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# A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

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

1           SECTION 1. Chapter 431, Hawaii Revised Statutes, is  
2 amended by adding two new sections to part I of article 10A to  
3 be appropriately designated and to read as follows:  
4           "§431:10A-     Protection against insolvency. (a) Every  
5 contract for an accident and health or sickness insurance policy  
6 between an insurer and a provider of health care services shall  
7 be in writing and provide that in the event the insurer fails to  
8 pay for health care services as set forth in the contract, the  
9 insured shall not be liable to the provider for any sums owed by  
10 the insurer. If a contract with a provider has not been reduced  
11 to writing as required by this subsection or fails to contain  
12 the required prohibition, the provider shall not collect or  
13 attempt to collect from the insured sums owed by the insurer.  
14 No provider or its agent, trustee, or assignee may maintain any  
15 action at law against an insured to collect sums owed by the  
16 insurer.



1        (b) The commissioner shall require that each insurer has a  
2 plan for handling insolvency that allows for continuation of  
3 benefits for the duration of the contract period for which  
4 premiums have been paid and continuation of benefits to insureds  
5 confined on the date of insolvency in an inpatient facility,  
6 until their discharge or expiration of benefits. In considering  
7 the plan, the commissioner may require:

- 8        (1) Insurance to cover the expenses to be paid for  
9        continued benefits after the insolvency;
- 10       (2) Provisions in provider contracts that obligate the  
11       provider to provide services for the duration of the  
12       period after the insurer's insolvency for which  
13       premium payment has been made and until the insured is  
14       discharged from the inpatient facility;
- 15       (3) Insolvency reserves;
- 16       (4) Acceptable letters of credit; or
- 17       (5) Any other arrangement acceptable to the commissioner  
18       to ensure that benefits are continued as specified in  
19       this subsection.

20       (c) An agreement to provide health care services between a  
21 provider and an insurer shall require that a provider give the



1 insurer at least sixty days' advance notice in the event of  
2 termination.

3 §431:10A- Required disclaimer. Any limited benefit plan  
4 policy, application, or sales brochure that provides coverage  
5 for accident and sickness, excluding specified disease, long-  
6 term care, disability income, medicare supplement, dental, or  
7 vision shall disclose in a conspicuous manner and in not less  
8 than fourteen-point boldface type the following statement, or a  
9 substantially similar statement:

10 "THIS IS NOT QUALIFYING HEALTH COVERAGE ("MINIMUM ESSENTIAL  
11 COVERAGE") THAT SATISFIES THE HEALTH COVERAGE REQUIREMENT OF THE  
12 AFFORDABLE CARE ACT. IF YOU DON'T HAVE MINIMUM ESSENTIAL  
13 COVERAGE, YOU MAY OWE AN ADDITIONAL PAYMENT WITH YOUR TAXES."

14 SECTION 2. Section 431:10-104, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "§431:10-104 **General readability requirements.** In  
17 addition to any other requirements of law, no contract shall be  
18 delivered or issued for delivery in this State unless:

19 (1) The text is in plain language [~~-, achieving~~] and  
20 achieves a minimum score of forty on the Flesch  
21 reading ease test or an equivalent score on any other



1 comparable test prescribed by the commissioner under  
2 section 431:10-105(a);

3 (2) The contract is printed, except for specification  
4 pages, schedules, and tables, in not less than ten-  
5 point type [~~one point leaded~~];

6 (3) The style, arrangement, and general appearance of the  
7 contract give no undue prominence to any endorsements,  
8 riders, or other portions of the text; and

9 (4) A table of contents or an index of principal sections  
10 is provided with the contract when the text consists  
11 of more than three thousand words printed on three or  
12 less pages or when the text has more than three pages,  
13 regardless of the total number of printed words [~~and~~

14 ~~(5) For any short term health insurance policies that~~  
15 ~~impose preexisting conditions provisions, any policy,~~  
16 ~~application, or sales brochure shall disclose in a~~  
17 ~~conspicuous manner in not less than fourteen point~~  
18 ~~bold face type the following statement:~~

