evidence-based, transparent, easy to access and not impose unnecessary barriers to medically necessary care.

Inclusive Member Communication

The [2021 Technical Guidance](#) asked FEHB Carriers to consider strategies to make member-facing materials and communications more inclusive and gender-neutral. OPM now requires all FEHB Carriers to take additional actions to ensure the use of inclusive and gender-neutral terminology in communication materials, member-accessible resources, and the FEHB Brochure. Communication materials, provider directories, and resources accessible by members should be updated to utilize inclusive, gender-neutral language to advance equity and ensure access to healthcare for LGBTQ+ members. Brochures and other communications will be carefully reviewed by OPM to ensure compliance. Specific examples of inclusive language and communications will be provided in the Technical Guidance.

Iatrogenic Infertility

In the [2021 Call Letter](#), OPM encouraged all FEHB Carriers to provide coverage for standard fertility preservation procedures for persons facing the possibility of “iatrogenic infertility,” that is, infertility caused by a necessary medical intervention. For plan year 2023, OPM is requiring all FEHB Carriers to provide coverage for standard fertility preservation procedures for persons facing the possibility of iatrogenic infertility, including infertility associated with medical and surgical gender transition treatment.

Obesity

Obesity has long been recognized as a disease in the US that impacts children and adults. Obesity is a complex, multifactorial, common, serious, relapsing, and costly chronic disease that serves as a major risk factor for developing conditions such as heart disease, stroke, type 2 diabetes, renal disease, non-alcoholic steatohepatitis, and certain types of cancer.

Throughout the pandemic, obesity has also been linked to increased hospitalizations, the need for mechanical ventilation, and death in persons with COVID-19.¹³ Obesity disproportionately affects some ethnic and/or racial groups with non-Hispanic Black adults having the highest prevalence, followed by Hispanic adults. Estimates have shown that the annual medical cost for people who have obesity are on average 42% -75% higher than those of normal weight, with costs increasing significantly with the severity of obesity.¹⁴

Implications in Children and Adolescents

Almost one in five children in the US have obesity and the risk of obesity is greater among adults who had obesity as children. Obesity is more prevalent among American Indian and/or Native Alaskan, non-Hispanic Black, and Hispanic children compared with White and Asian children in the United States, with Black children having the highest prevalence of risk factors for obesity.¹⁵ Children and adolescents have experienced sharp increases in their rates of weight gain during the COVID-19 pandemic, especially school-aged children and those who already had obesity; now more than ever, children and families need support in achieving and maintaining optimal weight for health.¹⁶ Noting that programs and treatments for adults do not necessarily apply to the pediatric population, FEHB Carriers are strongly

¹³ [Obesity, Race/Ethnicity and COVID-19](#). Centers for Disease Control and Prevention.

¹⁴ Finkelstein EA, Trogon JG, Cohen JW, Dietz W. [Annual medical spending attributable to obesity: payer- and service-specific estimates](#). Health Aff (Millwood) 2009;28(5):w822–31.

¹⁵ Isong IA, Rao SR, Bind MA, Avendaño M, Kawachi I, Richmond TK. [Racial and Ethnic Disparities in Early Childhood Obesity](#).

¹⁶ [Longitudinal Trends in Body Mass Index Before and During the COVID-19 Pandemic Among Persons Aged 2–19 Years — United States, 2018–2020](#), Morbidity and Mortality Weekly Report, Centers for Disease Control and Prevention.

encouraged to address how obesity is covered in children and adolescents in their benefit proposals. Additional details will be provided in the Technical Guidance.

Anti-Obesity Medications

Research in populations with diabetes, hypertension, and cardiovascular diseases has shown that a 5% decrease in weight results in clinically significant improvements in these obesity-related comorbid conditions.¹⁷ Many of the Food and Drug Administration (FDA) approved anti-obesity medications result in at least a 5% weight loss. Timely management of obesity can be cost effective, lower health risks, and prevent disease progression. In 2014, OPM issued [Carrier Letter 2014-04](#) clarifying that it is not permissible to exclude weight loss drugs from FEHB coverage on the basis that obesity is a “lifestyle” condition and not a medical one or that obesity treatment is “cosmetic.” The landscape of pharmaceuticals available to treat obesity continues to evolve and there are currently a variety of FDA approved medications available with different mechanisms of action. The FDA indications for anti-obesity medications reinforce that nutrition and physical activity regimens should accompany drug treatment of obesity. Treatment with anti-obesity medications is highly individualized and will depend on the individual’s comorbidities, their current medication regimen, and the potential for adverse effects.

OPM is clarifying that FEHB Carriers are not allowed to exclude anti-obesity medications from coverage based on a benefit exclusion or a carve out. FEHB Carriers must have adequate coverage of FDA approved anti-obesity medications on the formulary to meet patient needs and must include their exception process within their proposal. In cases where utilization management edits are applied, the process and evidence-based criteria for coverage must be transparent, readily accessible, and follow OPM required turnaround timelines.

¹⁷ Biener AI, Decker SL. Medical care use and expenditures associated with adult obesity in the United States. *JAMA*. Jan 16, 2018;319(3):218. PMID: 29340665.

II. Ensuring the Federal Government Continues to Offer Competitive and Comprehensive Benefits

As the nation's largest employer-sponsored health insurance program, the FEHB Program must stay competitive in the marketplace so that the Federal government can continue to recruit new employees and retain our talented workforce. It is imperative that we offer competitive, comprehensive health insurance options to meet consumer demand and address evolving medical evidence. We must continuously reevaluate our standards to ensure we are doing so, and when necessary encourage FEHB carriers to make new offerings and expand coverage as the market shifts and expectations from consumers change.

COVID-19 Pandemic

OPM applauds FEHB Carriers for their ongoing efforts to address the COVID-19 pandemic. We will continue to work with FEHB Carriers to safeguard the health of FEHB members. As noted in [Carrier Letter 2022-01](#), Carriers must provide coverage for countermeasures against COVID-19, including over-the-counter tests, booster doses, therapeutics, and pharmacy access to therapeutics. In addition to providing such coverage, we encourage FEHB Carriers to continue initiatives put into place during the pandemic related to telehealth as well as mental health and substance use disorder services.

Telehealth

Telehealth services have rapidly expanded during the COVID-19 pandemic. In general, they have been met with broad acceptance from both providers and patients. OPM believes that telehealth continues to have an important role in the provision of healthcare services. Among other things, telehealth promotes health equity by mitigating transportation difficulties faced in both urban and rural communities. Telehealth also improves access to mental health and substance use disorder services. The expansion of remote monitoring capabilities can also improve the quality of care for those with chronic diseases. OPM strongly encourages FEHB Carriers to continue

supporting the efforts of providers to furnish telehealth services, including by continuing reasonable agreements on reimbursement.

Mental Health and Substance Use Disorders

The nation has faced increasing incidences of mental health and substance use disorders throughout the COVID-19 pandemic. According to the Centers for Disease Control and Prevention, an estimated 100,306 people died from drug overdoses over the 12-month period ending in April 2021, which is a 29% increase from the prior 12-month period and also reflects the highest number of opioid-related deaths ever recorded in the United States.¹⁸ The United States Surgeon General has also issued an [Advisory on Protecting Youth Mental Health](#), which discusses the pandemic's impacts on youth mental health, as well as the mental health challenges that existed long before the pandemic.

