A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1	SECTION 1. The legislature finds that section 2706 of the
2	federal Public Health Service Act (section 2706), as added by
3	section 1201 of the federal Patient Protection and Affordable
4	Care Act of 2010 (Affordable Care Act), prohibits a group health
5	plan and a health insurance insurer offering group or individual
6	health insurance coverage from discriminating with respect to
7	participation under the plan or coverage against any health care
8	provider who is acting within the scope of that provider's
9	license or certification under applicable state law.
10	The legislature further finds that section 2706 has been
11	understood to prohibit plans from covering a given service when
12	offered by one type of licensed provider while denying coverage
13	when the same service is provided by another type of licensed
14	provider. The legislature additionally finds that
15	discrimination against any provider group, as a whole, is
16	harmful to patients and restricts their ability to select the
17	provider of their choice.

1 The legislature also finds that health plans and insurance 2 companies in the State have limited the types of health care 3 providers permitted to provide services to their members by 4 excluding certain non-medical doctor licensed providers. particular, naturopathic physicians are often excluded from 5 6 insurance contracts in Hawaii, which forces patients who choose a naturopathic physician as their primary care provider to pay 7 8 out of pocket for their primary care needs. 9 The legislature concludes that the ability for patients to 10 choose the licensed provider of their choice is integral to the 11 intended full implementation of the Affordable Care Act and is 12 an embodiment of the federal government's goals of better **13** access, increased cost efficiency, and enhanced quality of 14 health care. 15 Accordingly, the purpose of this Act is to provide clarity **16** that naturopathic physicians must be compensated appropriately, **17** similar to other licensed providers and without discrimination, 18 per the requirements of section 2706 of the Affordable Care Act. 19 SECTION 2. Chapter 431, Hawaii Revised Statutes, is

amended by adding a new section to article 10A to be

appropriately designated and to read as follows:

20

1	"§431:10A- Naturopathic physicians; non-discrimination;
2	coverage. (a) An individual and group accident and health or
3	sickness policy, contract, plan, or agreement that provides
4	health care coverage shall provide coverage for medically
5	necessary health care services covered by the policy, contract,
6	plan, or agreement when provided by a naturopathic physician
7	licensed under chapter 455 for treatment within the naturopathic
8	physician's scope of practice.
9	(b) Health care services provided by naturopathic
10	physicians may be subject to reasonable deductibles, copayment
11	and coinsurance amounts, fee or benefit limits, practice
12	parameters, cost-effectiveness and clinical efficacy standards,
13	and utilization review consistent with any applicable law or
14	rules.
15	(c) Any amounts, limits, standards, and review shall not
16	function to direct treatment in a manner that unfairly
17	discriminates against the practice of naturopathic medicine.
18	These amounts, limits, standards, and review shall be no more
19	restrictive than those applicable under the same policy,
20	contract, plan, or agreement to care or services provided by

other primary care providers; provided that any amounts, limits,

- 1 standards, and review may allow for the management of the
- 2 benefit consistent with variations in practice patterns and
- 3 treatment modalities among different types of health care
- 4 providers.
- 5 (d) An individual and group accident and health or
- 6 sickness policy, contract, plan, or agreement may require that a
- 7 naturopathic physician's services be provided by a licensed
- 8 naturopathic physician under contract with an insurer or shall
- 9 be covered in a manner consistent with out-of-network provider
- 10 reimbursement practices for primary care providers.
- 11 (e) This section shall not be construed to impede or
- 12 prevent the provision or coverage of health care services by
- 13 licensed naturopathic physicians acting within their authorized
- 14 scope of practice."
- 15 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
- 16 amended by adding a new section to article 1 to be appropriately
- 17 designated and to read as follows:
- 18 "§432:1- Naturopathic physicians; non-discrimination;
- 19 coverage. (a) An individual and group hospital or medical
- 20 service plan, policy, contract, or agreement that provides
- 21 coverage shall provide coverage for medically necessary health

