

JAN 17 2020

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# A BILL FOR AN ACT

RELATING TO HEALTH CARE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 PART I

2 SECTION 1. The legislature finds that Hawaii has long been  
3 a leader in advancing reproductive rights, advocating the  
4 importance of access to reproductive health care without  
5 discrimination, and implementing forward-thinking reproductive  
6 health care policy. However, gaps in coverage and care still  
7 exist, and Hawaii's benefits and protections are constantly  
8 under attack by a hostile federal administration bent on  
9 repealing or undercutting the federal Patient Protection and  
10 Affordable Care Act of 2010 and, in particular, access to sexual  
11 and reproductive health care benefits and protections.

12 The legislature finds that access to reproductive health  
13 care is critical for the health and economic security of all of  
14 Hawaii's people. Research shows that for every one dollar in  
15 public spending on reproductive health and family planning  
16 services, states save seven dollars in medicaid costs for  
17 pregnancy, labor and delivery, and children's health care.



1 Ensuring that Hawaii's people receive comprehensive client-  
2 centered and culturally-sensitive sexual and reproductive health  
3 care makes good economic sense and improves the overall health  
4 of our communities and our State.

5 The legislature concludes that in order to safeguard access  
6 to abortion, to solidify the essential health benefits that have  
7 changed thousands of lives, and to improve overall access to  
8 care, it is vital to preserve certain important aspects of the  
9 Patient Protection and Affordable Care Act and expand access to  
10 care for residents of Hawaii.

11 Accordingly, the purpose of this Act is to ensure  
12 comprehensive coverage for the full spectrum of sexual and  
13 reproductive health care services, including family planning and  
14 abortion, for all of Hawaii's people.

15 PART II

16 SECTION 2. Chapter 431, Hawaii Revised Statutes, is  
17 amended by adding two new sections to part I of article 10A to  
18 be appropriately designated and to read as follows:

19 "§431:10A-A Preventive care; coverage; requirements. (a)  
20 Every individual policy of accident and health or sickness  
21 insurance issued or renewed in this State shall provide coverage



1 for all of the following services, drugs, devices, products, and  
2 procedures for the policyholder or any dependent of the  
3 policyholder who is covered by the policy:

4 (1) Well-woman preventive care visit annually for women to  
5 obtain the recommended preventive services that are  
6 age and developmentally appropriate, including  
7 preconception care and services necessary for prenatal  
8 care. For the purposes of this section, a well-woman  
9 visit, where appropriate, shall include other  
10 preventive services as listed in this section;  
11 provided that if several visits are needed to obtain  
12 all necessary recommended preventive services,  
13 depending upon a woman's health status, health needs,  
14 and other risk factors, coverage shall apply to each  
15 of the necessary visits;

16 (2) Counseling for sexually transmitted infections,  
17 including human immunodeficiency virus and acquired  
18 immune deficiency syndrome;

19 (3) Screening for: chlamydia; gonorrhea; hepatitis B;  
20 hepatitis C; human immunodeficiency virus and acquired  
21 immune deficiency syndrome; human papillomavirus;



# S.B. NO. 2539

- 1           syphilis; anemia; urinary tract infection; pregnancy;  
2           Rh incompatibility; gestational diabetes;  
3           osteoporosis; breast cancer; and cervical cancer;  
4       (4) Screening to determine whether counseling and testing  
5           related to the BRCA1 or BRCA2 genetic mutation is  
6           indicated and genetic counseling and testing related  
7           to the BRCA1 or BRCA2 genetic mutation, if indicated;  
8       (5) Screening and appropriate counseling or interventions  
9           for:  
10        (A) Substance abuse, including tobacco and electronic  
11           smoking devices, and alcohol; and  
12        (B) Domestic and interpersonal violence;  
13       (6) Screening and appropriate counseling or interventions  
14           for mental health screening and counseling, including  
15           depression;  
16       (7) Folic acid supplements;  
17       (8) Abortion;  
18       (9) Breastfeeding comprehensive support, counseling, and  
19           supplies;  
20       (10) Breast cancer chemoprevention counseling;



# S.B. NO. 2539

- 1        (11) Any contraceptive supplies, as specified in section  
2                    431:10A-116.6;
- 3        (12) Voluntary sterilization, as a single claim or combined  
4                    with the following other claims for covered services  
5                    provided on the same day:
  - 6                    (A) Patient education and counseling on contraception  
7                            and sterilization; and
  - 8                    (B) Services related to sterilization or the  
9                            administration and monitoring of contraceptive  
10                            supplies, including:
    - 11                            (i) Management of side effects;
    - 12                            (ii) Counseling for continued adherence to a  
13                                    prescribed regimen;
    - 14                            (iii) Device insertion and removal; and
    - 15                            (iv) Provision of alternative contraceptive  
16                                    supplies deemed medically appropriate in the  
17                                    judgment of the insured's health care  
18                                    provider;
- 19        (13) Pre-exposure prophylaxis, post-exposure prophylaxis,  
20                    and human papillomavirus vaccination; and



1        (14) Any additional preventive services for women that must  
2        be covered without cost sharing under 42 United States  
3        Code section 300gg-13, as identified by the federal  
4        Preventive Services Task Force or the Health Resources  
5        and Services Administration of the federal Department  
6        of Health and Human Services, as of January 1, 2018.