19 ~~"THIS POLICY EXCLUDES COVERAGE FOR CONDITIONS FOR~~  
20 ~~WHICH MEDICAL ADVICE, DIAGNOSIS, CARE, OR TREATMENT~~  
21 ~~WAS RECOMMENDED OR RECEIVED DURING THE [insert~~



1 ~~exclusion period] IMMEDIATELY PRECEDING THE EFFECTIVE~~  
2 ~~DATE OF COVERAGE.] ."~~

3 SECTION 3. Section 431:10A-118.3, Hawaii Revised Statutes,  
4 is amended by amending subsection (e) to read as follows:

5 "(e) As used in this section unless the context requires  
6 otherwise:

7 "Actual gender identity" means a person's internal sense of  
8 being male, female, a gender different from the gender assigned  
9 at birth, a transgender person, or neither male nor female.

10 "Gender transition" means the process of a person changing  
11 the person's outward appearance or sex characteristics to accord  
12 with the person's actual gender identity.

13 "Perceived gender identity" means an observer's impression  
14 of another person's actual gender identity or the observer's own  
15 impression that the person is male, female, a gender different  
16 from the gender [~~designed~~] assigned at birth, a transgender  
17 person, or neither male nor female.

18 "Transgender person" means a person who has gender identity  
19 disorder or gender dysphoria, has received health care services  
20 related to gender transition, adopts the appearance or behavior



1 of the opposite sex, or otherwise identifies as a gender  
2 different from the gender assigned to that person at birth."

3 SECTION 4. Section 431:16-202, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) The purpose of this part is to protect, subject to  
6 certain limitations, the persons specified in section 431:16-203  
7 against failure in the performance of contractual obligations[~~7~~]  
8 under life [~~and~~], dental, and accident and health or sickness  
9 insurance policies and [~~annuity contracts~~] annuities specified  
10 in section 431:16-203(b), because of the impairment or  
11 insolvency of the member insurer that issued the policies or  
12 contracts."

13 SECTION 5. Section 431:16-203, Hawaii Revised Statutes, is  
14 amended by amending subsections (b) and (c) to read as follows:

15 "(b) (1) This part shall provide coverage to the persons  
16 specified in subsection (a) for direct, nongroup life,  
17 dental, or accident and health or sickness[~~7~~] policies  
18 or [~~annuity policies or contracts~~], annuities, for  
19 certificates under direct group life, dental, or  
20 accident and health or sickness[~~7~~] policies or  
21 [~~annuity policies or contracts~~], annuities, and for



1 supplemental contracts to any of these, in each case  
2 issued by member insurers except as limited by this  
3 part. Annuity contracts and certificates under group  
4 [~~annuity contracts~~] annuities include allocated  
5 funding agreements, structured settlement annuities,  
6 and any immediate or deferred [~~annuity contracts~~]  
7 annuities.

8 (2) This part shall not provide coverage for:

- 9 (A) Any portion of a policy or contract not  
10 guaranteed by the insurer, or under which the  
11 risk is borne by the policy or contract owner;
- 12 (B) Any policy or contract of reinsurance, unless  
13 assumption certificates have been issued pursuant  
14 to the reinsurance policy or contract;
- 15 (C) Any portion of a policy or contract to the extent  
16 that the rate of interest on which it is based:  
17 (i) Averaged over the period of four years prior  
18 to the date on which the association becomes  
19 obligated with respect to such policy or  
20 contract, exceeds a rate of interest  
21 determined by subtracting two percentage



1 points from Moody's Corporate Bond Yield  
2 Average averaged for that same four-year  
3 period or for such lesser period if the  
4 policy or contract was issued less than four  
5 years before the association became  
6 obligated; and

7 (ii) On or after the date on which the  
8 association becomes obligated with respect  
9 to such policy or contract, exceeds the rate  
10 of interest determined by subtracting three  
11 percentage points from Moody's Corporate  
12 Bond Yield Average as most recently  
13 available;

14 (D) Any portion of a policy or contract issued to a  
15 plan or program of an employer, association, or  
16 other person to provide life, dental, accident  
17 and health or sickness, or annuity benefits to  
18 its employees, members, or other persons to the  
19 extent that the plan or program is self-funded or  
20 uninsured, including but not limited to benefits