To address these concerns, FEHB Carriers should intensify their focus on providing comprehensive mental health and substance use disorder benefits including ensuring parity with medical and surgical benefits.

Medical Foods

[OPM's 2021 Call Letter](#) encouraged plans to offer coverage for medical foods as treatment for inborn errors of metabolism (IEM) requiring specialized dietary supplements to meet nutritional needs. Analogous to medications, medical foods are evidence-based treatments necessary for the maintenance of health in those diagnosed with metabolic disorders that require avoidance of specific amino acids (building blocks of proteins) generally found in foods.

OPM is now requiring plans to provide coverage for necessary medical foods. These foods specifically formulated and prescribed to treat IEM should be covered without regard to age, mode of administration (oral vs. nasogastric tube), narrow arbitrary limitations to specific diseases (e.g., PKU), or whether it is the sole source of nutrition for that

¹⁸ [Provisional Drug Overdose Data](#), Centers for Disease Control and Prevention.

individual. Reasonable annual dollar limits can be placed on coverage and there is no intent to require coverage for “grocery items” routinely available at food stores.

Assisted Reproductive Technology (ART)

One in three workers aged 18 to 34 believe that fertility treatment should be included as a part of their employee benefits package, with almost half citing the high out-of-pocket cost of treatment as the main reason.¹⁹ Additionally, over the past five years there has been an upward trend for prevalence of infertility coverage among employers and increased activity at the state level, with the adoption of infertility insurance laws in nineteen states.²⁰ OPM is interested in supporting family building efforts for covered FEHB enrollees and their eligible family members. FEHB Carriers currently cover the diagnosis and treatment of infertility; however, more could be done to assist with the financial burden of ART²¹ treatment for those who may require it. If ART treatments, medications, and procedures are not covered by FEHB Carriers, and Carriers choose not to propose added benefits with corresponding premium increases, Carriers should attempt to negotiate discounted rates that members can access for non-covered ART procedures. This information should be described via the Affinity benefits shown on the non-FEHB page of the plan brochure.

Preventive Services

[OPM’s 2019 Call Letter](#) stated expectations on coverage for preventive services with no cost sharing when received from an in-network provider. The guidance stated that all required preventive services must cover the full scope of the recommendations²² in accordance with the following contract

¹⁹ [The Willis Towers Watson 2017 Maternity, Family and Fertility Survey](#), GlobeNewsWire.

²⁰ [2021 Survey on Fertility Benefits](#), Mercer.

²¹ [Assisted Reproductive Technology](#), Centers for Disease Control and Prevention.

²² Preventive services guidelines are updated periodically by the United States Preventive Services Task Force (USPSTF), Advisory Committee on Immunization Practices (ACIP), United States Health Resources and Services Administration (HRSA), and Bright Futures. Preventive services earning an “A” or “B” rating from the USPSTF or endorsement from the relevant entity must be covered with no cost sharing.

cycle. FEHB Carriers were also offered the option to adopt recommendations earlier as appropriate. OPM is now clarifying our position and updating this guidance to ensure the health, safety, and well-being of our enrollees. For the 2023 plan year and beyond, all updates to preventive services guidelines must be applied as they occur throughout the year by all FEHB Carriers.

Additionally, we remind FEHB Carriers of their continuing obligation to cover, without cost sharing, the full range of contraceptives and contraceptive care for adolescent and adult women as provided in the [Women's Preventive Services Guidelines](#) supported by the Health Resources and Services Administration (HRSA). Such coverage must include all FDA-approved, cleared, or granted contraceptive products that are determined by an enrollee's care provider to be medically appropriate, even if those contraceptive products may be non-formulary or excluded from the Carrier's formulary. Due to complaints received by the Departments of Health and Human Services, Labor, and Treasury, these agencies issued [FAQs Part 51](#), which reiterated and reinforced health plan requirements regarding contraception. FEHB Carriers are required to comply with these requirements.

III. Technical Guidance

The 2022 Technical Guidance will provide detailed guidance on the initiatives described in this Call Letter, as well as guidance on submission of benefit and rate proposals and preparation of brochures.

Conclusion

OPM's goal for the FEHB Program is to provide quality, affordable, and equitable health benefits for Federal employees, annuitants, their family members, and other eligible persons and groups. Continuous open and effective communication between OPM contracting staff and FEHB Carriers should occur to ensure a seamless negotiation cycle. Please discuss all proposed benefit changes with your Health Insurance Specialist.

We look forward to the negotiations for the upcoming contract year. Thank you for your commitment to the FEHB Program.

Sincerely,

Laurie Bodenheimer
Associate Director
Healthcare and Insurance

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 (Gender Affirming Treatment Act), which clarifies the language of the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials for gender-affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies. Please pass this measure "as is" to ensure that private insurers follow the WPATH standards and that there is a review of adverse determinations by gender-affirming care experts.¹

Insurers are willfully discriminating against one Hawai'i's most vulnerable communities

Unfortunately, insurers like HMSA say certain gender-affirming surgeries and treatments are considered cosmetic and say it is unclear how the surgeries/treatments are gender-affirming, but that's because they ignore leading the data and research from significant medical associations, physicians, and WPATH.² Here is the exact language in HMSA's current policy [on](#)

¹ HMSA's current reviewers are experts on pediatric care and general medicine with no specific expertise in gender affirming care.

² See e.g., American College of Obstetricians and Gynecologists, ACOG Releases Guidance on Health Care for Transgender and Gender Diverse Individuals (Feb. 18, 2021) *available at* <https://www.acog.org/news/news-releases/2021/02/acog-guidance-health-care-for-transgender-gender-diverse-individuals>; Kaiser Permanente Northwest, Transgender Procedures Medically Necessary Criteria at 183 (2021) *available at* <https://www.hca.wa.gov/sites/default/files/pebb/kaiser-preauthreqs.pdf>; The World Medical Association, WMA Statement on Transgender People, *available at* <https://www.wma.net/policies-post/wma-statement-on-transgender-people>; The American Medical Association, Issue Brief, *available at* <https://www.ama-assn.org/system/files/2019-03/transgender-coverage-issue-brief.pdf>; Wylie C Hembree & Peggy T Cohen-Ketten et al., J. of Clinical Endocrinology & Metabolism Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline (Sept. 13, 2017) *available at* https://academic.oup.com/jcem/article/102/11/3869/4157558?source=post_page-----, The Endocrine Society, Transgender Health, An Endocrine Society Position Statement (Dec. 15, 2020) *available at* <https://www.endocrine.org/advocacy/position-statements/transgender-health>; American Academy of Child & Adolescent Psychiatry, AACAP Statement Responding to Efforts to ban Evidence-Based Care for Transgender and Gender Diverse Youth (Nov. 8, 2018) *available at* https://www.aacap.org/AACAP/Latest_News/AACAP_Statement_Responding_to_Efforts-to_ban_Evidence-Based_Care_for_Transgender_and_Gender_Diverse.aspx, World Professional Association for Transgender Health (2011) *available at* https://e-space.mmu.ac.uk/625048/1/2011_WPATH_Standards_of_Care_V7-%202011.pdf; the American Public Health Association (Nov. 1, 2016) *available at* <https://apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2017/01/26/promoting-transgender-and-gender-minority-health-through-inclusive-policies-and-practices>; Barry Anton, Proceedings of the American Psychological Association For the Legislative Year 2009: Minutes of the Annual Meeting of the Council of Representatives and Minutes of the Meetings of the Board of Directors (2009) *available at* <https://psycnet.apa.org/record/2010-14198-008>.

