



## Joint Administrative Bulletin 2022-1

Date: March 1, 2022

**To: All insurance companies, fraternal benefit societies, hospital service corporations, non-ERISA employer group plans, managed care organizations, medical service corporations, and health care centers that deliver or issue individual and group health insurance policies in Minnesota**

Subject: Prevention of Conversion Therapy for Minors and Vulnerable Adults

The purpose of this Bulletin is to advise health plan companies delivering or issuing individual and group health insurance policies in Minnesota that discriminating against an individual because of the individual's sexual orientation and gender identity or expression is prohibited. This prohibition extends to the availability of health insurance coverage and the provision of health insurance benefits. Support for this prohibition comes, in part, from Section 1557(a) of the Affordable Care Act (ACA), which prohibits discrimination on the basis of gender identity and sex stereotyping in any health program receiving federal funds or by an entity established under the ACA, including exchanges, and under Minnesota Statutes, section 363A.17, which prohibits discrimination on the basis of sexual orientation and gender identity.

“Conversion therapy” is defined at paragraph 2.a. of Executive Order 21-25 and refers to any practice by a mental health practitioner or mental health professional that seeks to change a person's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward people regardless of gender. Conversion therapy does not include counseling that provides assistance to a person undergoing gender transition. It also does not include counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as the counseling does not seek to change the person's sexual orientation or gender identity.

The Minnesota Department of Human Rights (MDHR), Minnesota Department of Human Services (DHS), the Minnesota Department of Health (MDH), and the Minnesota Department of Commerce (Commerce) (jointly, the

Departments) are committed to protecting Minnesotans, particularly minors and vulnerable adults, from conversion therapy to the fullest extent of their authority.

### **MDHR**

The Minnesota Human Rights Act, the state's civil rights law, prohibits gender identity, sexual orientation, and sex discrimination. This prohibition extends to the availability of health insurance coverage and the provision of health insurance benefits. MDHR will use its powers, authorities, and duties to the fullest extent possible to take all appropriate actions to protect Minnesotans from conversion therapy, by investigating charges and pursuing civil relief when MDHR receives a charge of discrimination or has reason to believe that discrimination is occurring on the basis of a person's sexual orientation or gender identity. To that end, this bulletin reminds insurance carriers that Minnesota Statutes section 363A.17 prohibits discrimination in any business practice, including insurance, based on certain protected classes, including but not limited to, sex, sexual orientation, and gender identity.

### **DHS**

Conversion therapy is not a covered service under Minnesota Health Care Programs per Minnesota Rules, Parts 4685.0100, subpart 6a, and 4685.0700, subpart 4, item F. Managed Care Organizations contracted with the State should consider payments for these services to be overpayments and treat them as required under Section 9.4 of the Families and Children, Seniors, and SNBC contracts.

### **MDH**

MDH will use its powers, authorities, and duties to the fullest extent possible to take the following appropriate actions to protect Minnesotans from conversion therapy. Pursuant to Minnesota Statutes section 62D.07, the Commissioner of Health may disapprove any policy of a health maintenance organization contract if it contains a provision that is unjust, unfair, inequitable, misleading or deceptive. MDH, in response to Executive Order 21-25, and consistent with its regulatory authority, has requested that health maintenance organizations (HMOs) provide to the Health Department attestations that they do not cover conversion therapy, including for minors and vulnerable adults. In addition, where legally appropriate and permissible, the Health Department will accept HMOs' determinations that conversion therapy is experimental, investigative, and unproven pursuant to Minnesota Rules 2020, part 4685.0100, subpart 6a, and therefore not a comprehensive health maintenance service and a permissible exclusion under Minnesota Rules 2020, part 4685.0700, subpart 4.

### **Commerce**

Commerce will use its powers, authorities, and duties to the fullest extent possible to prevent Minnesotans from facing discrimination with respect to their insurance. Pursuant to Minnesota Statutes, section 62A.02, the Commissioner of Commerce may disapprove any policy of insurance if it contains a provision that is unjust, unfair, inequitable, misleading or deceptive. In response to Executive Order 21-25, and consistent with its regulatory authority, Commerce has requested that carriers provide to Commerce attestations that they do not cover conversion therapy, including for minors and vulnerable adults.

Signed:



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Rebecca Lucero  
Commissioner  
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