- 1 payable by an employer, association, or other
- 2 person under:
- 3 (i) A Multiple Employer Welfare Arrangement as
- 4 defined in section 514 of the Employee
- 5 Retirement Income Security Act of 1974, as
- 6 amended;
- 7 (ii) A minimum premium group insurance plan;
- 8 (iii) A stop-loss group insurance plan; or
- 9 (iv) An administrative services only contract;
- 10 (E) Any portion of a policy or contract to the extent
- 11 that it provides dividends, experience rating
- 12 credits, or voting rights, or provides that any
- 13 fees or allowances be paid to any person,
- 14 including the policy or contract holder, in
- 15 connection with the service to or administration
- 16 of such policy or contract;
- 17 (F) Any policy or contract issued in this State by a
- 18 member insurer at a time when it was not licensed
- 19 or did not have a certificate of authority to
- 20 issue such policy or contract in this State;



- 1 (G) Any portion of a policy or contract to the extent  
2 that the assessments required by this part with  
3 respect to the policy or contract are preempted  
4 or otherwise not permitted by federal or state  
5 law;
- 6 (H) Any obligation that does not arise under the  
7 express written terms of the policy or contract  
8 issued by the insurer to the contract owner or  
9 policy owner, including without limitation:
- 10 (i) Claims based on marketing materials;
- 11 (ii) Claims based on side letters, riders, or  
12 other documents that were issued by the  
13 insurer without meeting applicable policy  
14 form filing or approval requirements;
- 15 (iii) Misrepresentations of or regarding policy  
16 benefits;
- 17 (iv) Extra-contractual claims; or
- 18 (v) A claim for penalties or consequential or  
19 incidental damages;
- 20 (I) Any contractual agreement that establishes the  
21 member insurer's obligations to provide a book



1 value accounting guaranty for defined  
2 contribution benefit plan participants by  
3 reference to a portfolio of assets that is owned  
4 by the benefit plan or its trustee, which in each  
5 case is not an affiliate of the member insurer;  
6 (J) Any unallocated [~~annuity contract,~~] annuity;  
7 (K) Any portion of a policy or contract to the extent  
8 it provides for interest or other changes in  
9 value to be determined by the use of an index or  
10 other external reference stated in the policy or  
11 contract, but that have not been credited to the  
12 policy or contract, or as to which the policy or  
13 contract owner's rights are subject to  
14 forfeiture, as of the date the member insurer  
15 becomes an impaired or insolvent insurer under  
16 this part. If a policy's or contract's interest  
17 or changes in value are credited less frequently  
18 than annually, then for purposes of determining  
19 the values that have been credited and are not  
20 subject to forfeiture under section 431:16-  
21 403(b)(2)(L), the interest or change in value



1 determined by using the procedures defined in the  
2 policy or contract shall be credited as if the  
3 contractual date of crediting interest or  
4 changing values was the date of impairment or  
5 insolvency and shall not be subject to  
6 forfeiture; or

7 (L) Any policy or contract providing any hospital,  
8 medical, prescription drug, dental, or other  
9 health care benefits pursuant to part C or part D  
10 of subchapter XVIII, chapter 7, title 42 of the  
11 United States Code, commonly known as medicare  
12 part C and D, or any regulations adopted pursuant  
13 thereto.

14 (c) The benefits for which the association may become  
15 liable shall in no event exceed the lesser of:

16 (1) The contractual obligations for which the insurer is  
17 liable or would have been liable if it were not an  
18 impaired or insolvent insurer[7]; or

19 (2) With respect to any one life, regardless of the number  
20 of policies or contracts:



- 1 (A) \$300,000 in life insurance death benefits, but  
2 not more than \$100,000 in net cash surrender and  
3 net cash withdrawal values for life insurance;
- 4 (B) In accident and health or sickness insurance  
5 benefits:
- 6 (i) \$100,000 for coverages not defined as  
7 disability insurance or basic hospital,  
8 medical, and surgical insurance, or major  
9 medical insurance or long-term care  
10 insurance, including any net cash surrender  
11 and net cash withdrawal values;
- 12 (ii) \$300,000 for disability insurance and  
13 \$300,000 for long-term care insurance; or
- 14 (iii) \$500,000 for basic hospital, medical, and  
15 surgical insurance or major medical  
16 insurance;
- 17 (C) \$3,000 per dental insurance policy per year;
- 18 [~~(C)~~] (D) \$250,000 in the present value of annuity  
19 benefits, including net cash surrender and net  
20 cash withdrawal values; or