7        (b) An insurer shall not impose any cost-sharing  
8        requirements, including copayments, coinsurance, or deductibles,  
9        on a policyholder or an individual covered by the policy with  
10       respect to the coverage and benefits required by this section,  
11       except to the extent that coverage of particular services  
12       without cost-sharing would disqualify a high-deductible health  
13       plan from eligibility for a health savings account pursuant to  
14       26 United States Code section 223. For a qualifying high-  
15       deductible health plan, the insurer shall establish the plan's  
16       cost-sharing for the coverage provided pursuant to this section  
17       at the minimum level necessary to preserve the insured's ability  
18       to claim tax-exempt contributions and withdrawals from the  
19       insured's health savings account under 26 United States Code  
20       section 223.



1        (c) A health care provider shall be reimbursed for  
2 providing the services pursuant to this section without any  
3 deduction for coinsurance, copayments, or any other cost-sharing  
4 amounts.

5        (d) Except as otherwise authorized under this section, an  
6 insurer shall not impose any restrictions or delays on the  
7 coverage required under this section.

8        (e) This section shall not require a policy of accident  
9 and health or sickness insurance to cover:

10       (1) Experimental or investigational treatments;

11       (2) Clinical trials or demonstration projects;

12       (3) Treatments that do not conform to acceptable and  
13 customary standards of medical practice; or

14       (4) Treatments for which there is insufficient data to  
15 determine efficacy.

16       (f) If services, drugs, devices, products, or procedures  
17 required by this section are provided by an out-of-network  
18 provider, the insurer shall cover the services, drugs, devices,  
19 products, or procedures without imposing any cost-sharing  
20 requirement on the policyholder if:



1       (1) There is no in-network provider to furnish the  
2       service, drug, device, product, or procedure that  
3       meets the requirements for network adequacy under  
4       section 431:26-103; or

5       (2) An in-network provider is unable or unwilling to  
6       provide the service, drug, device, product, or  
7       procedure in a timely manner.

8       (g) Every insurer shall provide written notice to its  
9       policyholders regarding the coverage required by this section.  
10      The notice shall be in writing and prominently positioned in any  
11      literature or correspondence sent to policyholders and shall be  
12      transmitted to policyholders beginning with calendar year 2021  
13      when annual information is made available to policyholders or in  
14      any other mailing to policyholders, but in no case later than  
15      December 31, 2021.

16      (h) This section shall not apply to policies that provide  
17      coverage for specified diseases or other limited benefit health  
18      insurance coverage, as provided pursuant to section  
19      431:10A-102.5.

20      (i) If the commissioner concludes that enforcement of this  
21      section may adversely affect the allocation of federal funds to



1 the State, the commissioner may grant an exemption to the  
2 requirements, but only to the minimum extent necessary to ensure  
3 the continued receipt of federal funds.

4 (j) A bill or statement for services from any health care  
5 provider or insurer shall be sent directly to the person  
6 receiving the services.

7 (k) For purposes of this section, "contraceptive supplies"  
8 shall have the same meaning as in section 431:10A-116.6.

9 **§431:10A-B Nondiscrimination; reproductive health care;**  
10 **coverage.** (a) An individual, on the basis of actual or  
11 perceived race, color, national origin, sex, gender identity,  
12 sexual orientation, age, or disability, shall not be excluded  
13 from participation in, be denied the benefits of, or otherwise  
14 be subjected to discrimination in the coverage of, or payment  
15 for, the services, drugs, devices, products, and procedures  
16 covered by section 431:10A-A or 431:10A-116.6.

17 (b) Violation of this section shall be considered a  
18 violation pursuant to chapter 489.

19 (c) Nothing in this section shall be construed to limit  
20 any cause of action based upon any unfair or discriminatory



1 practices for which a remedy is available under state or federal  
2 law."

3 SECTION 3. Chapter 431, Hawaii Revised Statutes, is  
4 amended by adding two new sections to part II of article 10A to  
5 be appropriately designated and to read as follows:

6 "§431:10A-C Preventive care; coverage; requirements. (a)  
7 Every group policy of accident and health or sickness insurance  
8 issued or renewed in this State shall provide coverage for all  
9 of the following services, drugs, devices, products, and  
10 procedures for any subscriber or any dependent of the subscriber  
11 who is covered by the policy:

12 (1) Well-woman preventive care visit annually for women to  
13 obtain the recommended preventive services that are  
14 age and developmentally appropriate, including  
15 preconception care and services necessary for prenatal  
16 care. For the purposes of this section, a well-woman  
17 visit, where appropriate, shall include other  
18 preventive services as listed in this section;  
19 provided that if several visits are needed to obtain  
20 all necessary recommended preventive services,  
21 depending upon a woman's health status, health needs,



- 1           and other risk factors, coverage shall apply to each  
2           of the necessary visits;
- 3       (2) Counseling for sexually transmitted infections,  
4           including human immunodeficiency virus and acquired  
5           immune deficiency syndrome;
- 6       (3) Screening for: chlamydia; gonorrhea; hepatitis B;  
7           hepatitis C; human immunodeficiency virus and acquired  
8           immune deficiency syndrome; human papillomavirus;  
9           syphilis; anemia; urinary tract infection; pregnancy;  
10          Rh incompatibility; gestational diabetes;  
11          osteoporosis; breast cancer; and cervical cancer;
- 12       (4) Screening to determine whether counseling and testing  
13          related to the BRCA1 or BRCA2 genetic mutation is  
14          indicated and genetic counseling and testing related  
15          to the BRCA1 or BRCA2 genetic mutation, if indicated;
- 16       (5) Screening and appropriate counseling or interventions  
17          for:
- 18           (A) Substance abuse, including tobacco and electric  
19                smoking devices, and alcohol; and
- 20           (B) Domestic and interpersonal violence;



- 1        (6) Screening and appropriate counseling or interventions
- 2            for mental health screening and counseling, including
- 3            depression;
- 4        (7) Folic acid supplements;
- 5        (8) Abortion;
- 6        (9) Breastfeeding comprehensive support, counseling, and
- 7            supplies;
- 8        (10) Breast cancer chemoprevention counseling;
- 9        (11) Any contraceptive supplies, as specified in section
- 10           431:10A-116.6;
- 11        (12) Voluntary sterilization, as a single claim or combined
- 12           with the following other claims for covered services
- 13           provided on the same day:
- 14           (A) Patient education and counseling on contraception
- 15                and sterilization; and
- 16           (B) Services related to sterilization or the
- 17                administration and monitoring of contraceptive
- 18                supplies, including:
- 19                (i) Management of side effects;
- 20                (ii) Counseling for continued adherence to a
- 21                        prescribed regimen;



1           (iii) Device insertion and removal; and  
2           (iv) Provision of alternative contraceptive  
3           supplies deemed medically appropriate in the  
4           judgment of the subscriber's or dependent's  
5           health care provider;

6       (13) Pre-exposure prophylaxis, post-exposure prophylaxis,  
7       and human papillomavirus vaccination; and

8       (14) Any additional preventive services for women that must  
9       be covered without cost sharing under 42 United States  
10       Code section 300gg-13, as identified by the federal  
11       Preventive Services Task Force or the Health Resources  
12       and Services Administration of the federal Department  
13       of Health and Human Services, as of January 1, 2018.

14       (b) An insurer shall not impose any cost-sharing  
15       requirements, including copayments, coinsurance, or deductibles,  
16       on a subscriber or an individual covered by the policy with  
17       respect to the coverage and benefits required by this section,  
18       except to the extent that coverage of particular services  
19       without cost-sharing would disqualify a high-deductible health  
20       plan from eligibility for a health savings account pursuant to  
21       26 United States Code section 223. For a qualifying high-



1 deductible health plan, the insurer shall establish the plan's  
2 cost-sharing for the coverage provided pursuant to this section  
3 at the minimum level necessary to preserve the subscriber's  
4 ability to claim tax-exempt contributions and withdrawals from  
5 the subscriber's health savings account under 26 United States  
6 Code section 223.

7 (c) A health care provider shall be reimbursed for  
8 providing the services pursuant to this section without any  
9 deduction for coinsurance, copayments, or any other cost-sharing  
10 amounts.

11 (d) Except as otherwise authorized under this section, an  
12 insurer shall not impose any restrictions or delays on the  
13 coverage required under this section.

14 (e) This section shall not require a policy of accident  
15 and health or sickness insurance to cover:

- 16 (1) Experimental or investigational treatments;
- 17 (2) Clinical trials or demonstration projects;
- 18 (3) Treatments that do not conform to acceptable and  
19 customary standards of medical practice; or
- 20 (4) Treatments for which there is insufficient data to  
21 determine efficacy.



1        (f) If services, drugs, devices, products, or procedures  
2 required by this section are provided by an out-of-network  
3 provider, the insurer shall cover the services, drugs, devices,  
4 products, or procedures without imposing any cost-sharing  
5 requirement on the subscriber if:

6        (1) There is no in-network provider to furnish the  
7 service, drug, device, product, or procedure that  
8 meets the requirements for network adequacy under  
9 section 431:26-103; or

10       (2) An in-network provider is unable or unwilling to  
11 provide the service, drug, device, product, or  
12 procedure in a timely manner.

13       (g) Every insurer shall provide written notice to its  
14 subscribers regarding the coverage required by this section.  
15 The notice shall be in writing and prominently positioned in any  
16 literature or correspondence sent to subscribers and shall be  
17 transmitted to subscribers beginning with calendar year 2021  
18 when annual information is made available to subscribers or in  
19 any other mailing to subscribers, but in no case later than  
20 December 31, 2021.



1       (h) This section shall not apply to policies that provide  
2 coverage for specified diseases or other limited benefit health  
3 insurance coverage, as provided pursuant to section  
4 431:10A-102.5.

5       (i) If the commissioner concludes that enforcement of this  
6 section may adversely affect the allocation of federal funds to  
7 the State, the commissioner may grant an exemption to the  
8 requirements, but only to the minimum extent necessary to ensure  
9 the continued receipt of federal funds.

10       (j) A bill or statement for services from any health care  
11 provider or insurer shall be sent directly to the person  
12 receiving the services.

13       (k) For purposes of this section, "contraceptive supplies"  
14 shall have the same meaning as in section 431:10A-116.6.

15       §431:10A-D Nondiscrimination; reproductive health care;  
16 coverage. (a) An individual, on the basis of actual or  
17 perceived race, color, national origin, sex, gender identity,  
18 sexual orientation, age, or disability, shall not be excluded  
19 from participation in, be denied the benefits of, or otherwise  
20 be subjected to discrimination in the coverage of, or payment



1 for, the services, drugs, devices, products, and procedures  
2 covered by section 431:10A-C or 431:10A-116.6.

3 (b) Violation of this section shall be considered a  
4 violation pursuant to chapter 489.

5 (c) Nothing in this section shall be construed to limit  
6 any cause of action based upon any unfair or discriminatory  
7 practices for which a remedy is available under state or federal  
8 law."

9 SECTION 4. Chapter 432, Hawaii Revised Statutes, is  
10 amended by adding two new sections to article 1 to be  
11 appropriately designated and to read as follows:

12 **"§432:1-A Preventive care; coverage; requirements. (a)**  
13 Every individual or group hospital or medical service plan  
14 contract issued or renewed in this State shall provide coverage  
15 for all of the following services, drugs, devices, products, and  
16 procedures for the subscriber or member or any dependent of the  
17 subscriber or member who is covered by the plan contract:

18 (1) Well-woman preventive care visit annually for women to  
19 obtain the recommended preventive services that are  
20 age and developmentally appropriate, including  
21 preconception care and services necessary for prenatal



1           care. For the purposes of this section, a well-woman  
2           visit, where appropriate, shall include preventive  
3           services as listed in this section; provided that if  
4           several visits are needed to obtain all necessary  
5           recommended preventive services, depending upon a  
6           woman's health status, health needs, and other risk  
7           factors, coverage shall apply to each of the necessary  
8           visits;

9           (2) Counseling for sexually transmitted infections,  
10           including human immunodeficiency virus and acquired  
11           immune deficiency syndrome;

12           (3) Screening for: chlamydia; gonorrhea; hepatitis B;  
13           hepatitis C; human immunodeficiency virus and acquired  
14           immune deficiency syndrome; human papillomavirus;  
15           syphilis; anemia; urinary tract infection; pregnancy;  
16           Rh incompatibility; gestational diabetes;  
17           osteoporosis; breast cancer; and cervical cancer;

18           (4) Screening to determine whether counseling and testing  
19           related to the BRCA1 or BRCA2 genetic mutation is  
20           indicated and genetic counseling and testing related  
21           to the BRCA1 or BRCA2 genetic mutation, if indicated;



- 1        (5) Screening and appropriate counseling or interventions
- 2        for:
- 3        (A) Substance abuse, including tobacco and electronic
- 4        smoking devices, and alcohol; and
- 5        (B) Domestic and interpersonal violence;
- 6        (6) Screening and appropriate counseling or interventions
- 7        for mental health screening and counseling, including
- 8        depression;
- 9        (7) Folic acid supplements;
- 10       (8) Abortion;
- 11       (9) Breastfeeding comprehensive support, counseling, and
- 12       supplies;
- 13       (10) Breast cancer chemoprevention counseling;
- 14       (11) Any contraceptive supplies, as specified in section
- 15       431:10A-116.6;
- 16       (12) Voluntary sterilization, as a single claim or combined
- 17       with the following other claims for covered services
- 18       provided on the same day:
- 19       (A) Patient education and counseling on contraception
- 20       and sterilization; and



- 1           (B) Services related to sterilization or the  
2           administration and monitoring of contraceptive  
3           supplies, including:
- 4           (i) Management of side effects;  
5           (ii) Counseling for continued adherence to a  
6           prescribed regimen;  
7           (iii) Device insertion and removal; and  
8           (iv) Provision of alternative contraceptive  
9           supplies deemed medically appropriate in the  
10           judgment of the subscriber's or member's  
11           health care provider;
- 12        (13) Pre-exposure prophylaxis, post-exposure prophylaxis,  
13        and human papillomavirus vaccination; and
- 14        (14) Any additional preventive services for women that must  
15        be covered without cost sharing under 42 United States  
16        Code section 300gg-13, as identified by the federal  
17        Preventive Services Task Force or the Health Resources  
18        and Services Administration of the federal Department  
19        of Health and Human Services, as of January 1, 2018.
- 20        (b) A mutual benefit society shall not impose any cost-  
21        sharing requirements, including copayments, coinsurance, or



1 deductibles, on a subscriber or member or an individual covered  
2 by the plan contract with respect to the coverage and benefits  
3 required by this section, except to the extent that coverage of  
4 particular services without cost-sharing would disqualify a  
5 high-deductible health plan from eligibility for a health  
6 savings account pursuant to 26 United States Code section 223.  
7 For a qualifying high-deductible health plan, the mutual benefit  
8 society shall establish the plan's cost-sharing for the coverage  
9 provided pursuant to this section at the minimum level necessary  
10 to preserve the subscriber's or member's ability to claim tax-  
11 exempt contributions and withdrawals from the subscriber's or  
12 member's health savings account under 26 United States Code  
13 section 223.

14 (c) A health care provider shall be reimbursed for  
15 providing the services pursuant to this section without any  
16 deduction for coinsurance, copayments, or any other cost-sharing  
17 amounts.

18 (d) Except as otherwise authorized under this section, a  
19 mutual benefit society shall not impose any restrictions or  
20 delays on the coverage required under this section.



1        (e) This section shall not require an individual or group  
2 hospital or medical service plan contract to cover:

3        (1) Experimental or investigational treatments; -

4        (2) Clinical trials or demonstration projects;

5        (3) Treatments that do not conform to acceptable and  
6 customary standards of medical practice; or

7        (4) Treatments for which there is insufficient data to  
8 determine efficacy.

9        (f) If services, drugs, devices, products, or procedures  
10 required by this section are provided by an out-of-network  
11 provider, the mutual benefit society shall cover the services,  
12 drugs, devices, products, or procedures without imposing any  
13 cost-sharing requirement on the subscriber or member if:

14        (1) There is no in-network provider to furnish the  
15 service, drug, device, product, or procedure that  
16 meets the requirements for network adequacy under  
17 section 431:26-103; or

18        (2) An in-network provider is unable or unwilling to  
19 provide the service, drug, device, product, or  
20 procedure in a timely manner.



1       (g) Every mutual benefit society shall provide written  
2 notice to its subscribers or members regarding the coverage  
3 required by this section. The notice shall be in writing and  
4 prominently positioned in any literature or correspondence sent  
5 to subscribers or members and shall be transmitted to  
6 subscribers or members beginning with calendar year 2021 when  
7 annual information is made available to subscribers or members  
8 or in any other mailing to subscribers or members, but in no  
9 case later than December 31, 2021.

10       (h) This section shall not apply to plan contracts that  
11 provide coverage for specified diseases or other limited benefit  
12 health insurance coverage, as provided pursuant to section  
13 431:10A-102.5.

14       (i) If the commissioner concludes that enforcement of this  
15 section may adversely affect the allocation of federal funds to  
16 the State, the commissioner may grant an exemption to the  
17 requirements, but only to the minimum extent necessary to ensure  
18 the continued receipt of federal funds.

19       (j) A bill or statement for services from any health care  
20 provider or mutual benefit society shall be sent directly to the  
21 person receiving the services.



1        (k) For purposes of this section, "contraceptive supplies"  
2 shall have the same meaning as in section 431:10A-116.6.

3        **§432:1-B Nondiscrimination; reproductive health care;**  
4 **coverage.** (a) An individual, on the basis of actual or  
5 perceived race, color, national origin, sex, gender identity,  
6 sexual orientation, age, or disability, shall not be excluded  
7 from participation in, be denied the benefits of, or otherwise  
8 be subjected to discrimination in the coverage of, or payment  
9 for, the services, drugs, devices, products, or procedures  
10 covered by section 432:1-A or 432:1-604.5.

11        (b) Violation of this section shall be considered a  
12 violation pursuant to chapter 489.