- 1 care services covered by the plan, policy, contract, or
- 2 agreement when provided by a naturopathic physician licensed
- 3 under chapter 455 for treatment within the naturopathic
- 4 physician's scope of practice.
- 5 (b) Health care services provided by naturopathic
- 6 physicians may be subject to reasonable deductibles, copayment
- 7 and coinsurance amounts, fee or benefit limits, practice
- 8 parameters, cost-effectiveness and clinical efficacy standards,
- 9 and utilization review consistent with any applicable law or
- 10 rules.
- 11 (c) Any amounts, limits, standards, and review shall not
- 12 function to direct treatment in a manner that unfairly
- 13 discriminates against the practice of naturopathic medicine.
- 14 These amounts, limits, standards, and review shall be no more
- 15 restrictive than those applicable under the same plan, policy,
- 16 contract, or agreement to care or services provided by other
- 17 primary care providers; provided that any amounts, limits,
- 18 standards, and review may allow for the management of the
- 19 benefit consistent with variations in practice patterns and
- 20 treatment modalities among different types of health care
- 21 providers.

T	(d) An individual and group nospital or medical service
2	plan, policy, contract, or agreement may require that a
3	naturopathic physician's services be provided by a licensed
4	naturopathic physician under contract with a mutual benefit
5	society or shall be covered in a manner consistent with out-of-
6	network provider reimbursement practices for primary care
7	providers.
8	(e) This section shall not be construed to impede or
9	prevent the provision or coverage of health care services by
10	licensed naturopathic physicians acting within their authorized
11	scope of practice."
12	SECTION 4. Chapter 432D, Hawaii Revised Statutes, is
13	amended by adding a new section to be appropriately designated
14	and to read as follows:
15	"§432D- Naturopathic physicians; non-discrimination;
16	coverage. (a) A health maintenance organization that provides
17	coverage under an individual contract or group contract shall
18	provide coverage for medically necessary health care services
19	covered by the individual contract or group contract when
20	provided by a naturopathic physician licensed under chapter 455

- 1 for treatment within the naturopathic physician's scope of
- 2 practice.
- 3 (b) Health care services provided by naturopathic
- 4 physicians may be subject to reasonable deductibles, copayment
- 5 and coinsurance amounts, fee or benefit limits, practice
- 6 parameters, cost-effectiveness and clinical efficacy standards,
- 7 and utilization review consistent with any applicable law or
- 8 rules.
- 9 (c) Any amounts, limits, standards, and review shall not
- 10 function to direct treatment in a manner that unfairly
- 11 discriminates against the practice of naturopathic medicine.
- 12 These amounts, limits, standards, and review shall be no more
- 13 restrictive than those applicable under the same plan, policy,
- 14 contract, or agreement to care or services provided by other
- 15 primary care providers; provided that any amounts, limits,
- 16 standards, and review may allow for the management of the
- 17 benefit consistent with variations in practice patterns and
- 18 treatment modalities among different types of health care
- 19 providers.
- 20 (d) A health maintenance organization may require that a
- 21 naturopathic physician's services be provided by a licensed

1	naturopathic physician under contract with a health maintenance
2	organization or shall be covered in a manner consistent with
3	out-of-network provider reimbursement practices for primary care
4	providers.
5	(e) This section shall not be construed to impede or
6	prevent the provision or coverage of health care services by
7	licensed naturopathic physicians acting within their authorized
8	scope of practice."
9	SECTION 5. Section 431:13-103, Hawaii Revised Statutes, is
10	amended by amending subsection (a) to read as follows:
11	"(a) The following are defined as unfair methods of
12	competition and unfair or deceptive acts or practices in the
13	business of insurance:
14	(1) Misrepresentations and false advertising of insurance
15	policies. Making, issuing, circulating, or causing to
16	be made, issued, or circulated, any estimate,
17	illustration, circular, statement, sales presentation,
18	omission, or comparison which:
19	(A) Misrepresents the benefits, advantages,
20	conditions, or terms of any insurance policy;

1	(B)	Misrepresents the dividends or share of the
2		surplus to be received on any insurance policy;
3	(C)	Makes any false or misleading statement as to the
4		dividends or share of surplus previously paid on
5		any insurance policy;
6	(D)	Is misleading or is a misrepresentation as to the
7		financial condition of any insurer, or as to the
8		legal reserve system upon which any life insurer
9		operates;
10	(E)	Uses any name or title of any insurance policy or
11		class of insurance policies misrepresenting the
12		true nature thereof;
13	(F)	Is a misrepresentation for the purpose of
14		inducing or tending to induce the lapse,
15		forfeiture, exchange, conversion, or surrender of
16		any insurance policy;
17	(G)	Is a misrepresentation for the purpose of
18		effecting a pledge or assignment of or effecting
19		a loan against any insurance policy;
20	(H)	Misrepresents any insurance policy as being
21		gharon of ghodk.