1           ~~[(D)]~~ (E) With respect to each payee of a structured  
2                                   settlement annuity, or beneficiary or  
3                                   beneficiaries of the payee if deceased, \$250,000  
4                                   in present value annuity benefits, in the  
5                                   aggregate, including net cash surrender and net  
6                                   cash withdrawal values, if any."

7           SECTION 6. Section 431:16-205, Hawaii Revised Statutes, is  
8           amended by amending the definition of "supplemental contract" to  
9           read as follows:

10           "Supplemental contract" means a written agreement entered  
11           into for the distribution of proceeds under a life, dental, or  
12           health [~~or annuity~~] policy or [~~life, health, or annuity~~]  
13           contract [~~-~~] or an annuity."

14           SECTION 7. Section 431:16-206, Hawaii Revised Statutes, is  
15           amended by amending subsection (a) to read as follows:

16           "(a) There is created a nonprofit legal entity to be known  
17           as the Hawaii life and disability insurance guaranty  
18           association. All member insurers shall be and remain members of  
19           the association as a condition of their authority to transact  
20           insurance in this State. The association shall perform its  
21           functions under the plan of operation established and approved



1 under section 431:16-210 and shall exercise its powers through a  
2 board of directors established under section 431:16-207. For  
3 purposes of administration and assessment the association shall  
4 maintain [~~three~~] four accounts:

- 5 (1) The life insurance account;
- 6 (2) The accident and health or sickness insurance account;
- 7 [~~and~~]
- 8 (3) The annuity account [~~-~~]; and
- 9 (4) The dental insurance account."

10 SECTION 8. Section 431:16-208, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12 "(b) If a member insurer is an insolvent insurer, the  
13 association shall, in its discretion:

- 14 (1) (A) Guarantee, assume, or reinsure, or cause to be  
15 guaranteed, assumed, or reinsured, the policies  
16 or contracts of the insolvent insurer; or
- 17 (B) Assure payment of the contractual obligations of  
18 the insolvent insurer; and
- 19 (C) Provide such moneys, pledges, guarantees, or  
20 other means as are reasonably necessary to  
21 discharge such duties; or



1 (2) Provide benefits and coverages in accordance with the  
2 following provisions:

3 (A) With respect to life, dental, and accident and  
4 health or sickness insurance policies and  
5 annuities, assure payment of benefits for  
6 premiums identical to the premiums and benefits  
7 (except for terms of conversion and renewability)  
8 that would have been payable under the policies  
9 of the insolvent insurer, for claims incurred:

10 (i) With respect to group policies and  
11 contracts, not later than the earlier of the  
12 next renewal date under the policies or  
13 contracts or forty-five days, but in no  
14 event less than thirty days, after the date  
15 on which the association becomes obligated  
16 with respect to the policies; and

17 (ii) With respect to non-group policies,  
18 contracts, and annuities, not later than the  
19 earlier of the next renewal date (if any)  
20 under the policies or contracts or one year,  
21 but in no event less than thirty days, from



1           the date on which the association becomes  
2           obligated with respect to the policies or  
3           contracts.

4           (B) Make diligent efforts to provide all known  
5           insureds or annuitants (for non-group policies  
6           and contracts), or group policy owners with  
7           respect to group policies and contracts, thirty  
8           days' notice of the termination of the benefits  
9           provided.

10          (C) With respect to non-group life [~~and~~], dental, and  
11          accident and health or sickness insurance  
12          policies and annuities covered by the  
13          association, make available to each known insured  
14          or annuitant, or owner if other than the insured  
15          or annuitant, and with respect to an individual  
16          formerly insured or formerly an annuitant under a  
17          group policy who is not eligible for replacement  
18          group coverage, make available substitute  
19          coverage on an individual basis in accordance  
20          with subparagraph (D), if the insureds or  
21          annuitants had a right under law or the



1 terminated policy to convert coverage to  
2 individual coverage or to continue an individual  
3 policy or annuity in force until a specified age  
4 or for a specified time, during which the insurer  
5 had no right unilaterally to make changes in any  
6 provision of the policy or annuity or had a right  
7 only to make changes in premium by class.

