

AMENDED IN SENATE APRIL 24, 2025

AMENDED IN SENATE MARCH 27, 2025

SENATE BILL

No. 418

Introduced by Senator Menjivar

February 18, 2025

An act to add Section 1367.0435 to the Health and Safety Code, and to add Section 10133.135 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 418, as amended, Menjivar. Health care coverage: nondiscrimination.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act's requirements a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plans and health insurers, as specified, within 6 months after the relevant department issues specified guidance, or no later than March 1, 2025, to require all of their staff who are in direct contact with enrollees or insureds in the delivery of care or enrollee or insured services to complete evidence-based cultural competency training for the purpose of providing trans-inclusive health care for individuals who identify as transgender, gender diverse, or intersex.

This bill would prohibit a subscriber, enrollee, policyholder, or insured from being excluded from enrollment or participation in, being denied the benefits of, or being subjected to discrimination by, any health care service plan or health insurer licensed in this state, on the basis of race,

color, national origin, age, disability, or sex. The bill would define discrimination on the basis of sex for those purposes to include, among other things, sex characteristics, including intersex traits, pregnancy, and gender identity. The bill would prohibit a health care service plan or health insurer from taking specified actions relating to providing access to health programs and activities, including, but not limited to, denying or limiting health care services to an individual based upon the individual's sex assigned at birth, gender identity, or gender otherwise recorded. The bill would prohibit a health care service plan or health insurer, in specified circumstances, from taking various actions, including, but not limited to, denying, canceling, limiting, or refusing to issue or renew health care service plan enrollment, health insurance coverage, or other health-related coverage, or denying or limiting coverage of a claim, or imposing additional cost sharing or other limitations or restrictions on coverage, on the basis of race, color, national origin, sex, age, disability, as specified. Because a violation of the bill's requirements by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1367.0435 is added to the Health and
- 2 Safety Code, to read:
- 3 1367.0435. (a) A subscriber or enrollee shall not be excluded
- 4 from enrollment or participation in, be denied the benefits of, or
- 5 be subjected to discrimination by, any health care service plan
- 6 licensed in this state on the basis of race, color, national origin,
- 7 age, disability, or sex.
- 8 (b) (1) For purposes of this section, discrimination on the basis
- 9 of sex includes, but is not limited to, discrimination on the basis
- 10 of any of the following:
- 11 (A) Sex characteristics, including intersex traits.
- 12 (B) Pregnancy or related conditions.

1 (C) Sexual orientation.

2 (D) Gender identity.

3 (E) Sex stereotypes.

4 (2) In providing access to health programs and activities,
5 including arranging for the provision of health care services, a
6 health care service plan shall not do any of the following:

7 (A) Deny or limit health care services, including those that have
8 been typically or exclusively provided to, or associated with,
9 individuals of one sex, to an individual based upon the individual's
10 sex assigned at birth, gender identity, or gender otherwise recorded.

11 (B) Deny or limit, on the basis of an individual's sex assigned
12 at birth, gender identity, or gender otherwise recorded, a health
13 care professional's ability to provide health care services if the
14 denial or limitation has the effect of excluding individuals from
15 participation in, denying them the benefits of, or otherwise
16 subjecting them to discrimination on the basis of sex under a
17 covered health care service plan.

18 (C) Adopt or apply any policy or practice of treating individuals
19 differently or separating them on the basis of sex in a manner that
20 subjects any individual to more than de minimis harm, including
21 by adopting a policy or engaging in a practice that prevents an
22 individual from participating in a health care service plan consistent
23 with the individual's gender identity.

24 (D) Deny or limit health care services sought for purpose of
25 gender transition or other gender-affirming care that the health
26 care service plan would otherwise cover if that denial or limitation
27 is based on an individual's sex assigned at birth, gender identity,
28 or gender otherwise recorded.

29 (3) A health care service plan, in providing or arranging for the
30 provision of health care services or other health-related coverage,
31 shall not do any of the following:

32 (A) Deny, cancel, limit, or refuse to issue or renew health care
33 service plan enrollment or other health-related coverage, or deny
34 or limit coverage of a claim, or impose additional cost sharing or
35 other limitations or restrictions on coverage, on the basis of race,
36 color, national origin, sex, age, disability, or any combination
37 thereof.

