

Introduced by Senator MenjivarFebruary 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 introduced, 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 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 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, from taking various actions, including, but not limited to, denying, canceling, limiting, or refusing to issue or renew 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 participation in, be denied the benefits of, or be subjected to
- 5 discrimination by, any health insurer licensed in this state on the
- 6 basis of race, color, national origin, age, disability, or sex.
- 7 (b) (1) For purposes of this section, discrimination on the basis
- 8 of sex includes, but is not limited to, discrimination on the basis
- 9 of any of the following:
- 10 (A) Sex characteristics, including intersex traits.
- 11 (B) Pregnancy or related conditions.
- 12 (C) Sexual orientation.
- 13 (D) Gender identity.
- 14 (E) Sex stereotypes.

1 (2) In providing access to health programs and activities, a health
2 care service plan shall not do any of the following:

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

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

14 (C) Adopt or apply any policy or practice of treating individuals
15 differently or separating them on the basis of sex in a manner that
16 subjects any individual to more than de minimis harm, including
17 by adopting a policy or engaging in a practice that prevents an
18 individual from participating in a health program or activity
19 consistent with the individual's gender identity.

20 (D) Deny or limit health services sought for purpose of gender
21 transition or other gender-affirming care that the covered entity
22 would provide to an individual for other purposes if the denial or
23 limitation is based on an individual's sex assigned at birth, gender
24 identity, or gender otherwise recorded.

25 (3) A health care service plan, in providing or administering
26 health insurance coverage or other health-related coverage, shall
27 not do any of the following:

28 (A) Deny, cancel, limit, or refuse to issue or renew health
29 insurance coverage or other health-related coverage, or deny or
30 limit coverage of a claim, or impose additional cost sharing or
31 other limitations or restrictions on coverage, on the basis of race,
32 color, national origin, sex, age, disability, or any combination
33 thereof.

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

38 (C) Deny or limit coverage, deny or limit coverage of a claim,
39 or impose additional cost sharing or other limitations or restrictions

1 on coverage, to an individual based upon the individual's sex
2 assigned at birth, gender identity, or gender otherwise recorded.

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

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

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

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

27 SEC. 2. Section 10133.135 is added to the Insurance Code, to
28 read:

29 10133.135. (a) A policyholder or insured shall not be excluded
30 from participation in, be denied the benefits of, or be subjected to
31 discrimination by, any health insurer licensed in this state on the
32 basis of race, color, national origin, age, disability, or sex.

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

36 (A) Sex characteristics, including intersex traits.

37 (B) Pregnancy or related conditions.

38 (C) Sexual orientation.

39 (D) Gender identity.

40 (E) Sex stereotypes.

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

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

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

14 (C) Adopt or apply any policy or practice of treating individuals
15 differently or separating them on the basis of sex in a manner that
16 subjects any individual to more than de minimis harm, including
17 by adopting a policy or engaging in a practice that prevents an
18 individual from participating in a health program or activity
19 consistent with the individual's gender identity.

20 (D) Deny or limit health services sought for purpose of gender
21 transition or other gender-affirming care that the covered entity
22 would provide to an individual for other purposes if the denial or
23 limitation is based on an individual's sex assigned at birth, gender
24 identity, or gender otherwise recorded.

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

28 (A) Deny, cancel, limit, or refuse to issue or renew health
29 insurance coverage or other health-related coverage, or deny or
30 limit coverage of a claim, or impose additional cost sharing or
31 other limitations or restrictions on coverage, on the basis of race,
32 color, national origin, sex, age, disability, or any combination
33 thereof.

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

38 (C) Deny or limit coverage, deny or limit coverage of a claim,
39 or impose additional cost sharing or other limitations or restrictions

1 on coverage, to an individual based upon the individual’s sex
2 assigned at birth, gender identity, or gender otherwise recorded.

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

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

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

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

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

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