[page 11](#) that unlawfully goes against Act 135 (2016): "Additional surgeries have been proposed to feminize or masculinize a patient's appearance. Procedures such as breast augmentation, liposuction, Adam's apple reduction, rhinoplasty, and facial reconstruction are usually considered cosmetic and their impact on relieving gender dysphoria is unclear."³ These types of policies ignoring the majority of medical opinion are categorical denials, which are discriminatory under Act 135 (2016) and are why it is necessary to have HB2405 HD2 SD1 passed "as is." HMSA's discriminatory policy highlights the importance of retaining the provisions in HB2405 HD2 SD1 for WPATH standards and gender-affirming care expert review of adverse determinations, so the insurers are accountable to gender-affirming care standards, not their own made up and harmful standards.

Raising "costs" as an issue is another example of private insurers ignoring the majority of data and research when it comes to the transgender community, so they can continue to discriminate⁴

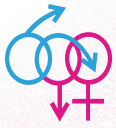
According to a 2016 survey by the Williams Institute at UCLA, there are 8,450 transgender individuals in Hawai'i. According to the EUTF, they cover approximately 68,000 active employees plus 60,000 of their dependents, and 47,000 retirees plus 20,000 of their dependents. The likelihood of a significant number of those individuals being transgender or requiring a gender-affirming procedure is statistically very small. In fact, transgender people are more likely to be underemployed and not covered by insurance, which is why anti-discrimination bills like this are important since they improve the quality of life of trans individuals who face discrimination at nearly every turn due to systemic transphobia and cis-hetero patriarchy. The time to be concerned about "costs" was in 2016 when the bill we're amending, [Act 135](#), first became law. Made-up costs should not stand in the way of stopping private insurers from discriminating against Hawai'i's transgender community.

Please **pass** the Gender Affirming Treatment Act (as is) to ensure that our transgender community members receive needed healthcare coverage. Mahalo for investing in the health and safety of our trans community members!

Jen J.

³ See HMSA, Gender Identity Services (2021) available at <https://hmsa.workfrontdam.com>.

⁴ Data shows that there are little to no costs to insurers to stopping their discriminatory practices and providing gender affirming care. See e.g., Johns Hopkins University, Study: Covering transgender Health Care Would Be cost-effective for Insurance Companies (2015) available at <https://hub.jhu.edu/2015/12/03/transgender-health-insurance-cost-effective/>.



WPATH WORLD PROFESSIONAL
ASSOCIATION for
TRANSGENDER HEALTH

Standards of Care for the Health of Transsexual, Transgender, and Gender- Nonconforming People

The World Professional Association for Transgender Health



Standards of Care for the Health of Transsexual, Transgender, and Gender- Nonconforming People

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7th Version¹ | www.wpath.org

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¹ This is the seventh version of the *Standards of Care* since the original 1979 document. Previous revisions were in 1980, 1981, 1990, 1998, and 2001. Version seven was published in the *International Journal of Transgenderism*, 13(4), 165–232. doi:10.1080/15532739.2011.700873

Purpose and Use of the *Standards of Care*

The World Professional Association for Transgender Health (WPATH)^I is an international, multidisciplinary, professional association whose mission is to promote evidence-based care, education, research, advocacy, public policy, and respect in transsexual and transgender health. The vision of WPATH is a world wherein transsexual, transgender, and gender-nonconforming people benefit from access to evidence-based health care, social services, justice, and equality.

One of the main functions of WPATH is to promote the highest standards of health care for individuals through the articulation of *Standards of Care (SOC) for the Health of Transsexual, Transgender, and Gender Nonconforming People*. The SOC are based on the best available science and expert professional consensus.^{II} Most of the research and experience in this field comes from a North American and Western European perspective; thus, adaptations of the SOC to other parts of the world are necessary. Suggestions for ways of thinking about cultural relativity and cultural competence are included in this version of the SOC.

The overall goal of the SOC is to provide clinical guidance for health professionals to assist transsexual, transgender, and gender-nonconforming people with safe and effective pathways to achieving lasting personal comfort with their gendered selves, in order to maximize their overall health, psychological well-being, and self-fulfillment. This assistance may include primary care, gynecologic and urologic care, reproductive options, voice and communication therapy, mental health services (e.g., assessment, counseling, psychotherapy), and hormonal and surgical treatments. While this is primarily a document for health professionals, the SOC may also be used by individuals, their families, and social institutions to understand how they can assist with promoting optimal health for members of this diverse population.

WPATH recognizes that health is dependent upon not only good clinical care but also social and political climates that provide and ensure social tolerance, equality, and the full rights of citizenship. Health is promoted through public policies and legal reforms that promote tolerance and equity

I Formerly the Harry Benjamin International Gender Dysphoria Association

II The *Standards of Care (SOC), Version 7*, represents a significant departure from previous versions. Changes in this version are based upon significant cultural shifts, advances in clinical knowledge, and appreciation of the many health care issues that can arise for transsexual, transgender, and gender-nonconforming people beyond hormone therapy and surgery (Coleman, 2009a, b, c, d).

HB-2405-SD-1

Submitted on: 4/2/2022 9:05:36 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Sarah Rosenbach	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I STRONGLY support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender-affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender-affirming surgeries/treatments are cosmetic (i.e., not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our māhū and transgender community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender-affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out-of-context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our māhū and transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our māhū and transgender community members!

Sincerely,

Sarah Rosenbach

HB-2405-SD-1

Submitted on: 4/2/2022 10:41:38 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Jaime Stevens, MD, MPH	Individual	Support	Written Testimony Only

Comments:

Jaime Stevens, MD, MPH
1177 Queen St. #2707
Honolulu, HI, 96814

April 2, 2022

Hawai'i State Legislature

Re: Testimony in support of HB2405 HD2 SD1 medically necessary treatment

Honourable Chairs Rhoads and Dela Cruz and members of the Judiciary and Ways and Means Committees,

I am a child, adolescent, and adult psychiatrist on O'ahu writing to support clarification of the language on the transgender anti-discrimination health insurance law (Act 135, 2016).

This will prevent insurance denials of medically necessary care and require insurance companies in Hawai'i to post their policies.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need.

Mahalo nui loa for your consideration in protecting the health and welfare of all of your constituents.