1		(I) Publishes or advertises the assets of any insurer			
2		without publishing or advertising with equal			
3		conspicuousness the liabilities of the insurer,			
4		both as shown by its last annual statement; or			
5		(J) Publishes or advertises the capital of any			
6		insurer without stating specifically the amount			
7		of paid-in and subscribed capital;			
8	(2)	False information and advertising generally. Making,			
9		publishing, disseminating, circulating, or placing			
10		before the public, or causing, directly or indirectly,			
11		to be made, published, disseminated, circulated, or			
12		placed before the public, in a newspaper, magazine, or			
13		other publication, or in the form of a notice,			
14		circular, pamphlet, letter, or poster, or over any			
15		radio or television station, or in any other way, an			
16		advertisement, announcement, or statement containing			
17		any assertion, representation, or statement with			
18		respect to the business of insurance or with respect			
19		to any person in the conduct of the person's insurance			
20		business, which is untrue, deceptive, or misleading;			

L	(3)	Defamation. Making, publishing, disseminating, or
2		circulating, directly or indirectly, or aiding,
3		abetting, or encouraging the making, publishing,
4		disseminating, or circulating of any oral or written
5		statement or any pamphlet, circular, article, or
6		literature which is false, or maliciously critical of
7		or derogatory to the financial condition of an
8		insurer, and which is calculated to injure any person
9		engaged in the business of insurance;

- (4) Boycott, coercion, and intimidation.(A) Entering into any agreement to commit
 - (A) Entering into any agreement to commit, or by any action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance; or
 - (B) Entering into any agreement on the condition,
 agreement, or understanding that a policy will
 not be issued or renewed unless the prospective
 insured contracts for another class or an
 additional policy of the same class of insurance
 with the same insurer;

SB1217 HD1 HMS 2015-2711

S.B. NO. 5.D. 1

1	(5)	Falco	financial	statements.
L	(D)	raise	TTHATICTAL	Statements.

2	(A)	Knowingly filing with any supervisory or other
3		public official, or knowingly making, publishing,
4		disseminating, circulating, or delivering to any
5		person, or placing before the public, or
6		knowingly causing, directly or indirectly, to be
7		made, published, disseminated, circulated,
8		delivered to any person, or placed before the
9		public, any false statement of a material fact as
10		to the financial condition of an insurer; or

(B) Knowingly making any false entry of a material fact in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom the insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, knowingly omitting to make a true entry of any material fact

1		pertaining to the business of the insurer in any
2		book, report, or statement of the insurer;
3	(6)	Stock operations and advisory board contracts.
· 4		Issuing or delivering or permitting agents, officers,
5		or employees to issue or deliver, agency company stock
6		or other capital stock, or benefit certificates or
7		shares in any common-law corporation, or securities or
8		any special or advisory board contracts or other
9		contracts of any kind promising returns and profits as
10		an inducement to insurance;
11	(7)	Unfair discrimination.
12		(A) Making or permitting any unfair discrimination
13		between individuals of the same class and equal
14		expectation of life in the rates charged for any
15		policy of life insurance or annuity contract or
16		in the dividends or other benefits payable
17		thereon, or in any other of the terms and
18		conditions of the contract;
19		(B) Making or permitting any unfair discrimination in
20		favor of particular individuals or persons, or

