

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii
Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 2405, H.D. 1, entitled:
"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose of this measure is to:

(1) Permit health insurance companies, mutual benefit societies, and health maintenance organizations to consider services related to gender transition treatments medically necessary if a health insurance policy covers those services for purposes other than gender transition; and

(2) Require health insurance companies, mutual benefit societies, and health maintenance organizations to provide applicants and health insurance policy holders with clear information on the policy's coverage of gender transition services, including the process for appealing a claim denied on the basis of medical necessity.

Your Committee received testimony in support of this measure from the North Shore Kāōloau Diversity Collective, Northwest Society of Plastic Surgeons, American Society of Plastic Surgeons, Hawai'i Public Health Institute, Hawai'i Health and Harm Reduction Center, Stonewall Caucus of the Democratic Party of Hawaii, Rainbow Family 808, AF3IRM Hawai'i, and numerous individuals. Your Committee received testimony in opposition to this measure from the Hawaii Medical Service Association and one individual. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs, Department of Health, Hawaii Employer-Union Health Benefits Trust Fund Board of Trustees, Kaiser Permanente Hawai'i, and Hawaii Association of Health Plans.

Your Committee finds that the State, through the enactment of Act 135, Session Laws of Hawaii 2016 (Act 135), prohibited the denial, exclusion, or limitation of health care services or treatment to a person on the basis of a person's actual gender identity or perceived gender identity. Despite Act 135, transgender community members continue to be denied medically necessary and life-saving procedures. This denial is levied even as there is an overwhelming and growing consensus among major medical organizations that transition-related health care services to alleviate gender dysphoria are medically necessary and should be fully covered by patients' insurance. This measure clarifies and ensures that transgender community members receive the care they need and are not categorically excluded.

Your Committee has amended this measure by:

(1) Naming the measure the Gender Affirming Treatment Act;

(2) Prohibiting a health carrier from applying categorical cosmetic or blanket exclusions to gender affirming treatments;

(3) Prohibiting health carriers from categorically excluding gender affirming treatments as cosmetic services when those treatments are prescribed as medically necessary, rather than specifying that all health care services related to gender transition treatments may be considered medically necessary and not cosmetic;

(4) Specifying that the laws prohibiting health insurance companies, mutual benefit societies, and health maintenance organizations from discriminating on the basis of actual gender identity or perceived gender identity are not to be construed to mandate coverage of a service that is not medically necessary; and

(5) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2405, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2405, H.D. 2.

Respectfully submitted on behalf of the members of the Committee on
Consumer Protection & Commerce,

AARON LING JOHANSON, Chair