Jaime Stevens, MD, MPH, FAPA

Aloha Chairs Rhoads, Vice-Chair Dela Cruz and Honorable Members of the Committee:

I humbly ask you to hear and pass HB2405 HD2 SD1. Gender affirming care is medically necessary according to current medical data and research, which also coincides with my doctoral research. Private insurers should not be allowed to arbitrarily determine which procedures are medically necessary, especially with contemporary scientific evidence and research, to discriminate against transgender people seeking affirming medical care. This bill could be lifesaving/changing for my 11-year-old MTF transgender daughter, Sakoda, and thousands of other transgender people in Hawaii. Please pass this clarification law Act 135 (2016) so insurers are no longer allowed to discriminate by categorically denying specific treatments or surgeries for transgender community members.

Transgender affirming medical care for transgender youth/people will positively impact other social "issues" (athletics, housing, employment) that are currently on the rise as transgender people live authentically. I humbly ask for your support for my daughter and all transgender people in our community. Hawaiian history documents the honored and respected position transgender community members held in the past; their demise is another tragedy for my people. It is time we make the past mistakes be just that, a terrible history for these marginalized family members and a reason for them to be welcomed back into society as contributing members like they were in the Hawaii of old.

Mahalo,

Lawrence "Bo" Frank, PhD

HB2405 HD2 SD1

Submitted By: Thomas Luna

Organization: Individual

Testifier Position: Support

Remote Testimony Requested: Yes

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I am submitting testimony in support of HB2405 HD2 SD1.

My name is Thomas Luan, and I teach CTE and STEM at Radford High School in Honolulu, Hawaii. Again, I support HB2405 HD2 SD1.

This bill clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents' gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our māhū and trans community members!

Sincerely,

Please vote in support of HB2405 HD2 SD1. Thank you for the opportunity to testify on this crucial bill.

Mahalo,

Thomas Luna

HB-2405-SD-1

Submitted on: 4/2/2022 12:50:40 PM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Cathy Kapua	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our māhū and trans community members!

Sincerely,

Cathy Kapua

HB-2405-SD-1

Submitted on: 4/2/2022 2:01:53 PM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Torrey Lock	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I stand strongly in support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the transgender community of Hawai'i has fair and just access to medical treatments and care.

As a transgender person, I can share first hand the difficulties trans people face in accessing gender affirming treatment from the societal misconceptions to the struggles with financing and arguing with insurance companies. Unfortunately, it is all too common a belief that these treatments are purely cosmetic or optional, and most people outside of the community are under the impression treatments begin and end with a single surgery.

The truth of the matter is these treatments range from hormone replacement therapy (HRT), to minor and major surgeries, and they are medically necessary for transgender individuals to live a healthy, successful, happy life. Before I began my HRT I suffered debilitating depression and anxiety which severely impacted my performance at work and my personal relationships with friends and family, and bled into all parts of my life. After years of this treatment, which I will be required to do for the rest of my life, I own my own business, have strong connections with the people around me, and finally feel a sense of happiness with myself. Without access to HRT through my insurance, I would be positioned to continue to suffer, or struggle to be able to afford my care and put myself in a position of a constant financial burden - something many transgender people live with. I know many individuals who are forced to pay out of pocket for their care, leaving them missing doses and unable to contribute to their savings and preparing for their future.

The next step for my medical transition is masculinizing chest surgery, a modified subcutaneous mastectomy. Not only is this required for my mental health, but to prevent long term damage to my ribs and spine from wearing a constrictive chest binder, a device worn to hide breast tissue. I have already begun to develop chronic pain, and these injuries are impacting my ability to work. As a farm owner my job is extremely labor intensive. The procedure itself will leave me unable to perform my normal duties for 6-8 weeks during recovery, a financial burden that would be impossible without insurance covering the surgery costs.

Most transgender people I know are forced to save for their surgeries for years, and I know many who have given up any hope of being able to afford them. I see the mental toll it takes on them,

and have seen the cries for help as suicidal thoughts begin when they cannot escape the potential reality of never having the opportunity to live with their correct body. While an individual's mental health is often the most detrimental harm from lack of treatments, often times it is also a matter of safety, especially for transgender women, who face the highest rate of assault and murder of any demographic. These treatments often allow a trans person the ability to "pass" (being read as the identified gender opposed to the gender assigned at birth) which can provide both emotional comfort and physical safety.

When insurance companies fail to provide full treatment to their transgender customers, they are leaving people to suffer and all too often die. Transgender people already must navigate a society that is against them and have additional burdens at every turn. From finding jobs where they are paid and treated fairly, to finding secure homes, to being able to walk down the street safely and comfortably, we already work twice as hard as most just to get by. The treatments themselves, even if affordable and available, are already an added toll on our lives. Navigating a resistant insurance process, seeking their multiple professional letters, meeting their structured requirements and appointments is often inaccessible to many due to time, money, and mental exhaustion. None of us want to go through these treatments, but we need them to find peace with ourselves.

Please, stand with the people of Hawai'i. Ensure the insurance companies follow through in providing care to your constituents. Allow us to live our lives and contribute to this beautiful state and demonstrate your promise to us that we deserve the same basic comforts as any other citizen.

Mahalo for your time,

Torrey Lock of the North Shore Koolau Diversity Collective

HB-2405-SD-1

Submitted on: 4/3/2022 7:15:22 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
asia manu	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents' gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our māhū and trans community members!

Sincerely,

Asia Manu

HB-2405-SD-1

Submitted on: 4/3/2022 7:25:39 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Sina Sison	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies. Private insurers denying transgender residents' gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members. Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs. Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our māhū and trans community members!

Sincerely,

Sina Sison

HB-2405-SD-1

Submitted on: 4/3/2022 8:03:28 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
June Palimoo	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents' gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our māhū and trans community members!

Sincerely,

June Palimoo

HB-2405-SD-1

Submitted on: 4/3/2022 9:11:05 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Erika K Aresta	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents' gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our māhū and trans community members!

Sincerely,

Erika Ka'ano'i-Kiyo Aresta

HB-2405-SD-1

Submitted on: 4/3/2022 9:54:26 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Briana J Keahi	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents' gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our māhū and trans community members!

Sincerely,

Briana J Keahi

HB-2405-SD-1

Submitted on: 4/3/2022 10:46:14 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Alohalani Alapai	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable members of the committees:

I Strongly Support HB2405 HD2 SD1 which clarifies the language of the Transgender anti-discrimination health Insurance Law (Act 135, 2016) to ensure prohibition of categorical denials of gender affirmation treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers deny transgender residents gender affirmation care (categorical denials) is a violation of Act 135, (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary)

Bills like HB2405 HD2 SD1 that prevents discrimination and gender affirmation.

This can also open a Wonderful thing for myself living as a transgender for 62 years of my life. This Bill will also help Your children and grandchildren living and struggling in their transgender lives. I'm sure you have one of Us in Your very Ohana or know and Love ones that are.

Please Pass HB2405 HD2 SD1 I plead.

HB-2405-SD-1

Submitted on: 4/3/2022 8:35:59 PM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

You are wasting everyone time with this Crap Get ride of this!!

HB-2405-SD-1

Submitted on: 4/3/2022 5:21:02 PM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Kunane Dreier	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our māhū and trans community members!