8 (D) (i) In providing the substitute coverage  
9 required under subparagraph (C), the  
10 association may offer either to reissue the  
11 terminated coverage or to issue an  
12 alternative policy.

13 (ii) Alternative or reissued policies shall be  
14 offered without requiring evidence of  
15 insurability, and shall not provide for any  
16 waiting period or exclusion that would not  
17 have applied under the terminated policy.

18 (iii) The association may reinsure any alternative  
19 or reissued policy.

20 (E) (i) Alternative policies adopted by the  
21 association shall be subject to the approval



1 of the domiciliary commissioner or the  
2 receivership court. The association may  
3 adopt alternative policies of various types  
4 for future issuance without regard to any  
5 particular impairment or insolvency.

6 (ii) Alternative policies shall contain at least  
7 the minimum statutory provisions required in  
8 this State and provide benefits that shall  
9 not be unreasonable in relation to the  
10 premium charged. The association shall set  
11 the premium in accordance with a table of  
12 rates which it shall adopt. The premium  
13 shall reflect the amount of insurance to be  
14 provided and the age and class of risk of  
15 each insured, but shall not reflect any  
16 changes in the health of the insured after  
17 the original policy was last underwritten.

18 (iii) Any alternative policy issued by the  
19 association shall provide coverage of a type  
20 similar to that of the policy issued by the



1                   impaired or insolvent insurer, as determined  
2                   by the association.

3           (F) If the association elects to reissue terminated  
4           coverage at a premium rate different from that  
5           charged under the terminated policy, the premium  
6           shall be set by the association in accordance  
7           with the amount of insurance provided and the age  
8           and class of risk, subject to approval of the  
9           domiciliary insurance commissioner or by a court  
10          of competent jurisdiction.

11          (G) The association's obligations with respect to  
12          coverage under any policy of the impaired or  
13          insolvent insurer or under any reissued or  
14          alternative policy shall cease on the date such  
15          coverage or policy is replaced by another similar  
16          policy by the policyholder, the insured, or the  
17          association.

18          (H) When proceeding under [~~subsection (b) (2)~~]  
19          paragraph (2) with respect to any policy or  
20          contract carrying guaranteed minimum interest  
21          rates, the association shall assure the payment



1                   or crediting of a rate of interest consistent  
2                   with section 431:16-203(b)(2)(C)."

3           SECTION 9. Section 431:16-209, Hawaii Revised Statutes, is  
4 amended as follows:

5           1. By amending subsection (c) to read:

6       "(c) (1) The amount of any Class A assessment shall be  
7               determined by the board of directors and may be  
8               authorized and called on a pro rata or non-pro rata  
9               basis. If pro rata, the board of directors may  
10              provide that it be credited against future Class B  
11              assessments. A non-pro rata assessment shall not  
12              exceed \$300 per member insurer in any one calendar  
13              year. The amount of any Class B assessment shall be  
14              allocated for assessment purposes among the accounts  
15              pursuant to an allocation formula which may be based  
16              on the premiums or reserves of the impaired or  
17              insolvent insurer or any other standard deemed by the  
18              board of directors in its sole discretion as being  
19              fair and reasonable under the circumstances.

20           (2) Class B assessments against member insurers for [each]  
21           the account to which each is assigned shall be in the



1 proportion that the premiums received on business in  
2 this State by each assessed member insurer on policies  
3 or contracts covered [~~by each~~] in the assigned account  
4 for the three most recent calendar years for which  
5 information is available preceding the year in which  
6 the insurer became impaired or insolvent, as the case  
7 may be, bears to the premiums received on business in  
8 this State for the calendar years by [~~all~~] the  
9 assessed member insurers.

