

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 844

An Act to amend the Code of Virginia by adding a section numbered 38.2-3449.1, relating to health insurance; discrimination on the basis of gender identity or status as a transgender individual prohibited.

[H 1429]

Approved April 7, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 38.2-3449.1 as follows:

§ 38.2-3449.1. *Prohibited discrimination based on gender identity or status as a transgender individual.*

A. As used in this section:

"Gender identity" means an individual's internal sense of gender, which may be male, female, neither, or a combination of male and female and which may be different from an individual's sex assigned at birth.

"Medically necessary transition-related care" means any medical treatment prescribed by a licensed physician for treatment of gender dysphoria and includes (i) outpatient psychotherapy and mental health services for gender dysphoria and associated co-morbid psychiatric diagnoses; (ii) continuous hormone replacement therapy; (iii) outpatient laboratory testing to monitor continuous hormone therapy; and (iv) gender reassignment surgeries.

"Transgender individual" means an individual whose gender identity is different from the sex assigned to that individual at birth.

B. A health carrier offering a health benefit plan providing individual or group health insurance coverage shall:

1. Provide coverage under the health benefit plan without discrimination on the basis of gender identity or status as a transgender individual; and

2. Treat covered individuals consistent with their gender identity.

C. A health carrier offering a health benefit plan providing individual or group health insurance coverage shall not deny or limit coverage or impose additional cost sharing or other limitations or restrictions on coverage, under a health benefit plan for health care services that are ordinarily or exclusively available to covered individuals of one sex, to a transgender individual on the basis of the fact that the individual's sex assigned at birth, gender identity, or gender otherwise recorded is different from the one to which such health services are ordinarily or exclusively available.

D. An individual shall not be subjected to discrimination under a health benefit plan on the basis of gender identity or being a transgender individual, including by being denied coverage of medically necessary transition-related care.

E. Nothing in this section is intended to determine, or restrict a health carrier from determining, whether a particular health care service is medically necessary or otherwise meets applicable coverage requirements in any individual case.

F. A health carrier shall not require any individual, as a condition of enrollment or continued enrollment under a health benefit plan, to pay a premium or contribution that is greater than such premium or contribution for a similarly situated covered person enrolled in the plan on the basis of the covered person's gender identity or being a transgender individual.

G. Health carriers shall assess medical necessity according to nondiscriminatory criteria that are consistent with current medical standards.