Sincerely,

Kunane Dreier

HB-2405-SD-1

Submitted on: 4/3/2022 9:22:17 PM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Nikki-Ann Yee	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender-affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents gender-affirming care are based on the biased and unfounded idea that some gender-affirming surgeries/treatments are cosmetic. These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender-affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out-of-context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Mahalo nui loa for the oppourtunity to testify.

Nikki

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 (Gender Affirming Treatment Act), which clarifies the language of the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials for gender-affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies. Please pass this measure "as is" to ensure that private insurers follow the WPATH standards and that there is a review of adverse determinations by gender-affirming care experts.¹

Private insurers should not be allowed to discriminate by making up their own policies about gender affirming care. They should also not be allowed to discriminate because they claim it's too expensive not to. Please **PASS** HB2405 HD2 SD1 to protect our transgender neighbors.

¹ HMSA's current reviewers are experts on pediatric care and general medicine with no specific expertise in gender affirming care.



National Center for Transgender Equality
1032 15th Street NW #199;
Washington, DC 20005

Transgender Law Center
PO Box 70976
Oakland, CA 94612-0976

April, 27, 2021

Colin M. Hayashida
Insurance Commissioner
Department of Commerce and Consumer Affairs
King Kalakaua Building
335 Merchant Street, Rm. 213
Honolulu, Hawaii 96813

cc: Hawaii Medical Service Association (HMSA)
818 Ke'eaumoku St,
Honolulu, HI 96814

Dear Mr. Hayashida,

We, the National Center for Transgender Equality and Transgender Law Center, write to request you ensure that transition-related care, including surgical treatments such as breast augmentation, is deemed medically necessary care for many transgender people and therefore subject to Hawai'i's insurance nondiscrimination laws enacted in 2016 (§ [431:10A-118.3](#) & § [432D-26.3](#)) and the Patient Protection and Affordable Care Act, section 1557a (**42 U.S.C. 18116**). Refusal or failure to cover medically necessary transition-related care is discrimination on the basis of actual gender identity and on the basis of sex. The National Center for Transgender Equality (NCTE) is one of the nation's leading social justice organizations working for life-saving change for transgender people at the federal, state and local level. We believe in the critical importance of eliminating health disparities and ensuring that all people, transgender individuals and their families, do not face discriminatory barriers when seeking quality, affordable health coverage and care. Transgender Law Center (TLC) is the largest national trans-led organization advocating for a world in which all people are free to define themselves and their futures.



Grounded in legal expertise and committed to racial justice, TLC employs a variety of community-driven strategies to keep transgender and gender nonconforming people alive, thriving, and fighting for liberation.

Transition-related care, including surgical care, is medically necessary and lowers suicidal ideation and alleviates negative mental health symptoms for transgender populations

There is an overwhelming and growing consensus among major medical organizations—including the American College of Obstetricians and Gynecologists (ACOG)¹, the World Medical Association (WMA)², the American Medical Association (AMA)³, the Pediatric Endocrine Society⁴, the Endocrine Society⁵, the American Academy of Child & Adolescent Psychiatry (AACAP)⁶, the World Professional Association for Transgender Health (WPATH)⁷, the American Public Health Association (APHA)⁸ and the American Psychological Association (APA)⁹—that transition-related health care services, including surgical treatments, to alleviate gender dysphoria are medically necessary and should be fully covered by patients' insurance. The broad medical support is directly influenced by robust research literature,

¹ ACOG. (2021). ACOG Releases Guidance on Health Care for Transgender and Gender Diverse Individuals. Retrieved from <https://www.acog.org/news/news-releases/2021/02/acog-guidance-health-care-for-transgender-gender-diverse-in-dividuals>

² WMA. (2020). WMA - The World Medical Association-WMA Statement on Transgender People. Retrieved from <https://www.wma.net/policies-post/wma-statement-on-transgender-people/>

³ AMA. (2019). Health insurance coverage for genderaffirming care of transgender patients (Issue brief). Retrieved from <https://www.ama-assn.org/system/files/2019-03/transgender-coverage-issue-brief.pdf>

⁴ Hembree, W. C., Cohen-Kettenis, P. T., Gooren, L., Hannema, S. E., Meyer, W. J., Murad, M. H., ... & T'Sjoen, G. G. (2017). Endocrine treatment of gender-dysphoric/gender-incongruent persons: an endocrine society clinical practice guideline. *The Journal of Clinical Endocrinology & Metabolism*, 102(11), 3869-3903.

⁵ Endocrine Society. (2020). Transgender Health. Retrieved from <https://www.endocrine.org/advocacy/position-statements/transgender-health>

⁶ American Academy of Child & Adolescent Psychiatry. (2019). AACAP Statement Responding to Efforts to ban Evidence-Based Care for Transgender and Gender Diverse Youth. Retrieved from https://www.aacap.org/AACAP/Latest_News/AACAP_Statement_Responding_to_Efforts-to_ban_Evidence-Based_Care_for_Transgender_and_Gender_Diverse.aspx

⁷ Coleman, E., Bockting, W., Botzer, M., Cohen-Kettenis, P., DeCuypere, G., Feldman, J., ... & Zucker, K. (2012). Standards of care for the health of transsexual, transgender, and gender-nonconforming people, version 7. *International journal of transgenderism*, 13(4), 165-232.

⁸ Promoting Transgender and Gender Minority Health through Inclusive Policies and Practices. (2016). Retrieved from <https://apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2017/01/26/promoting-transgender-and-gender-minority-health-through-inclusive-policies-and-practices>

⁹ Anton, B. S. (2009). Proceedings of the American Psychological Association for the legislative year 2008: Minutes of the annual meeting of the Council of Representatives. *American Psychologist*, 64, 372-453. doi:10.1037/a0015932



spanning decades, on transition-related care and its beneficial impacts within the transgender community. Specifically, the literature review suggests that gender-affirming and transition-related care services are significantly associated with improvements on mental health outcome measures such as the reduction of suicidal ideation, depression and anxiety.¹⁰ Furthermore, many studies have found that transition-related surgical treatments were significantly associated with higher levels of body satisfaction, self-esteem and quality of life.¹¹

¹⁰ Keo-Meier C, Herman LI, Reisner SL, Pardo ST, Sharp C, & Babcock JC (2015). Testosterone treatment and MMPI-2 improvement in transgender men: A prospective controlled study. *Journal of Consulting and Clinical Psychology*, 83(1), 143–156. doi:10.1037/a0037599; Wilson, E. C., Chen, Y. H., Arayasirikul, S., Wenzel, C., & Raymond, H. F. (2015). Connecting the dots: examining transgender women’s utilization of transition-related medical care and associations with mental health, substance use, and HIV. *Journal of Urban Health*, 92(1), 182-192.; Mueller, S. C., De Cuypere, G., & T’Sjoen, G. (2017). Transgender research in the 21st century: a selective critical review from a neurocognitive perspective. *American Journal of Psychiatry*, 174(12), 1155-1162.; Valentine, S. E., & Shipherd, J. C. (2018). A systematic review of social stress and mental health among transgender and gender non-conforming people in the United States. *Clinical Psychology Review*, 66, 24-38.; Beckwith, N., Reisner, S. L., Zaslowsky, S., Mayer, K. H., & Keuroghlian, A. S. (2017). Factors associated with gender-affirming surgery and age of hormone therapy initiation among transgender adults. *Transgender health*, 2(1), 156-164.; Tucker, R. P., Testa, R. J., Simpson, T. L., Shipherd, J. C., Blosnich, J. R., & Lehavot, K. (2018). Hormone therapy, gender affirmation surgery, and their association with recent suicidal ideation and depression symptoms in transgender veterans. *Psychological medicine*, 48(14), 2329-2336.