13        (c) Nothing in this section shall be construed to limit  
14 any cause of action based upon any unfair or discriminatory  
15 practices for which a remedy is available under state or federal  
16 law."

17        SECTION 5. Chapter 432D, Hawaii Revised Statutes, is  
18 amended by adding a new section to be appropriately designated  
19 and to read as follows:

20        **§432D-A Nondiscrimination; reproductive health care;**  
21 **coverage.** (a) An individual, on the basis of actual or



1 perceived race, color, national origin, sex, gender identity,  
 2 sexual orientation, age, or disability, shall not be excluded  
 3 from participation in, be denied the benefits of, or otherwise  
 4 be subjected to discrimination in the coverage of, or payment  
 5 for, the services, drugs, devices, products, and procedures  
 6 covered by section 431:10A-A or 431:10A-116.6.

7 (b) Violation of this section shall be considered a  
 8 violation pursuant to chapter 489.

9 (c) Nothing in this section shall be construed to limit  
 10 any cause of action based upon any unfair or discriminatory  
 11 practices for which a remedy is available under state or federal  
 12 law."

13 SECTION 6. Section 431:10A-116.6, Hawaii Revised Statutes,  
 14 is amended to read as follows:

15 "**§431:10A-116.6 Contraceptive services.** (a)  
 16 Notwithstanding any provision of law to the contrary, each  
 17 employer group policy of accident and health or sickness  
 18 [~~policy, contract, plan, or agreement~~] insurance issued or  
 19 renewed in this State on or after January 1, [~~2000,~~] 2020, shall  
 20 [~~cease to exclude~~] provide coverage for contraceptive services  
 21 or contraceptive supplies for the [~~subscriber~~] insured or any



1 dependent of the [~~subscriber~~] insured who is covered by the  
2 policy, subject to the exclusion under section 431:10A-116.7 and  
3 the exclusion under section 431:10A-607[-]; provided that:

4 (1) If there is a therapeutic equivalent of a  
5 contraceptive supply approved by the federal Food and  
6 Drug Administration, an insurer may provide coverage  
7 for either the requested contraceptive supply or for  
8 one or more therapeutic equivalents of the requested  
9 contraceptive supply;

10 (2) If a contraceptive supply covered by the policy is  
11 deemed medically inadvisable by the insured's health  
12 care provider, the policy shall cover an alternative  
13 contraceptive supply prescribed by the health care  
14 provider;

15 (3) An insurer shall pay pharmacy claims for reimbursement  
16 of all contraceptive supplies available for over-  
17 the-counter sale that are approved by the federal Food  
18 and Drug Administration; and

19 (4) An insurer may not infringe upon an insured's choice  
20 of contraceptive supplies and may not require prior  
21 authorization, step therapy, or other utilization



1           control techniques for medically-appropriate covered  
2           contraceptive supplies.

3           ~~[(b) Except as provided in subsection (c), all policies,~~  
4 ~~contracts, plans, or agreements under subsection (a) that~~  
5 ~~provide contraceptive services or supplies or prescription drug~~  
6 ~~coverage shall not exclude any prescription contraceptive~~  
7 ~~supplies or impose any unusual copayment, charge, or waiting~~  
8 ~~requirement for such supplies.~~

9           ~~(c) Coverage for oral contraceptives shall include at~~  
10 ~~least one brand from the monophasic, multiphasic, and the~~  
11 ~~progestin only categories. A member shall receive coverage for~~  
12 ~~any other oral contraceptive only if:~~

13           ~~(1) Use of brands covered has resulted in an adverse drug~~  
14 ~~reaction; or~~

15           ~~(2) The member has not used the brands covered and, based~~  
16 ~~on the member's past medical history, the prescribing~~  
17 ~~health care provider believes that use of the brands~~  
18 ~~covered would result in an adverse reaction.~~

19           ~~(d)]~~ (b) An insurer shall not impose any cost-sharing  
20 requirements, including copayments, coinsurance, or deductibles,  
21 on an insured with respect to the coverage required under this



1 section. A health care provider shall be reimbursed for  
2 providing the services pursuant to this section without any  
3 deduction for coinsurance, copayments, or any other cost-sharing  
4 amounts.

5 (c) Except as otherwise provided by this section, an  
6 insurer shall not impose any restrictions or delays on the  
7 coverage required by this section.

8 (d) Coverage required by this section shall not exclude  
9 coverage for contraceptive supplies prescribed by a health care  
10 provider, acting within the provider's scope of practice, for:

11 (1) Reasons other than contraceptive purposes, such as  
12 decreasing the risk of ovarian cancer or eliminating  
13 symptoms of menopause; or

14 (2) Contraception that is necessary to preserve the life  
15 or health of an insured.

16 (e) Coverage required by this section shall include  
17 reimbursement to a prescribing health care provider or  
18 dispensing entity for prescription contraceptive supplies  
19 intended to last for up to a twelve-month period for an insured.

20 (f) Nothing in this section shall be construed to extend  
21 the practice or privileges of any health care provider beyond



1 that provided in the laws governing the provider's practice and  
2 privileges.

3 ~~[(e)]~~ (g) For purposes of this section:

4 "Contraceptive services" means physician-delivered,  
5 physician-supervised, physician assistant-delivered, advanced  
6 practice registered nurse-delivered, nurse-delivered, or  
7 pharmacist-delivered medical services intended to promote the  
8 effective use of contraceptive supplies or devices to prevent  
9 unwanted pregnancy.

10 "Contraceptive supplies" means all United States Food and  
11 Drug Administration-approved contraceptive drugs ~~[ø]~~, devices,  
12 or products used to prevent unwanted pregnancy~~[-]~~, regardless of  
13 whether they are to be used by the insured or the partner of the  
14 insured, and regardless of whether they are to be used for  
15 contraception or exclusively for the prevention of sexually  
16 transmitted infections.

17 ~~[-(f) Nothing in this section shall be construed to extend~~  
18 ~~the practice or privileges of any health care provider beyond~~  
19 ~~that provided in the laws governing the provider's practice and~~  
20 ~~privileges.] "~~



1 SECTION 7. Section 431:10A-116.7, Hawaii Revised Statutes,  
2 is amended by amending subsection (g) to read as follows:

3 "(g) For purposes of this section:

4 "Contraceptive services" means physician-delivered,  
5 physician-supervised, physician assistant-delivered, advanced  
6 practice registered nurse-delivered, nurse-delivered, or  
7 pharmacist-delivered medical services intended to promote the  
8 effective use of contraceptive supplies or devices to prevent  
9 unwanted pregnancy.

10 "Contraceptive supplies" means all United States Food and  
11 Drug Administration-approved contraceptive drugs ~~[ø]~~, devices,  
12 or products used to prevent unwanted pregnancy[-], regardless of  
13 whether they are to be used by the insured or the partner of the  
14 insured, and regardless of whether they are to be used for  
15 contraception or exclusively for the prevention of sexually  
16 transmitted infections."

17 SECTION 8. Section 432:1-604.5, Hawaii Revised Statutes,  
18 is amended to read as follows:

19 "**§432:1-604.5 Contraceptive services.** (a)

20 Notwithstanding any provision of law to the contrary, each  
21 employer group [~~health policy, contract, plan, or agreement~~]



1 hospital or medical service plan contract issued or renewed in  
2 this State on or after January 1, [2000,] 2020, shall [cease to  
3 exclude] provide coverage for contraceptive services or  
4 contraceptive supplies, and contraceptive prescription drug  
5 coverage for the subscriber or member or any dependent of the  
6 subscriber or member who is covered by the policy, subject to  
7 the exclusion under section 431:10A-116.7[-]; provided that:

- 8     (1) If there is a therapeutic equivalent of a  
9         contraceptive supply approved by the federal Food and  
10        Drug Administration, a mutual benefit society may  
11        provide coverage for either the requested  
12        contraceptive supply or for one or more therapeutic  
13        equivalents of the requested contraceptive supply;
- 14     (2) If a contraceptive supply covered by the plan contract  
15        is deemed medically inadvisable by the subscriber's or  
16        member's health care provider, the plan contract shall  
17        cover an alternative contraceptive supply prescribed  
18        by the health care provider;
- 19     (3) A mutual benefit society shall pay pharmacy claims for  
20        reimbursement of all contraceptive supplies available



1           for over-the-counter sale that are approved by the  
2           federal Food and Drug Administration; and  
3           (4) A mutual benefit society shall not infringe upon a  
4           subscriber's or member's choice of contraceptive  
5           supplies and shall not require prior authorization,  
6           step therapy, or other utilization control techniques  
7           for medically-appropriate covered contraceptive  
8           supplies.

9           ~~[(b) Except as provided in subsection (c), all policies,~~  
10          ~~contracts, plans, or agreements under subsection (a), that~~  
11          ~~provide contraceptive services or supplies or prescription drug~~  
12          ~~coverage shall not exclude any prescription contraceptive~~  
13          ~~supplies or impose any unusual copayment, charge, or waiting~~  
14          ~~requirement for such drug or device.~~

15          ~~(c) Coverage for contraceptives shall include at least one~~  
16          ~~brand from the monophasic, multiphasic, and the progestin only~~  
17          ~~categories. A member shall receive coverage for any other oral~~  
18          ~~contraceptive only if:~~

19           ~~(1) Use of brands covered has resulted in an adverse drug~~  
20           ~~reaction; or~~



1       ~~(2) The member has not used the brands covered and, based~~  
2       ~~on the member's past medical history, the prescribing~~  
3       ~~health care provider believes that use of the brands~~  
4       ~~covered would result in an adverse reaction.~~

5       ~~(d)]~~ (b) A mutual benefit society shall not impose any  
6       cost-sharing requirements, including copayments, coinsurance, or  
7       deductibles, on a subscriber or member with respect to the  
8       coverage required under this section. A health care provider  
9       shall be reimbursed for providing the services pursuant to this  
10       section without any deduction for coinsurance, copayments, or  
11       any other cost-sharing amounts.

12       (c) Except as otherwise provided by this section, a mutual  
13       benefit society shall not impose any restrictions or delays on  
14       the coverage required by this section.

15       (d) Coverage required by this section shall not exclude  
16       coverage for contraceptive supplies prescribed by a health care  
17       provider, acting within the provider's scope of practice, for:

18       (1) Reasons other than contraceptive purposes, such as  
19       decreasing the risk of ovarian cancer or eliminating  
20       symptoms of menopause; or



1        (2) Contraception that is necessary to preserve the life  
2                    or health of a subscriber or member.

3        (e) Coverage required by this section shall include  
4 reimbursement to a prescribing health care provider or  
5 dispensing entity for prescription contraceptive supplies  
6 intended to last for up to a twelve-month period for a member.

7        (f) Nothing in this section shall be construed to extend  
8 the practice or privileges of any health care provider beyond  
9 that provided in the laws governing the provider's practice and  
10 privileges.

11        [~~e~~] (g) For purposes of this section:

12        "Contraceptive services" means physician-delivered,  
13 physician-supervised, physician assistant-delivered, advanced  
14 practice registered nurse-delivered, nurse-delivered, or  
15 pharmacist-delivered medical services intended to promote the  
16 effective use of contraceptive supplies or devices to prevent  
17 unwanted pregnancy.

18        "Contraceptive supplies" means all Food and Drug  
19 Administration-approved contraceptive drugs or devices used to  
20 prevent unwanted pregnancy~~[-]~~, regardless of whether they are to  
21 be used by the subscriber or member or the partner of the



1 subscriber or member, and regardless of whether they are to be  
2 used for contraception or exclusively for the prevention of  
3 sexually transmitted infections.

4 [~~(f) Nothing in this section shall be construed to extend~~  
5 ~~the practice or privileges of any health care provider beyond~~  
6 ~~that provided in the laws governing the provider's practice and~~  
7 ~~privileges.]"~~

8 SECTION 9. Section 432D-23, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§432D-23 Required provisions and benefits.**

11 Notwithstanding any provision of law to the contrary, each  
12 policy, contract, plan, or agreement issued in the State after  
13 January 1, 1995, by health maintenance organizations pursuant to  
14 this chapter, shall include benefits provided in sections  
15 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116,  
16 431:10A-116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119,  
17 431:10A-120, 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126,  
18 431:10A-132, 431:10A-133, 431:10A-134, 431:10A-140, and  
19 [~~431:10A-134,~~] 431:10A-A, and chapter 431M."

20 SECTION 10. The insurance division of the department of  
21 commerce and consumer affairs shall submit a report to the



1 legislature on the degree of compliance by insurers, mutual  
2 benefit societies, and health maintenance organizations  
3 regarding the implementation of this part, and of any actions  
4 taken by the insurance commissioner to enforce compliance with  
5 this part no later than twenty days prior to the convening of  
6 the regular session of 2021.

7 PART III

8 SECTION 11. Chapter 346, Hawaii Revised Statutes, is  
9 amended by adding a new section to be appropriately designated  
10 and to read as follows:

11 **"§346-A Nondiscrimination; reproductive health care;**  
12 **coverage.** (a) An individual, on the basis of actual or  
13 perceived race, color, national origin, sex, gender identity,  
14 sexual orientation, age, or disability, shall not be excluded  
15 from participation in, be denied the benefits of, or otherwise  
16 be subjected to discrimination in the coverage of, or payment  
17 for, the services, drugs, devices, products, or procedures  
18 covered by section 432:1-A or 432:1-604.5 or in the receipt of  
19 medical assistance as that term is defined under section 346-1.

20 (b) Violation of this section shall be considered a  
21 violation pursuant to chapter 489.





# S.B. NO. 2539

**Report Title:**

Health Insurance; Required Benefits; Covered Benefits;  
Reproductive Health Care

**Description:**

Requires health insurers, mutual benefit societies, and health maintenance organizations to provide coverage for a comprehensive category of reproductive health services, drugs, devices, products, and procedures. Prohibits discrimination in the provision of reproductive health care services. Effective 3/15/2021.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