- 10 (3) Assessments for funds to meet the requirements of the  
11 association with respect to an impaired or insolvent  
12 insurer shall not be authorized or called until  
13 necessary to implement the purposes of this part.  
14 Classification of assessments under subsection (b) and  
15 computation of assessments under this subsection shall  
16 be made with a reasonable degree of accuracy,  
17 recognizing that exact determinations may not always  
18 be possible. The association shall notify each member  
19 insurer in the assigned account of its anticipated pro  
20 rata share of an authorized assessment not yet called



1           within one hundred eighty days after the assessment is  
2           authorized."

3           2. By amending subsection (e) to read:

4           "(e) (1) Subject to the provisions of paragraph (2), the total  
5           of all assessments authorized by the association with  
6           respect to a member insurer [~~for~~] in each account  
7           shall not in any one calendar year exceed two per cent  
8           of the insurer's average premiums received in this  
9           State on the policies and contracts covered by the  
10          account during the three calendar years preceding the  
11          year in which the insurer became an impaired or  
12          insolvent insurer.

13          (2) If two or more assessments are authorized in one  
14          calendar year with respect to insurers that become  
15          impaired or insolvent in different calendar years, the  
16          average annual premiums for purposes of the aggregate  
17          assessment percentage limitation referenced in this  
18          section shall be equal and limited to the higher of  
19          the three-year average annual premiums for the  
20          applicable account as calculated pursuant to this  
21          section.



1           (3) If the maximum assessment, together with the other  
2           assets of the association in any account, does not  
3           provide in any one year in either account an amount  
4           sufficient to carry out the responsibilities of the  
5           association, the necessary additional funds shall be  
6           assessed as soon thereafter as permitted by this part.

7           The board of directors may provide in the plan of operation  
8           a method of allocating funds among claims, whether relating to  
9           one or more impaired or insolvent insurers, when the maximum  
10          assessment will be insufficient to cover anticipated claims."

11          SECTION 10. Section 431:16-210, Hawaii Revised Statutes,  
12          is amended by amending subsection (c) to read as follows:

13          "(c) The plan of operation shall, in addition to  
14          requirements enumerated elsewhere in this part:

15           (1) Establish procedures for handling the assets of the  
16           association;

17           (2) Establish the amount and method of reimbursing members  
18           of the board of directors under section 431:16-207(c);

19           (3) Establish regular places and times for meetings,  
20           including telephone conference calls of the board of  
21           directors;



- 1 (4) Establish procedures for records to be kept of all  
2 financial transactions of the association, its agents,  
3 and the board of directors;
- 4 (5) Establish the procedures whereby selections for the  
5 board of directors will be made and submitted to the  
6 commissioner;
- 7 (6) Establish any additional procedures for assessments  
8 under section 431:16-209;
- 9 (7) Contain additional provisions necessary or proper for  
10 the execution of the powers and duties of the  
11 association;
- 12 (8) Establish procedures to remove a director for cause,  
13 including the case in which a director is affiliated  
14 with a member insurer that becomes an impaired or  
15 insolvent insurer; ~~and~~
- 16 (9) Require the board of directors to establish a policy  
17 and procedure for addressing conflicts of  
18 interests[-]; and
- 19 (10) Establish notification procedures for assigning  
20 insurers to their respective accounts under section  
21 431:16-206."



1 SECTION 11. Section 431:16-218, Hawaii Revised Statutes,  
2 is amended to read as follows:

3 "§431:16-218 Prohibited advertisement of association act  
4 in insurance sales; notice to policyholders. (a) No person,  
5 including an insurer~~[,]~~ and ~~[a]~~ its producer or affiliate ~~[of an~~  
6 ~~insurer]~~, shall make, publish, disseminate, circulate, or place  
7 before the public~~[,]~~ or cause directly or indirectly~~[,]~~ to be  
8 made, published, disseminated, circulated, or placed before the  
9 public, in any newspaper, magazine, or other publication, ~~[or in~~  
10 ~~the form of a notice, circular, pamphlet, letter, or poster, or]~~  
11 over any radio station or television station, or in any other  
12 way, any oral or written advertisement, announcement, or  
13 statement~~[, written or oral, which]~~ that uses the ~~[existence of~~  
14 ~~the]~~ Hawaii life and disability insurance guaranty association  
15 ~~[of this State]~~ for ~~[the purpose of]~~ sales, solicitation, or  
16 inducement to purchase any form of insurance covered by the  
17 Hawaii Life and Disability Insurance Guaranty Association Act.  
18 This section shall not apply to the Hawaii life and disability  
19 insurance guaranty association or any other entity ~~[which]~~ that  
20 does not sell or solicit insurance.