¹¹ van de Grift, T. C., Elaut, E., Cerwenka, S. C., Cohen-Kettenis, P. T., Cuypere G. D., Richter-Appelt, H., & Kreukels, B.P. (2017). Effects of medical interventions on gender dysphoria and body image. *Psychosomatic Medicine*, 79(7), 815-823, <https://www.ncbi.nlm.nih.gov/pubmed/28319558> (longitudinal study finding substantially lower rates of gender dysphoria, psychological symptoms, and body dissatisfaction after surgical or hormone treatment); Owen-Smith, A.A., Gerth, J, Sineath R.C., Brazilay, J., et al. (2018). Association between gender confirmation treatments and perceived gender congruence, body image satisfaction, and mental health in a cohort of transgender individuals. *Journal of Sexual Medicine*, 15(4), 591-600. <https://www.ncbi.nlm.nih.gov/pubmed/29463478> (finding that transition-related care, including surgical care, is associated with substantially higher self-esteem and lower levels of depression and anxiety); Nelson, L., Whallett, E., & McGregor, J. (2009). Transgender patient satisfaction following reduction mammoplasty. *Journal of Plastic, Reconstructive & Aesthetic Surgery* 62(3), 331-334 (reduction mammoplasty for transgender people associated with high patient satisfaction and improved quality of life); Parola, N., Bonierbale, M., Lemaire, A., Aghababian, V., Michel, A., & Lançon, C. (2010). Study of quality of life for transsexuals after hormonal and surgical reassignment. *Sexologies*, 19(1), 24-28 (finding improved quality of life among patients after surgery); Ruppin, U. & Pfäfflin, Friedemann. (2015). Long-Term Follow-Up of Adults with Gender Identity Disorder. *Archives of Sexual Behavior*, 44(5), 1321-1329 (study of 71 transgender people 10 or more years after a legal name change, finding that participants showed significantly fewer psychological and interpersonal problems and a substantially increased life satisfaction at follow-up than at the time of the initial consultation); Ainsworth, T. A. & Spiegel, J. H. (2010). Quality of life of individuals with and without facial feminization surgery or gender reassignment surgery. *Quality of Life Research*, 19(7), 1019-1024. <https://www.ncbi.nlm.nih.gov/pubmed/20461468> (finding that transgender women who had received genital and/or facial surgery had higher mental health-related quality of life than transgender women who had not received either surgery); Papadopoulos, N. A., Zavlin, D., Lellé, J., Henrich, G., et al. (2017). Male-to-female sex reassignment surgery using the combined technique leads to increased quality of life in a prospective study. *Plastic and Reconstructive Surgery*, 140(2), 286-294 (prospective study found improved psychological symptoms and quality of life after surgery, compared to patients’ baseline preoperative responses).



Breast augmentation (along with other surgical treatments) is often medically necessary and routinely denying coverage violates Hawai'i's insurance nondiscrimination laws enacted in 2016 (§ [431:10A-118.3](#) & § [432D-26.3](#))

HMSA's 'Gender Identity Services' policy¹² does not specifically exclude transition-related care; however, breast augmentation (along with other surgical treatments) when performed to treat gender dysphoria are labeled as presumptively cosmetic in direct violation of the law. HMSA covers breast augmentation (along with other surgical treatments) when performed to treat other conditions without placing a 'presumptively cosmetic' limitation on coverage¹³. When HMSA, or any other insurance carrier, defines transition-related care as presumptively cosmetic and requires transgender patients and their doctors to overcome such a presumption in order to have care recognized as medically necessary and therefore covered, transgender people are not equally able to access insurance coverage—their coverage for services is limited on the basis of actual gender identity. In the case of HMSA, this limitation is clear when the standard for receiving transition-related breast augmentation is compared with the standard for receiving the same service when not transition-related. HMSA further clarifies its limitation on transition-related care in its Cosmetic and Reconstructive Surgery and Services policy which states, “[c]osmetic services are medical and nonmedical services that . . . are prescribed for psychological or psychiatric reasons.”¹⁴ Commissioner, we urge you to clearly affirm that transition-related care, including surgical treatments, is medically necessary for many transgender people and cannot be subject to any presumptively cosmetic limitations.

Violations of Hawai'i's insurance nondiscrimination laws enacted in 2016 (§ [431:10A-118.3](#) & § [432D-26.3](#)) are likely violations of federal law including the Patient Protection and Affordable Care Act, section 1557a ([42 U.S.C. 18116](#))

Placing limitations on health care specific to transgender Hawai'i residents not only violates state law, it also runs afoul of the Affordable Care Act's nondiscrimination provisions ([42 U.S.C. § 18116](#)). The Affordable Care Act sought to expand insurance coverage to as many people as possible. One strategy to expand coverage was to protect patients from discrimination, including discrimination on the basis of sex. Federal courts and the Obama administration interpreted the sex discrimination prohibited by the Affordable Care Act to include discrimination on the basis of transgender status. In addition, on his first day in office, President Biden required all federal

¹² HMSA. Gender Identity Services. Retrieved from https://hmsa.com/portal/provider/MM.06.026_Gender_Identity_Services.pdf

¹³ HMSA. Cosmetic and Reconstructive Surgery and Services. Retrieved from https://hmsa.com/portal/provider/MM.10.001_Cosmetic_and_Reconstructive_Surgery_and_Services.pdf

¹⁴ HMSA. Cosmetic and Reconstructive Surgery and Services. Retrieved from https://hmsa.com/portal/provider/MM.10.001_Cosmetic_and_Reconstructive_Surgery_and_Services.pdf



departments and agencies, including the Department of Health and Human Services (HHS), to review their regulations and policies to ensure each fully implemented the Supreme Court’s decision in Bostock v Clayton County.^{15 16}

Conclusion

It is discriminatory and wrong to single out any group and deny them access to medically necessary care. Putting limitations on medically necessary transition-related surgical treatments negatively impacts the health of so many transgender Hawai’i residents and in some cases puts their lives at risk. We request the Commissioner use his authority to ensure that transition-related care is deemed medically necessary and not subject to limitations not placed on the same services when provided for other reasons. HMSA, and every other insurance carrier must provide coverage for medically necessary and appropriate care to all Hawai’i residents in a nondiscriminatory manner.

To place ‘presumptively cosmetic’ limitations on transition-related surgical treatments, such as breast augmentation, goes against the overwhelming consensus of medical experts and recognized treatment protocols for gender dysphoria. Such limitations are discriminatory and deny access to lifesaving care for many transgender Hawai’i residents. Routine denial of care negatively impacts the mental and physical health of the transgender community— and in some cases places lives at risk.

As the Hawai’i Insurance Commissioner, we ask that you protect the health of all transgender residents of Hawai’i, fully enforce Hawai’i’s insurance nondiscrimination laws, and affirm that all transition-related care, including surgical treatment, is medically necessary.

Sincerely,

¹⁵ *Bostock v. Clayton County*, 140 S. Ct. 1731, [590 U.S.](#) ____ (2020).

¹⁶ Executive Order 13988 of Jan 20, 2021: [Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation](#).



D. Ojeda
Policy Advocate
National Center for Transgender Equality

Ian Anderson
Legal Services Project Manager
Transgender Law Center

HB-2405-SD-1

Submitted on: 4/4/2022 7:01:12 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Shalei Eleneke	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents' gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our māhū and trans community members!

Sincerely,

Shalei Eleneke

HB-2405-SD-1

Submitted on: 4/4/2022 7:15:52 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
kevin landers	Individual	Support	Written Testimony Only

Comments:

Aloha

I'm writing in strong support of HB2405 HD2 SD1 "as is."

The clear reason for you, as lawmakers, to pass this legislation is the fact that insurance companies are discriminating against some of our most vulnerable family members - that should be reason enough.

HB-2405-SD-1

Submitted on: 4/4/2022 8:48:23 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Amanda Martinez	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our mähū and trans community members!

Sincerely,

Amanda Martinez, MPH

HB-2405-SD-1

Submitted on: 4/4/2022 8:52:48 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Jessica Kawamura	Individual	Support	Written Testimony Only

Comments:

Dear Senator Rhoads, Senator Dela Cruz and Honorable Committee Members:

I strongly support HB2405 HD2 SD1 (Gender Affirming Treatment Act), which clarifies the language of the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials for gender-affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies. Please pass this measure “**as is**” to ensure that private insurers follow the WPATH standards and that there is a review of adverse determinations by gender-affirming care experts.

As a community leader, pastor, voter, and citizen, it is alarming to hear that insurers are willfully discriminating against one Hawai'i's most vulnerable communities and using rising costs as an excuse. Gender-affirming care is literally life saving. It is not cosmetic. I have had multiple friends receive these treatments, so I personally know of their importance, impact, and effectiveness.

Please pass the Gender Affirming Treatment Act (**as is**) to ensure that our transgender community members receive needed healthcare coverage. Thank you for investing in the health and safety of our trans community members.

Best regards,

Rev. Jessica Kawamura
Wahiawa United Methodist Church

HB-2405-SD-1

Submitted on: 4/4/2022 8:58:48 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Jessica Redford	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our māhū and trans community members!

Sincerely,

Jessica Redford, RN

HB-2405-SD-1

Submitted on: 4/4/2022 9:07:31 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Laura Hughes	Individual	Support	Written Testimony Only

Comments:

Exclusion of trans patients from life saving care is against the constitution and it is essential that in the face of the current climate and wave of hatred towards the trans community that we pass legislation protecting trans individuals.

HB-2405-SD-1

Submitted on: 4/4/2022 9:18:24 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Alissa Nelson	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committee:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016).

As a public health professional and social worker who is a member of the LGBTQ+ community, I urge the committees to vote in favor of this essential bill to prevent the refusal of essential gender-affirming care for Transgender people. LGBTQ+ people in general, and Trans people in particular struggle to find medical care that affirms their full humanity and meets all of their health care needs, due to decades of marginalization by the medical community. Gender-affirming care like electrolysis or breast augmentation support both physical safety and mental health outcomes for Transgender people, affording them the opportunity to live rich and productive lives in our state and supporting the overall health and diversity of Hawai'i.

Unfortunately, health plans routinely deny such care, resulting in even more negative outcomes for Trans people who already have a difficulty accessing timely care due to well-justified distrust of the medical system. This is a feedback loop that could be interrupted by the committees today, by forcing insurance companies to cover all necessary care equally and giving Trans people a chance to thrive.

Mahalo for your time and consideration of this bill.

HB-2405-SD-1

Submitted on: 4/4/2022 9:31:28 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Bianka Tasaka	Individual	Support	Written Testimony Only

Comments:

Aloha,

Bianka Tasaka M.A from Hanalei Kauai in of Support bill HB 2405 HD2 SD1.

HB-2405-SD-1

Submitted on: 4/4/2022 9:48:41 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Maddalynn Seseapasara	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our mähū and trans community members!

Sincerely,

Maddalynn Seseapasara

Kua'ana Project Manager

HB-2405-SD-1

Submitted on: 4/4/2022 9:55:27 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Renee Rabb	Individual	Support	Written Testimony Only

Comments:

I support HB2405 which would prohibit insurance companies from denying coverage of procedures to transgendered people if they cover the procedure for other people. Whether or not a person needs a medical procedure should be determined by the person and their doctors, not by insurance companies.

Renee Rabb

Keaau, HI 96749

LATE

Aloha,

My name is Dr. Alexander Stokes, and I am writing in strong support of HB2405 HD2 SD1.

I strongly support HB2405 HD2 SD1 (Gender Affirming Treatment Act), which clarifies the language on the transgender antidiscrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Please pass this measure **“as is”** to ensure that private insurers follow the **WPATH standards** and that there is a review of adverse determinations by gender-affirming care experts

Please do not use of the phrases such as “Scientific evidence”. Insurance companies can hide behind and manipulate this term to suit their own purpose, - which currently is to refuse treatment.

This is a subjective term, and along with the insurers other current policies, is designed to restrict care where needed.

The Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People, is a document produced by the **World Professional Association for Transgender Health (WPATH)**

This document clearly defines the standard of care for patients, and is a product of decades of scientific research, clinical care, physiological care, and the lived experiences of transgender, non-binary AND intersex patients.

It is the go-to for current clinicians, and allows physicians to expertly treat patients precisely and with compassion.

This WPATH document should form the basis of treatment in Hawaii, rather than something the insurers come up with themselves.

I am also disappointed with the EUTF and Insurance Commissioner.

EUTF is supposed to be neutral in these dealings, and instead of offering balanced information on effected numbers of patients, benefits to enrolled patients, and outcomes, costs breakdowns, estimates of patients use, they have chosen to produce a solely cost only testimony.

This elicits a negative response to the bill.

I hope that the legislator will see that this is a biased testimony and will not only ignore it, but perhaps ask for those at EUTF responsible to undergo extensive title IX and anti-bias training.

The Insurance Commissioner, has testimony that promotes the use of language such as *“medical necessity”* and *“[in] accordance with the most recent information provided by evidenced-based peer-reviewed medical guidance”*. This language allows insurance companies to refuse treatment, and is not appropriate.

The Standards of Care produced by WPATH should be the source of information in regards to patient care, not something written by insurance companies, who obviously have a vested interest in NOT treating patients.

PLEASE DO NOT LET THE INSURANCE COMPANIES WRITE THIS BILL.

Mahalo,

Dr. Alexander James Stokes, B.Sc. (Hons), M.Sc., HBO, Ph.D., FRSB

Professor Cell & Molecular Biology.
Fellow of the Royal Society of Biology

LATE

HB-2405-SD-1

Submitted on: 4/4/2022 11:01:47 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Christine Darr-Chang	Individual	Support	Written Testimony Only

Comments:

I wish to support this bill.

LATE

HB-2405-SD-1

Submitted on: 4/4/2022 12:11:02 PM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Jezreel-Miah Kahoali'i	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

I strongly support HB2405 HD2 SD1 which clarifies the language on the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials of gender affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies.

Private insurers denying transgender residents gender-affirming care (categorical denials) is a violation of Act 135 (2016) and is based on the biased and unfounded idea that some gender affirming surgeries/treatments are cosmetic (not medically necessary). These categorical denials for surgeries/treatments such as breast augmentation and facial feminization take a toll on the mental and emotional health of our trans community members.

Bills like HB2405 HD2 SD1 that prevent discrimination of gender affirming care for transgender people in Hawai'i should be supported in good faith by insurers, not denied or unsupported based on out of context claims of costs for consumers. Insurers should also not be allowed to discriminate because they believe there are increased costs.

Please pass the Gender Affirming Treatment Act to ensure that our transgender community members receive the healthcare that they need. Thank you for investing in the health and safety of our mähū and trans community members!

Sincerely,

Jezreel-Miah "Myahh" K. Kahoali'i

LATE

HB-2405-SD-1

Submitted on: 4/4/2022 12:22:17 PM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Alessandria Leleo	Individual	Support	Written Testimony Only

Comments:

To whom it may concern,

It is very important that insurance companies allow gender affirming surgeries. Lives depend on these surgeries. For many in our community, it's life or death. Please allow us to live the lives that we were meant to live.

Mahalo

LATE

HB-2405-SD-1

Submitted on: 4/4/2022 6:44:19 PM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Stephanie Mikhail	Testifying for The Lavender Clinic	Support	Written Testimony Only

Comments:

Dear Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

The Lavender Clinic strongly supports HB2405 HD2 SD1 (Gender Affirming Treatment Act), which clarifies the language of the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials for gender-affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies. Please pass this measure "as is" to ensure that private insurers follow the WPATH standards and that there is a review of adverse determinations by gender-affirming care experts.

Insurers are willfully discriminating against one Hawai'i's most vulnerable communities

Unfortunately, insurers like HMSA say certain gender-affirming surgeries and treatments are considered cosmetic and say it is unclear how the surgeries/treatments are gender-affirming, but that's because they ignore leading the data and research from significant medical associations, physicians, and WPATH. Here is the exact language in HMSA's current policy [on page 11](#) that unlawfully goes against Act 135 (2016): "Additional surgeries have been proposed to feminize or masculinize a patient's appearance. Procedures such as breast augmentation, liposuction, Adam's apple reduction, rhinoplasty, and facial reconstruction are usually considered cosmetic and their impact on relieving gender dysphoria is unclear." These types of policies ignoring the majority of medical opinion are categorical denials, which are discriminatory under Act 135 (2016) and are why is it necessary to have HB2405 HD2 SD1 passed "as is." HMSA's discriminatory policy highlights the importance of retaining the provisions in HB2405 HD2 SD1 for WPATH standards and gender-affirming care expert review of adverse determinations, so the insurers are accountable to gender-affirming care standards, not their own made up and harmful standards.

Raising "costs" as an issue is another example of private insurers ignoring the majority of data and research when it comes to the transgender community, so they can continue to discriminate

According to a 2016 survey by the Williams Institute at UCLA, there are 8,450 transgender individuals in Hawai'i. According to the EUTF, they cover approximately 68,000 active employees plus 60,000 of their dependents, and 47,000 retirees plus 20,000 of their dependents. The likelihood of a significant number of those individuals being transgender or requiring a gender-affirming procedure is statistically very small. In fact, transgender people are more likely to be underemployed and not covered by insurance, which is why anti-discrimination bills like this are important since they improve the quality of life of trans individuals who face discrimination at nearly every turn due to systemic transphobia and cis-hetero patriarchy. The time to be concerned about "costs" was in 2016 when the bill we're amending, [Act 135](#), first became law. Made-up costs should not stand in the way of stopping private insurers from discriminating against Hawai'i's transgender community.

Please pass the Gender Affirming Treatment Act (as is) to ensure that our transgender community members receive needed healthcare coverage. Thank you for investing in the health and safety of our trans community members!

Stephanie Mikhail
Acting COO - The Lavender Clinic
On behalf of The Lavender Clinic

LATE

HB-2405-SD-1

Submitted on: 4/5/2022 12:05:46 AM

Testimony for JDC on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Renee Pedersen	Individual	Support	Written Testimony Only

Comments:

Dear Chairs Rhoads and Dela Cruz and Honorable Members of the Committees:

As the director of a gender affirming care program, I strongly support HB2405 HD2 SD1 (Gender Affirming Treatment Act), which clarifies the language of the transgender anti-discrimination health insurance law (Act 135, 2016) to ensure the prohibition of categorical denials for gender-affirming treatments/surgeries and requires insurance companies in Hawai'i to post their policies. Please pass this measure "as is" to ensure that private insurers follow the WPATH standards and that there is a review of adverse determinations by gender-affirming care experts.

Gender affirming treatment is medically necessary, according to the majority of medical data and research. Private insurers should not be allowed to arbitrarily determine which procedures are medically necessary against the majority of data and research in order to discriminate against transgender people seeking medical care. Please pass this clarification measure of the anti-discrimination law Act 135 (2016) so insurers are no longer allowed to discriminate by categorically denying certain treatments or surgeries for our transgender and non-binary community members.

According to a 2016 survey by the Williams Institute at UCLA, there are 8,450 transgender individuals in Hawai'i. According to the EUTF, they cover approximately 68,000 active employees plus 60,000 of their dependents, and 47,000 retirees plus 20,000 of their dependents. The likelihood of a significant number of those individuals being transgender or requiring a gender-affirming procedure is statistically very small. In fact, transgender people are more likely to be underemployed and not covered by insurance, which is why anti-discrimination bills like this are important since they improve the quality of life of trans individuals who face discrimination at nearly every turn due to systemic transphobia and cis-hetero patriarchy. The time to be concerned about "costs" was in 2016 when the bill we're amending, [Act 135](#), first became law. Made-up costs should not stand in the way of stopping private insurers from discriminating against Hawai'i's transgender community.

I have personally witnessed the impacts these denials have on the health and well-being of our gender diverse community. The harms that come from denial of a procedure that has been deemed medically necessary for an individual by their PCP, gender affirming care provider,

mental health provider, and surgeon can be devastating to a person both mentally and physically. As appropriate WPATH guidelines are followed with the most current evidence and recommendations, this is baffling. Multiple other states have provided this care for several years through private insurances and Medicaid without experiencing severe financial crises by providing them as it is claimed it would do here in Hawaii. These procedures should be available to the gender expansive community in Hawaii without having to move to another state to get needed coverage for medically necessary care. Please help to reduce these harms by passing this bill "as is".

Mahalo!

Renee Pedersen Rumler