

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 ~~providing or administering health insurance coverage or other health-related coverage, 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 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-insurer~~ *care service*
- 6 *plan* 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.

1 (B) Pregnancy or related conditions.

2 (C) Sexual orientation.

3 (D) Gender identity.

4 (E) Sex stereotypes.

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

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

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

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

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

31 (3) A health care service plan, in providing or ~~administering~~
32 ~~health insurance coverage~~ *arranging for the provision of health*
33 *care services* or other health-related coverage, shall not do any of
34 the following:

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

1 (B) Have or implement marketing practices or benefit designs
2 that discriminate on the basis of race, color, national origin, sex,
3 age, disability, or any combination thereof, in health care service
4 plan coverage or other health-related coverage.

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

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

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

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

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

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

39 (1) *A statement that the health care service plan does not*
40 *discriminate on the basis of sex.*

1 (2) *How to file a grievance regarding sex-based discrimination*
2 *pursuant to Section 1368.*

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

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

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

11 SEC. 2. Section 10133.135 is added to the Insurance Code, to
12 read:

13 10133.135. (a) A policyholder or insured shall not be excluded
14 from *enrollment* or participation in, be denied the benefits of, or
15 be subjected to discrimination by, any health insurer licensed in
16 this state on the basis of race, color, national origin, age, disability,
17 or sex.

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

21 (A) Sex characteristics, including intersex traits.

22 (B) Pregnancy or related conditions.

23 (C) Sexual orientation.

24 (D) Gender identity.

25 (E) Sex stereotypes.

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

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

32 (B) Deny or limit, on the basis of an individual's sex assigned
33 at birth, gender identity, or gender otherwise recorded, a health
34 care professional's ability to provide health *care* services if the
35 denial or limitation has the effect of excluding individuals from
36 participation in, denying them the benefits of, or otherwise
37 subjecting them to discrimination on the basis of sex under a
38 covered health ~~program or activity~~: *insurance policy*.

39 (C) Adopt or apply any policy or practice of treating individuals
40 differently or separating them on the basis of sex in a manner that

1 subjects any individual to more than de minimis harm, including
2 by adopting a policy or engaging in a practice that prevents an
3 individual from participating in a health ~~program~~ *insurance policy*
4 or activity consistent with the individual's gender identity.

5 (D) Deny or limit health *care* services sought for purpose of
6 gender transition or other gender-affirming care that the ~~covered~~
7 ~~entity would provide to an individual for other purposes if the~~
8 *health insurance policy would otherwise cover if that* denial or
9 limitation is based on an individual's sex assigned at birth, gender
10 identity, or gender otherwise recorded.

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

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

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

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

28 (D) Have or implement a categorical coverage exclusion or
29 limitation for all health *care* services related to gender transition
30 or other gender-affirming care.

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

37 (F) Have or implement benefit designs that do not provide or
38 administer health insurance coverage or other health-related
39 coverage in the most integrated setting appropriate to the needs of

1 qualified individuals with disabilities, including practices that
2 result in the serious risk of institutionalization or segregation.

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

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

17 (1) *A statement that the health insurer does not discriminate on*
18 *the basis of sex.*

19 (2) *How to file a grievance regarding sex-based discrimination.*

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

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

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

26 SEC. 3. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.