38 (B) Have or implement marketing practices or benefit designs
39 that discriminate on the basis of race, color, national origin, sex,

1 age, disability, or any combination thereof, in health care service
2 plan coverage or other health-related coverage.

3 (C) Deny or limit coverage, deny or limit coverage of a claim,
4 or impose additional cost sharing or other limitations or restrictions
5 on coverage, to an individual based upon the individual's sex
6 assigned at birth, gender identity, or gender otherwise recorded.

7 (D) Have or implement a categorical coverage exclusion or
8 limitation for all health care services related to gender transition
9 or other gender-affirming care.

10 (E) Otherwise deny or limit coverage, deny or limit coverage
11 of a claim, or impose additional cost sharing or other limitations
12 or restrictions on coverage, for specific health care services related
13 to gender transition or other gender-affirming care if such denial,
14 limitation, or restriction results in discrimination on the basis of
15 sex.

16 (F) Have or implement benefit designs that do not provide or
17 administer health care service plan coverage or other health-related
18 coverage in the most integrated setting appropriate to the needs of
19 qualified individuals with disabilities, including practices that
20 result in the serious risk of institutionalization or segregation.

21 (c) This section does not require access to, or coverage of, a
22 health care service for which the health care service plan has a
23 legitimate, nondiscriminatory reason for denying or limiting access
24 to, or coverage of, the health care service or determining that the
25 health care service is not clinically appropriate for a particular
26 individual, or fails to meet applicable coverage requirements,
27 including reasonable medical management techniques, such as
28 medical necessity requirements. A health care service plan's
29 determination under this subdivision shall not be based on unlawful
30 animus or bias, or constitute a pretext for discrimination.

31 (d) A health care service plan's evidences of coverage,
32 disclosure form, and combined evidence of coverage and disclosure
33 form shall include all of the following information in a notice to
34 enrollees regarding the coverage requirements pursuant to
35 subdivision (a):

36 (1) A statement that the health care service plan does not
37 discriminate on the basis of ~~sex~~, *a characteristic protected under*
38 *applicable state law, including this section.*

39 (2) How to file a grievance regarding ~~sex-based~~ discrimination
40 pursuant to Section 1368.

1 (3) The health care service plan's internet website where an
2 enrollee may file a grievance, if available.

3 (4) The health care service plan's telephone number that an
4 enrollee may use to file a grievance regarding ~~sex-based~~
5 discrimination.

6 (e) This section does not limit the director's authority, a health
7 care service plan's duties, or enrollees' rights pursuant to this
8 chapter.

9 *(f) The rights, remedies, and penalties established by this section*
10 *are cumulative and do not supersede the rights, remedies, or*
11 *penalties established under other laws, including Article 9.5*
12 *(commencing with Section 11135) of Chapter 1 of Part 1 of*
13 *Division 3 of Title 2 of the Government Code and Section 51 of*
14 *the Civil Code, and any implementing regulations.*

15 SEC. 2. Section 10133.135 is added to the Insurance Code, to
16 read:

17 10133.135. (a) A policyholder or insured shall not be excluded
18 from enrollment or participation in, be denied the benefits of, or
19 be subjected to discrimination by, any health insurer licensed in
20 this state on the basis of race, color, national origin, age, disability,
21 or sex.

22 (b) (1) For purposes of this section, discrimination on the basis
23 of sex includes, but is not limited to, discrimination on the basis
24 of any of the following:

25 (A) Sex characteristics, including intersex traits.

26 (B) Pregnancy or related conditions.

27 (C) Sexual orientation.

28 (D) Gender identity.

29 (E) Sex stereotypes.

30 (2) In providing access to health programs and activities, a health
31 insurer shall not do any of the following:

32 (A) Deny or limit health care services, including those that have
33 been typically or exclusively provided to, or associated with,
34 individuals of one sex, to an individual based upon the individual's
35 sex assigned at birth, gender identity, or gender otherwise recorded.

36 (B) Deny or limit, on the basis of an individual's sex assigned
37 at birth, gender identity, or gender otherwise recorded, a health
38 care professional's ability to provide health care services if the
39 denial or limitation has the effect of excluding individuals from
40 participation in, denying them the benefits of, or otherwise

1 subjecting them to discrimination on the basis of sex under a
2 covered health insurance policy.