1 (b) Within one hundred eighty days of July 1, 1988, the  
2 association shall prepare a summary document describing the  
3 general purposes and current limitations of this part and  
4 complying with subsection (c). This document shall be submitted  
5 to the commissioner for approval. Sixty days after receiving  
6 ~~[such]~~ the approval, no insurer may deliver a policy or contract  
7 described in section 431:16-203 to a policyholder or contract  
8 holder unless the document is delivered to the policyholder or  
9 contract holder at the time of delivery of the policy or  
10 contract, except if subsection (d) applies. The document  
11 ~~[should]~~ shall also be available upon request by a policyholder.  
12 The distribution, delivery ~~[of]~~, contents, or interpretation of  
13 this document shall not mean that ~~[either]~~ the policy ~~[or the]~~,  
14 contract, or ~~[the]~~ its holder ~~[thereof]~~ would be covered in the  
15 event of the impairment or insolvency of a member insurer. The  
16 description document shall be revised by the association as  
17 amendments to this part may require. Failure to receive this  
18 document does not give the policyholder, contract holder,  
19 certificate holder, or insured any greater rights than those  
20 stated in this part.



1 (c) The document prepared under subsection (b) shall  
2 contain a clear and conspicuous disclaimer on its face. The  
3 commissioner shall promulgate a rule establishing the form and  
4 content of the disclaimer[~~—The disclaimer~~] that shall:

- 5 (1) State the name and address of the Hawaii life and  
6 disability insurance guaranty association and the  
7 insurance division;
- 8 (2) Prominently warn the policy or contract holder that  
9 the Hawaii life and disability insurance guaranty  
10 association may not cover the policy or, if coverage  
11 is available, [~~it~~] the policy will be subject to  
12 substantial limitations and exclusions and be  
13 conditioned on continued residence in this State;
- 14 (3) State that the insurer and its producers are  
15 prohibited by law from using the [~~existence of the~~]  
16 Hawaii life and disability insurance guaranty  
17 association for [~~the purpose of~~] sales, solicitation,  
18 or inducement to purchase any form of insurance;
- 19 (4) Emphasize that the policy or contract holder should  
20 not rely on coverage under the Hawaii life and



1           disability insurance guaranty association when  
2           selecting an insurer; and

3           (5) Provide other information as directed by the  
4           commissioner.

5           (d) No insurer or producer may deliver a policy or  
6 contract described in section 431:16-203(b)(1) and excluded  
7 under section 431:16-203(b)(2)(A) from coverage under this part,  
8 unless the insurer or producer, prior to or at the time of  
9 delivery, gives the policy or contract holder a separate written  
10 notice [~~which~~] that clearly and conspicuously discloses that the  
11 policy or contract is not covered by the Hawaii life and  
12 disability insurance guaranty association. The commissioner  
13 shall by rule specify the form and content of the notice."

14           SECTION 12. Section 432:1-102, Hawaii Revised Statutes, is  
15 amended by amending subsection (b) to read as follows:

16           "(b) Article 2, article 2D, parts II and IV of article 3,  
17 article 6, part III of article 7, article 9A, article 13,  
18 article 14G, [~~and~~] article 15, and article 16 of chapter 431,  
19 sections 431:3-301, 431:3-302, 431:3-303, 431:3-304, 431:3-305,  
20 431:10-102, 431:10-225, 431:10-226.5, and 431:10A-116(1) and  
21 (2), and the powers granted by those provisions to the



1 commissioner[7] shall apply to managed care plans, health  
2 maintenance organizations, or medical indemnity or hospital  
3 service associations that are owned or controlled by mutual  
4 benefit societies, so long as the application in any particular  
5 case is in compliance with and [~~is~~] not preempted by applicable  
6 federal statutes and regulations."

7 SECTION 13. Section 432:1-607.3, Hawaii Revised Statutes,  
8 is amended by amending subsection (e) to read as follows:

9 "(e) As used in this section unless the context requires  
10 otherwise:

11 "Actual gender identity" means a person's internal sense of  
12 being male, female, a gender different from the gender assigned  
13 at birth, a transgender person, or neither male nor female.

14 "Gender transition" means the process of a person changing  
15 the person's outward appearance or sex characteristics to accord  
16 with the person's actual gender identity.

17 "Perceived gender identity" means an observer's impression  
18 of another person's actual gender identity or the observer's own  
19 impression that the person is male, female, a gender different  
20 from the gender [~~designed~~] assigned at birth, a transgender  
21 person, or neither male nor female.



1 "Transgender person" means a person who has gender identity  
2 disorder or gender dysphoria, has received health care services  
3 related to gender transition, adopts the appearance or behavior  
4 of the opposite sex, or otherwise identifies as a gender  
5 different from the gender assigned to that person at birth."

6 SECTION 14. Section 432D-19, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§432D-19 Statutory construction and relationship to other**  
9 **laws.** (a) Except as provided in subsection (d) and otherwise  
10 provided in this chapter, the insurance laws and hospital or  
11 medical service corporation laws of this State shall not apply  
12 to the activities authorized and regulated under this chapter of  
13 any health maintenance organization granted a certificate of  
14 authority under this chapter. This chapter shall not apply to  
15 an insurer or a hospital or medical service corporation licensed  
16 and regulated pursuant to the insurance laws or [~~the~~] hospital  
17 or medical service corporation laws of this State, except with  
18 respect to [~~its~~] health maintenance organization activities  
19 authorized and regulated pursuant to this chapter.

20 (b) Solicitation of enrollees by a health maintenance  
21 organization granted a certificate of authority[~~7~~] or by its



1 representatives[~~7~~] shall not be construed to violate any  
2 [~~provision of~~] law relating to solicitation or advertising by  
3 health professionals.

4 (c) Any health maintenance organization granted a  
5 certificate of authority under this chapter shall not be deemed  
6 to be practicing medicine or osteopathic medicine and shall be  
7 exempt from the provision [~~of~~] in chapter 453 relating to the  
8 practice of medicine or osteopathic medicine.

9 (d) Article 2, article 2D, part IV of article 3, article  
10 6, part III of article 7, article 9A, article 13, article 14G,  
11 [~~and~~] article 15, and article 16 of chapter 431, and sections  
12 431:3-301, 431:3-302, 431:3-303, 431:3-304, 431:3-305, 431:10-  
13 225, and 431:10-226.5, and the powers granted by those  
14 provisions to the commissioner shall apply to health maintenance  
15 organizations, so long as the application in any particular case  
16 is in compliance with and [~~is~~] not preempted by applicable  
17 federal statutes and regulations."

18 SECTION 15. Section 432D-26.3, Hawaii Revised Statutes, is  
19 amended by amending subsection (e) to read as follows:

20 "(e) As used in this section unless the context requires  
21 otherwise:



1 "Actual gender identity" means a person's internal sense of  
2 being male, female, a gender different from the gender assigned  
3 at birth, a transgender person, or neither male nor female.

4 "Gender transition" means the process of a person changing  
5 the person's outward appearance or sex characteristics to accord  
6 with the person's actual gender identity.

7 "Perceived gender identity" means an observer's impression  
8 of another person's actual gender identity or the observer's own  
9 impression that the person is male, female, a gender different  
10 from the gender [~~designed~~] assigned at birth, a transgender  
11 person, or neither male nor female.

12 "Transgender person" means a person who has gender identity  
13 disorder or gender dysphoria, has received health care services  
14 related to gender transition, adopts the appearance or behavior  
15 of the opposite sex, or otherwise identifies as a gender  
16 different from the gender assigned to that person at birth."

17 SECTION 16. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 17. This Act shall take effect on July 1, 2050.

20



**Report Title:**

Health Care Provider; Insolvency; Continuation of Benefits;  
Short-Term Health Insurance; Preexisting Condition; Disclaimer;  
General Readability Requirements; