
SENATE COMMITTEE ON HEALTH

Senator Akilah Weber Pierson, Chair

BILL NO: AB 1876
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VERSION: February 12, 2026
HEARING DATE: June 3, 2026
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SUBJECT: Health care coverage: nondiscrimination

SUMMARY: Codifies a federal regulation to prevent a person from being excluded from enrollment or participation in, denied the benefits of, or subjected to discrimination by any health plan or health insurer on the basis of race, color, national origin, age, disability, or sex. Defines “discrimination on the basis of sex” to include but not be limited to discrimination on the basis of sex characteristics, including intersex traits; pregnancy or related conditions; sexual orientation; gender identity; and, sex stereotypes.

Existing federal law:

- 1) Establishes the federal Affordable Care Act (ACA), which, among other provisions, establishes health insurance coverage requirements for Americans and federal subsidies available through health care marketplaces (exchanges) for those Americans who qualify. (Pub. L. No. 111-148)
- 2) Establishes, in Section 1557 of the ACA, that an individual shall not, on the basis of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity that receives federal financial assistance or under any program or activity that is administered by a federal entity. (42 U.S.C. §18116)

Existing state law:

- 1) Establishes the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) and the California Department of Insurance (CDI) to regulate health insurers under the Insurance Code. [HSC §1340, et seq. and INS §106, et seq.]
- 2) Prohibits a health plan or specialized health plan from denying a contract because of the race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, or age of any contracting party, prospective contracting party, or person reasonably expected to benefit from that contract as a subscriber, enrollee, member, or otherwise. Deems it a violation for any health plan to utilize marital status, living arrangements, occupation, sex, beneficiary designation, ZIP Codes or other territorial classification, or any combination thereof for the purpose of establishing sexual orientation. “Sex” and “gender” have the same meaning. [HSC §1365.5]
- 3) Prohibits an admitted insurer, licensed to issue life or disability insurance, from failing or refusing to accept an application for insurance, to issue that insurance to an applicant, or issue or cancel that insurance, under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, color, religion, sex, gender, gender identity, gender expression, national origin, ancestry, or sexual orientation. Prohibits race, color, religion, national origin, ancestry, or sexual orientation

from constituting a condition or risk for which a higher rate, premium, or charge may be required of the insured for that insurance. [INS §10140]

- 4) Prohibits, except as otherwise permitted by law, no admitted insurer, licensed to issue disability insurance policies for hospital, medical, and surgical expenses, from failing or refusing to accept an application for insurance, failing or refusing to issue that insurance to an applicant, canceling that insurance, refusing to renew that insurance, charging a higher rate or premium for that insurance, or offering or providing different terms, conditions, or benefits, or placing a limitation on coverage under that insurance, on the basis of a person's genetic characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring. [INS §10140]
- 5) Prohibits an admitted insurer, licensed to issue disability insurance for hospital, medical, and surgical expenses, from seeking information about a person's genetic characteristics for any nontherapeutic purpose. Prohibits discrimination from being made in the fees or commissions of agents or brokers for writing or renewing a policy of disability insurance, other than disability income, on the basis of a person's genetic characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring. [INS §10140]
- 6) Deems it a violation of 3) above, for any insurer to consider sexual orientation in its underwriting criteria or to utilize marital status, living arrangements, occupation, sex, beneficiary designation, ZIP Codes or other territorial classification within this state, or any combination thereof for the purpose of establishing sexual orientation or determining whether to require a test for the presence of HIV or antibodies to that virus, where that testing is otherwise permitted by law. [INS §10140]
- 7) Defines "sex" to have the same meaning as "gender." "Gender" means sex and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. [INS §10140]
- 8) Requires health plans, insurers, and Medi-Cal managed care plans to require staff who are in direct contact with enrollees or insureds in the delivery of care or services to complete evidence-based cultural competency training for the purpose of providing trans-inclusive health care for individual who identify as transgender, gender diverse, or intersex (TGI). [HSC §1367.043, INS §10133.13, and WIC §14197.09]

This bill:

- 1) Prohibits a subscriber, enrollee, policyholder, or insured from being excluded from enrollment or participation in, be denied the benefits of, or be subject to discrimination by, any health plan or health insurer licensed in California on the basis of race, color, national origin, age, disability, or sex.
- 2) Includes as "discrimination based on sex" discrimination based on sex characteristics, including intersex traits; pregnancy or related conditions; sexual orientation; gender identity; and sex stereotypes.
- 3) Prohibits a health plan or health insurer from:

- a) Denying or limiting health care services, including those typically or exclusively provided to, or associated with, individuals of one sex, to an individual based upon the individual's sex assigned at birth, gender identity, or gender otherwise recorded;
 - b) Denying or limiting, on the basis of an individual's sex assigned at birth, gender identity, or gender otherwise recorded, a health care professional's ability to provide health care services if the denial or limitation has the effect of excluding individuals from participation in, denying them the benefits of, or otherwise subjecting them to discrimination on the basis of sex under a covered health plan or health insurance policy;
 - c) Adopting or applying any policy or practice of treating individuals differently or separating them on the basis of sex in a manner that subjects any individual to more than de minimis harm, including by adopting a policy or engaging in a practice that prevents an individual from participating in a health plan or health insurance policy consistent with the individual's gender identity; and,
 - d) Denying or limiting health care services sought for purpose of gender transition or other gender-affirming care that the health plan or health insurance policy would otherwise cover if that denial or limitation is based on an individual's sex assigned at birth, gender identity, or gender otherwise recorded.
- 4) Prohibits a health plan or health insurer from doing any of the following:
- a) Denying, canceling, limiting, or refusing to issue or renew health 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, or any combination thereof;
 - b) Having or implementing marketing practices or benefit designs that discriminate on the basis of race, color, national origin, sex, age, disability, or any combination thereof, in health plan or health insurance coverage or other health-related coverage;
 - c) Denying or limiting coverage, denying or limiting coverage of a claim, or imposing additional cost-sharing or other limitations or restrictions on coverage, to an individual based upon the individual's sex assigned at birth, gender identity, or gender otherwise recorded;
 - d) Having or implementing a categorical coverage exclusion or limitation for all health care services related to gender transition or other gender-affirming care;
 - e) Otherwise denying or limiting coverage, denying or limiting coverage of a claim, or imposing additional cost-sharing or other limitations or restrictions on coverage, for specific health care services related to gender transition or other gender-affirming care if such denial, limitation, or restriction results in discrimination on the basis of sex; and,
 - f) Having or implementing benefit designs that do not provide or administer health plan or health insurance coverage or other health-related coverage in the most integrated setting appropriate to the needs of qualified individuals with disabilities, including practices that result in the serious risk of institutionalization or segregation.
- 5) Does not require access to, or coverage of, a health care service for which a health plan or health insurer has a legitimate, nondiscriminatory reason for denying or limiting access to, or coverage of the health care service or determining that the health care service is not clinically appropriate for a particular individual or fails to meet applicable coverage requirements. Prohibits a health plan's or health insurer's determination from being based on lawful animus or bias or constitute a pretext for discrimination.

- 6) Requires a health plan’s or health insurer’s evidence of coverage and disclosure forms to include specified information in a notice to enrollees or insureds regarding the requirements of this bill.

FISCAL EFFECT: According to the Assembly Appropriations Committee, CDI estimates costs of \$6,000 in fiscal year (FY) 2026-27 and \$18,000 in FY 2027-28 to review insurers’ evidence of coverage and disclosure forms (Insurance Fund). DMHC anticipates minor and absorbable costs.

PRIOR VOTES:

Assembly Floor:	56 - 17
Assembly Appropriations Committee:	10 - 4
Assembly Judiciary Committee	9 - 3
Assembly Health Committee:	12 - 4

COMMENTS:

- 1) *Author’s statement.* According to the author, the Trump Administration has taken steps to dismantle long-standing discrimination protections embedded in Section 1557 of the ACA. This bill takes proactive steps to codify these non-discrimination protections into California statute ensuring that all Californians maintain equitable access to healthcare.
- 2) *Section 1557.* Title I of the ACA, “Quality, Affordable Health Care for All Americans,” establishes individual and group health insurance market reforms, health benefit exchanges and qualified health plans, premium tax credits and cost-sharing reductions, individual and employer health coverage mandates, and Section 1557 with respect to nondiscrimination (among many other provisions). Section 1557 provides that, except as otherwise provided in title I of the ACA, an individual shall not, on the grounds prohibited under title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an executive agency or any entity established under title I of the ACA. This applies to health programs or activities administered by recipients of federal financial assistance from the U.S. Department of Health and Human Services (HHS), HHS-administered health programs or activities, and title I entities that administer health programs or activities.
- 3) *Effective dates.* Final regulations for Section 1557 were effective beginning July 5, 2024, or within a specified time frame after that date, depending upon the specific provision. For health insurance coverage or other health-related coverage that was not subject to the July 5, 2024, requirement, the provisions are effective by the first day of the first plan year (in the individual market, policy year) beginning on or after January 1, 2025. The final regulation has disclosures, training and other requirements.
- 4) *Health insurance provisions in Section 1557 regulations.* Section 92.207 covers nondiscrimination in health insurance coverage and other health-related coverage. A covered entity must not, in providing or administering health insurance coverage or other health-

related coverage, discriminate on the basis of race, color, national origin, sex, age, disability, or any combination thereof. A covered entity must not provide or administer health insurance coverage or other health-related coverage that would:

- a) Deny, cancel, limit, or refuse to issue or renew health insurance coverage or other health-related coverage, or deny or limit coverage of a claim, or impose additional cost sharing or other limitations or restrictions on coverage, on the basis of race, color, national origin, sex, age, disability, or any combination thereof;
- b) Have or implement marketing practices or benefit designs that discriminate on the basis of race, color, national origin, sex, age, disability, or any combination thereof, in health insurance coverage or other health-related coverage;
- c) Deny or limit coverage, deny or limit coverage of a claim, or impose additional cost sharing or other limitations or restrictions on coverage, to an individual based upon the individual's sex assigned at birth, gender identity, or gender otherwise recorded;
- d) Have or implement a categorical coverage exclusion or limitation for all health services related to gender transition or other gender-affirming care;
- e) Otherwise deny or limit coverage, deny or limit coverage of a claim, or impose additional cost sharing or other limitations or restrictions on coverage, for specific health services related to gender transition or other gender-affirming care if such denial, limitation, or restriction results in discrimination on the basis of sex; or
- f) Have or implement benefit designs that do not provide or administer health insurance coverage or other health-related coverage in the most integrated setting appropriate to the needs of qualified individuals with disabilities, including practices that result in the serious risk of institutionalization or segregation.

The final rule does not require coverage of any health service where the covered entity has a legitimate, nondiscriminatory reason for denying or limiting coverage of the health service or determining that such health service fails to meet applicable coverage requirements, including reasonable medical management techniques such as medical necessity requirements. Such coverage denial or limitation must not be based on unlawful animus or bias or constitute a pretext for discrimination. Nothing in the rule is intended to preclude a covered entity from availing itself of protections described in federal laws on civil rights, education, rehabilitation, or age discrimination.

- 3) *Litigation.* Section 1557 and associated rulemaking have been subject to a variety of litigation. Injunctions prohibiting enforcement of gender identity in the definition of sex discrimination are in place and will remain in place unless or until new regulations are promulgated or a federal administration takes a different action. The California Senate Judiciary Committee analysis of SB 418 (Menjivar of 2025), which contained the same discrimination protections as this bill, indicates “Several federal district court judges issued nationwide injunctions to prevent HHS’s interpretation of Section 1557 and the final rule from taking effect. As it stands, there is no definitive federal court ruling on whether the rationale of *Bostock* applies to Section 1557. The Ninth Circuit has, however, held that *Bostock*’s rationale applies in claims for discrimination on the basis of gender identity under Title IX, suggesting it would do the same in a Section 1557 challenge.”
- 4) *Executive Order 14187.* This executive order issued by President Trump on January 28, 2025, directed the Secretary of the federal HHS to end gender-affirming care for people 18 years and younger under Section 1557 and to withdraw Biden Administration guidance extending Section 1557 to discrimination on the basis of sexual orientation and gender identity. The California Senate Judiciary Committee analysis of SB 418 indicates that this

executive order “facially discriminates against transgender youth and 18-year-olds, denying them treatments that are still available to cisgender individuals.” Portions of this and other actions by the Trump administration have been enjoined on a nationwide basis, including any associated funding freezes.

- 5) *Trans-Inclusive Care.* According to DMHC, Trans-Inclusive Care is defined in state law as “comprehensive health care that is consistent with the standards of care for individuals who identify as TGI, honors an individual’s personal bodily autonomy, does not make assumptions about an individual’s gender, accepts gender fluidity and nontraditional gender presentation, and treats everyone with compassion, understanding, and respect.” DMHC indicates that DMHC licensed health plans and CDI licensed insurers are required by California law to provide health plan enrollees and insureds who identify as TGI with medically necessary gender affirming care.
- 6) *Double referral.* This bill has been double referred. Should this bill pass out of this Committee, it will be referred to the Senate Judiciary Committee.
- 7) *Prior legislation.* SB 418 (Menjivar of 2025) in addition to the same discrimination protections as in this bill, would have permitted a person to receive coverage for a 12-month supply of federal Food and Drug Administration-approved prescription hormone therapy, and necessary supplies for self-administration, prescribed by an in-network provider and dispensed at one time, as specified, and contained an urgency clause that would have made the bill effective upon enactment. *SB 418 was vetoed by the Governor Newsom who wrote in the veto message:*

This bill would require health plans and insurers to cover a 12-month supply of federal Food and Drug Administration-approved prescription hormone therapy, and necessary supplies for self-administration, prescribed by an in network provider and dispensed at one time without utilization management (UM).

I appreciate the author's intent to ensure patient access to the comprehensive care they need. While there are provisions of this bill that are worthy of support, I am concerned about the limitation on the use of UM, which is an important tool to ensure enrollees receive the right care at the right time. Prohibiting this cost containment strategy is likely to result in an increase in enrollee premiums to offset costs incurred by health plans and insurers. At a time when individuals are facing double-digit rate increases in their health care premiums across the nation, we must take great care to not enact policies that further drive up the cost of health care, no matter how well-intended.

SB 923 (Wiener, Chapter 822, Statutes of 2022) requires health plans and insurers to require all of its support staff who are in direct contact with enrollees or insureds to complete evidence-based cultural competency training for the purpose of providing trans-inclusive health care for individuals who identify as TGI. SB 923 adds processes to continuing medical education requirements related to cultural and linguistic competency for physicians and surgeons specific to gender-affirming care services, as specified.

- 8) *Support.* This bill is cosponsored by the TransLatin@ Coalition to ensure that TGI, LGBTQ+, and non-English speaking people, along with pregnant people seeking abortion care services, cannot be denied or limited coverage for medically necessary health care. The TransLatin @ Coalition writes, “Given the Federal Administration’s deliberate efforts to roll

back these protections, formalizing these protections on the state level is increasingly vital. In the first month of this administration, the President issued sixty-four executive orders, one of which is Executive Order 14187. This executive order functions as a denial of the existence of TGI people and consequently directs federal agencies to withhold funding from healthcare institutions and providers that offer gender-affirming care.” Planned Parenthood Affiliates of California., another cosponsor, supports public policy that fosters a social climate of acceptance, non-discrimination, destigmatization, and legal justice for all. Equality California, another cosponsor, writes that this bill strengthens and reaffirms California’s nondiscrimination protections to ensure TGI people can access medically necessary care without discrimination. Also, a cosponsor, the California LGBTQ Health and Human Services Network writes that this bill is a vital shield that guarantees the right to inclusive, respectful, and life-saving healthcare regardless of the shifting political climate in Washington D.C. Gender Justice LA, an additional cosponsor, writes with recent federal actions rolling back these protections, California has both the opportunity and responsibility to lead by ensuring that all residents can continue to rely on fair and equitable access to health care, and enshrining these provisions into state law through this bill will protect vulnerable communities from discrimination and ensure equal treatment for vulnerable communities. Disability Rights California believes that personal independence is a basic right for every person, including a person’s right to develop their personality, to express hopes and dreams, and to make choices that permit the Dignity of Risk (a concept that ensures informed decision-making by helping a client understand the risks associated with an action while not attempting to force them to choose what is viewed culturally or socially as better).

- 9) *Opposition.* The California Family Council writes “by treating an insurer’s denial of coverage as unlawful discrimination, this bill removes insurers’ discretion to assess medical necessity, long-term risks, and evolving scientific evidence, particularly when the patient is a minor. These interventions carry serious lifelong consequences, including impacts on bone density, fertility, cardiovascular health, and neurological development... Additionally, this bill poses serious religious liberty concerns.” Concerned Women for America Legislative Action Committee writes “the long-term consequences of these interventions – such as hormone treatments and surgical procedures – on the natural development of the human body remain largely unknown. Moreover, these medical procedures often lead to irreversible outcomes, which can have lasting effects on an individual’s physical and psychological well-being. The side effects and complications associated with experimental drugs and treatments may increase the need for ongoing medical care and pharmaceuticals in the future, which could place a health financial burden on patients and the broader healthcare system.” The Democrats for an Informed Approach to Gender writes “this bill is a coverage mandate that requires insurers to cover a category of interventions regardless of the quality of evidence supporting them. This bill will harm Californians, mandating coverage for medical interventions that an increasing body of international and national evidence has found to be not only unsafe but actively harmful – interventions that disproportionately affect gender nonconforming minors, gays and lesbians, youth on the autism spectrum, and vulnerable adults. Section (b)(3)(D) of the proposed legislation prohibits any ‘categorical coverage exclusion’ for ‘gender transition’ or ‘gender-affirming care,’ ensuring that this cohort receives damaging medical interventions unsupported by credible evidence.” LGB Alliance USA writes “1367.0435 purports to allow for ‘legitimate, nondiscrimination reason’ for denying claims, it still allows for litigation of claim denials that are due to ‘unlawful animus or bias or constitute a pretext for discrimination.’ This could make any claim denial subject to legal scrutiny, potentially resulting in insurance providers being afraid of making medically appropriate decisions for transgender patients... This bill ignores the

vulnerabilities of LGB Californians, ignores the hazards of gender medicalization in youth, and dangerously conflates gender identity with sex in medical care.”

SUPPORT AND OPPOSITION:

Support: California LGBTQ Health and Human Services Network (cosponsor)
 Equality California (cosponsor)
 Gender Justice LA (cosponsor)
 Planned Parenthood Affiliates of California (cosponsor)
 The TransLatin@ Coalition (cosponsor)
 TransFamily Support Services (cosponsor)
 Access Reproductive Justice
 American Civil Liberties Union California Action
 Advocates for Trans Equality
 Alliance for TransYouth Rights
 American Academy of Pediatrics, California
 American Association of University Women - California
 American College of Obstetricians & Gynecologists - District IX
 Asian Americans Advancing Justice - Southern California
 California Academy of Child and Adolescent Psychiatry
 California Alliance of Child and Family Services
 California Association of Marriage and Family Therapists
 California Behavioral Health Association
 California Chapter of the American College of Emergency Physicians
 California Commission on the Status of Women and Girls
 California Federation of Teachers
 California Foundation for Independent Living Centers
 California Legislative LGBTQ Caucus
 California Pan - Ethnic Health Network
 California Podiatric Medical Association
 California Primary Care Association Advocates
 California Psychological Association
 California Service Employees International Union
 City and County of San Francisco Department on the Status of Women
 City of West Hollywood
 County Behavioral Health Directors Association
 Courage California
 Disability Rights California
 El/La Para TransLatinas
 Gender Affirming Professionals
 Health Access California
 Hmong Innovating Politics
 Justice in Aging
 LGBTQ Connection
 LGBTQ+ Inclusivity, Visibility, and Empowerment
 Los Angeles LGBT Center
 Los Angeles LGBTQ+ Chamber of Commerce
 Lyon-Martin Community Health Services
 Mirror Memoirs
 National Health Law Program

Oakland Privacy
ParivarBayArea
Parents, Families, and Friends of Lesbians and Gays (PFLAG) Clayton-Concord
PFLAG Fresno
PFLAG Oakland-East Bay
PFLAG Sacramento
PFLAG San Diego County
PFLAG San Jose/Peninsula
Placer LGBTQ+ Center
Rainbow Families Action Bay Area
San Francisco AIDS Foundation
Saturn's Wish
The Children's Partnership
The Landing Spot
The San Diego LGBT Community Center
Transgender Health and Wellness Center
Western Center on Law & Poverty, Inc.

Oppose: California Family Council
Californians United for Sex-based Evidence in Policy and Law
Concerned Women for America
Democrats for an Informed Approach to Gender
International Foundation for Therapeutic and Counseling Choice
Lesbians Advocating for a Resilient Future
LGB Alliance Foundation
LGB Courage Coalition
Our Duty
SFV Alliance
Women Are Real
Women's Declaration International USA, Inc.
Women's Liberation Front

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