3 (C) Adopt or apply any policy or practice of treating individuals
4 differently or separating them on the basis of sex in a manner that
5 subjects any individual to more than de minimis harm, including
6 by adopting a policy or engaging in a practice that prevents an
7 individual from participating in a health insurance policy or activity
8 consistent with the individual's gender identity.

9 (D) Deny or limit health care services sought for purpose of
10 gender transition or other gender-affirming care that the health
11 insurance policy would otherwise cover if that denial or limitation
12 is based on an individual's sex assigned at birth, gender identity,
13 or gender otherwise recorded.

14 (3) A health insurer, in providing or administering health
15 insurance coverage or other health-related coverage, shall not do
16 any of the following:

17 (A) Deny, cancel, limit, or refuse to issue or renew health
18 insurance coverage or other health-related coverage, or deny or
19 limit coverage of a claim, or impose additional cost sharing or
20 other limitations or restrictions on coverage, on the basis of race,
21 color, national origin, sex, age, disability, or any combination
22 thereof.

23 (B) Have or implement marketing practices or benefit designs
24 that discriminate on the basis of race, color, national origin, sex,
25 age, disability, or any combination thereof, in health insurance
26 coverage or other health-related coverage.

27 (C) Deny or limit coverage, deny or limit coverage of a claim,
28 or impose additional cost sharing or other limitations or restrictions
29 on coverage, to an individual based upon the individual's sex
30 assigned at birth, gender identity, or gender otherwise recorded.

31 (D) Have or implement a categorical coverage exclusion or
32 limitation for all health care services related to gender transition
33 or other gender-affirming care.

34 (E) Otherwise deny or limit coverage, deny or limit coverage
35 of a claim, or impose additional cost sharing or other limitations
36 or restrictions on coverage, for specific health care services related
37 to gender transition or other gender-affirming care if such denial,
38 limitation, or restriction results in discrimination on the basis of
39 sex.

1 (F) Have or implement benefit designs that do not provide or
2 administer health insurance coverage or other health-related
3 coverage in the most integrated setting appropriate to the needs of
4 qualified individuals with disabilities, including practices that
5 result in the serious risk of institutionalization or segregation.

6 (c) This section does not require access to, or coverage of, a
7 health care service for which the health insurer has a legitimate,
8 nondiscriminatory reason for denying or limiting access to, or
9 coverage of, the health care service or determining that the health
10 care service is not clinically appropriate for a particular individual,
11 or fails to meet applicable coverage requirements, including
12 reasonable medical management techniques, such as medical
13 necessity requirements. A health insurer's determination under
14 this subdivision shall not be based on unlawful animus or bias, or
15 constitute a pretext for discrimination.

16 (d) A health insurer's evidences of coverage, disclosure form,
17 and combined evidence of coverage and disclosure form shall
18 include all of the following information in a notice to insureds
19 regarding the coverage requirements pursuant to subdivision (a):

20 (1) A statement that the health insurer does not discriminate on
21 the basis of ~~sex~~; *a characteristic protected under applicable state*
22 *law, including this section.*

23 (2) How to file a grievance regarding ~~sex-based~~ discrimination.

24 (3) The health insurer's internet website where an insured may
25 file a grievance, if available.

26 (4) The health insurer's telephone number that an insured may
27 use to file a grievance regarding ~~sex-based~~ discrimination.

28 (e) This section does not limit the commissioner's authority, a
29 health insurer's duties, or insureds' rights pursuant to this division.

30 (f) *The rights, remedies, and penalties established by this section*
31 *are cumulative and do not supersede the rights, remedies, or*
32 *penalties established under other laws, including Article 9.5*
33 *(commencing with Section 11135) of Chapter 1 of Part 1 of*
34 *Division 3 of Title 2 of the Government Code and Section 51 of*
35 *the Civil Code, and any implementing regulations.*

36 SEC. 3. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

- 1 for a crime or infraction, within the meaning of Section 17556 of
- 2 the Government Code, or changes the definition of a crime within
- 3 the meaning of Section 6 of Article XIII B of the California
- 4 Constitution.

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