between insureds or subjects of insurance having

1	substantially like insuring, risk, and exposure
2	factors, or expense elements, in the terms or
3	conditions of any insurance contract, or in the
4	rate or amount of premium charge therefor, or in
5	the benefits payable or in any other rights or
6	privilege accruing thereunder;
7	(C) Making or permitting any unfair discrimination
8	between individuals or risks of the same class
9	and of essentially the same hazards by refusing
10	to issue, refusing to renew, canceling, or
11	limiting the amount of insurance coverage on a
12	property or casualty risk because of the
13	geographic location of the risk, unless:
14	(i) The refusal, cancellation, or limitation is
15	for a business purpose which is not a mere
16	pretext for unfair discrimination; or
17	(ii) The refusal, cancellation, or limitation is
18	required by law or regulatory mandate;
19	(D) Making or permitting any unfair discrimination
20	between individuals or risks of the same class
21	and of essentially the same hazards by refusing

1	to issue, refusing to renew, canceling, or
2	limiting the amount of insurance coverage on a
3	residential property risk, or the personal
4	property contained therein, because of the age of
5	the residential property, unless:
6	(i) The refusal, cancellation, or limitation is
7	for a business purpose which is not a mere
8	pretext for unfair discrimination; or
9	(ii) The refusal, cancellation, or limitation is
10	required by law or regulatory mandate;
11	(E) Refusing to insure, refusing to continue to
12	insure, or limiting the amount of coverage
13	available to an individual because of the sex or
14	marital status of the individual; however,
15	nothing in this subsection shall prohibit an
16	insurer from taking marital status into account
17	for the purpose of defining persons eligible for
18	dependent benefits;
19	(F) Terminating or modifying coverage, or refusing to
20	issue or renew any property or casualty policy or
21	contract of insurance solely because the

1		applicant or insured or any employee of either is
2		mentally or physically impaired; provided that
3		this subparagraph shall not apply to accident and
4		health or sickness insurance sold by a casualty
5		insurer; provided further that this subparagraph
6		shall not be interpreted to modify any other
7		provision of law relating to the termination,
8		modification, issuance, or renewal of any
9		insurance policy or contract;
10	(G)	Refusing to insure, refusing to continue to
11		insure, or limiting the amount of coverage
12		available to an individual based solely upon the
13		individual's having taken a human
14		immunodeficiency virus (HIV) test prior to
15		applying for insurance; [er]
16	(H)	Refusing to insure, refusing to continue to
17		insure, or limiting the amount of coverage
18		available to an individual because the individual
19		refuses to consent to the release of information
20		which is confidential as provided in section 325-
21		101; provided that nothing in this subparagraph

1		shall promibit an insurer from obtaining and
2		using the results of a test satisfying the
3		requirements of the commissioner, which was taken
4		with the consent of an applicant for insurance;
5		provided further that any applicant for insurance
6		who is tested for HIV infection shall be afforded
7		the opportunity to obtain the test results,
8		within a reasonable time after being tested, and
9		that the confidentiality of the test results
10		shall be maintained as provided by section
11		325-101; <u>or</u>
12	<u>(I)</u>	An accident and health or sickness insurer
13		offering group or individual health insurance
14		coverage, unfairly discriminating with respect to
15		participation under the plan or coverage against
16		any health care provider, who is acting within
17		the scope of the health care provider's license
18		or certification under state law, in violation of
19		42 United States Code section 300gg-5;
20		

SB1217 HD1 HMS 2015-2711

1	(8)	Reba	ites. Except as otherwise expressly provided by
2		law:	
3		(A)	Knowingly permitting or offering to make or
4			making any contract of insurance, or agreement as
5			to the contract other than as plainly expressed
6			in the contract, or paying or allowing, or giving
7			or offering to pay, allow, or give, directly or
8			indirectly, as inducement to the insurance, any
9			rebate of premiums payable on the contract, or
10			any special favor or advantage in the dividends
11			or other benefits, or any valuable consideration
12			or inducement not specified in the contract; or
13		(B)	Giving, selling, or purchasing, or offering to
14			give, sell, or purchase as inducement to the
15			insurance or in connection therewith, any stocks,
16			bonds, or other securities of any insurance
17			company or other corporation, association, or
18			partnership, or any dividends or profits accrued
19			thereon, or anything of value not specified in
20			the contract;

1	(9)	NOCII	ing in paragraph (/) or (o) shall be constitued as
2		incl	uding within the definition of discrimination or
3		reba	tes any of the following practices:
4		(A)	In the case of any life insurance policy or
5			annuity contract, paying bonuses to policyholders
6			or otherwise abating their premiums in whole or
7			in part out of surplus accumulated from
8			nonparticipating insurance; provided that any
9			bonus or abatement of premiums shall be fair and
10			equitable to policyholders and in the best
11			interests of the insurer and its policyholders;
12		(B)	In the case of life insurance policies issued on
13			the industrial debit plan, making allowance to
14			policyholders who have continuously for a
15			specified period made premium payments directly
16			to an office of the insurer in an amount which
17			fairly represents the saving in collection
18			expense;
19		(C)	Readjustment of the rate of premium for a group
20			insurance policy based on the loss or expense

experience thereunder, at the end of the first or

1			any subsequent policy year of insurance
2			thereunder, which may be made retroactive only
3			for the policy year; and
4		(D)	In the case of any contract of insurance, the
5			distribution of savings, earnings, or surplus
6			equitably among a class of policyholders, all in
7			accordance with this article;
8	(10)	Refu	sing to provide or limiting coverage available to
9		an i	ndividual because the individual may have a third
10		part	y claim for recovery of damages; provided that:
11		(A)	Where damages are recovered by judgment or
12			settlement of a third-party claim, reimbursement
13			of past benefits paid shall be allowed pursuant
14			to section 663-10;
15		(B)	This paragraph shall not apply to entities
16			licensed under chapter 386 or 431:10C; and
17		(C)	For entities licensed under chapter 432 or 432D:
18			(i) It shall not be a violation of this section
19			to refuse to provide or limit coverage
20			available to an individual because the
21			entity determines that the individual

1	reasonably appears to have coverage
2	available under chapter 386 or 431:10C; and
3	(ii) Payment of claims to an individual who may
4	have a third-party claim for recovery of
5	damages may be conditioned upon the
6	individual first signing and submitting to
7	the entity documents to secure the lien and
8	reimbursement rights of the entity and
9	providing information reasonably related to
10	the entity's investigation of its liability
11	for coverage.
12	Any individual who knows or reasonably should
13	know that the individual may have a third-party
14	claim for recovery of damages and who fails to
15	provide timely notice of the potential claim to
16	the entity, shall be deemed to have waived the
17	prohibition of this paragraph against refusal or
18	limitation of coverage. "Third-party claim" for
19	purposes of this paragraph means any tort claim
20	for monetary recovery or damages that the
21	individual has against any person, entity, or

1		insurer, other than the entity licensed under
2		chapter 432 or 432D;
3	(11)	Unfair claim settlement practices. Committing or
4		performing with such frequency as to indicate a
5		general business practice any of the following:
6		(A) Misrepresenting pertinent facts or insurance
7		policy provisions relating to coverages at issue;
8		(B) With respect to claims arising under its
9		policies, failing to respond with reasonable
10		promptness, in no case more than fifteen working
11		days, to communications received from:
12		(i) The insurer's policyholder;
13		(ii) Any other persons, including the
14		commissioner; or
15		(iii) The insurer of a person involved in an
16	-	incident in which the insurer's policyholder
17		is also involved.
18		The response shall be more than an acknowledgment
19		that such person's communication has been
20		received, and shall adequately address the
21		concerns stated in the communication.

1 (4	C)	Failing to adopt and implement reasonable
2		standards for the prompt investigation of claims
3		arising under insurance policies;
4 (1	D)	Refusing to pay claims without conducting a
5		reasonable investigation based upon all available
6		information;
7 (E)	Failing to affirm or deny coverage of claims
8		within a reasonable time after proof of loss
9		statements have been completed;
10 (F)	Failing to offer payment within thirty calendar
11		days of affirmation of liability, if the amount
12		of the claim has been determined and is not in
13		dispute;
14 (G)	Failing to provide the insured, or when
15		applicable the insured's beneficiary, with a
16		reasonable written explanation for any delay, on
17		every claim remaining unresolved for thirty
18		calendar days from the date it was reported;
19 (:	H)	Not attempting in good faith to effectuate
20		prompt, fair, and equitable settlements of claims
21		in which liability has become reasonably clear;

1	(I)	Compelling insureds to institute litigation to
2		recover amounts due under an insurance policy by
3		offering substantially less than the amounts
4		ultimately recovered in actions brought by the
5		insureds;
6	(J)	Attempting to settle a claim for less than the
7		amount to which a reasonable person would have
8		believed the person was entitled by reference to
9		written or printed advertising material
10		accompanying or made part of an application;
11	(K)	Attempting to settle claims on the basis of an
12		application which was altered without notice,
13		knowledge, or consent of the insured;
14	(上)	Making claims payments to insureds or
15		beneficiaries not accompanied by a statement
16		setting forth the coverage under which the
17		payments are being made;
18	(M)	Making known to insureds or claimants a policy of
19		appealing from arbitration awards in favor of
20		insureds or claimants for the purpose of
21		compelling them to accept settlements or

1		compromises less than the amount awarded in
2		arbitration;
3 ,	(N)	Delaying the investigation or payment of claims
4		by requiring an insured, claimant, or the
5		physician or advanced practice registered nurse
6		of either to submit a preliminary claim report
7		and then requiring the subsequent submission of
8		formal proof of loss forms, both of which
9		submissions contain substantially the same
10		information;
11	(0)	Failing to promptly settle claims, where
12		liability has become reasonably clear, under one
13		portion of the insurance policy coverage to
14		influence settlements under other portions of the
15		insurance policy coverage;
16	(P)	Failing to promptly provide a reasonable
17		explanation of the basis in the insurance policy
18		in relation to the facts or applicable law for
19		denial of a claim or for the offer of a
20		compromise settlement; and

1		(Q) Indicating to the insured on any payment draft,
2		check, or in any accompanying letter that the
3		payment is "final" or is "a release" of any claim
4		if additional benefits relating to the claim are
5		probable under coverages afforded by the policy;
6		unless the policy limit has been paid or there is
7		a bona fide dispute over either the coverage or
8		the amount payable under the policy;
9	(12)	Failure to maintain complaint handling procedures.
10		Failure of any insurer to maintain a complete record
11		of all the complaints which it has received since the
12		date of its last examination under section 431:2-302.
13		This record shall indicate the total number of
14		complaints, their classification by line of insurance,
15		the nature of each complaint, the disposition of these
16		complaints, and the time it took to process each
17		complaint. For purposes of this section, "complaint"
18		means any written communication primarily expressing a
19		grievance;
20	(13)	Misrepresentation in insurance applications. Making
21		false or fraudulent statements or representations on

1		or relative to an application for an insurance policy,
2		for the purpose of obtaining a fee, commission, money,
3		or other benefit from any insurer, producer, or
4		individual; and
5	(14)	Failure to obtain information. Failure of any
6		insurance producer, or an insurer where no producer is
7		involved, to comply with section 431:10D-623(a), (b),
8		or (c) by making reasonable efforts to obtain
9		information about a consumer before making a
10		recommendation to the consumer to purchase or exchange
11		an annuity."
12	SECT	ION 6. Statutory material to be repealed is bracketed
13	and stric	ken. New statutory material is underscored.
14	SECT	ION 7. This Act shall take effect on July 1, 2112.

Report Title:

Insurance; Health Insurance; Health Care; Discrimination; Naturopathic Physicians; Insurers; Covered Services

Description:

Requires insurers who provide health care coverage to provide coverage for medically necessary health care services covered by a health insurance policy when provided by licensed naturopathic physicians acting within their scope of practice. Specifies that health care services provided by naturopathic physicians may be subject to certain limitations. Specifies that limitations shall not direct treatment in a manner that unfairly discriminates against the practice of naturopathic medicine. Permits insurers to require naturopathic physician services to be provided by a naturopathic physician under contract or covered as consistent with out-of-network provider reimbursement practices. Including the federal nondiscrimination in health care provision of Section 2706(a) of the Affordable Care Act. (SB1217 HD1)

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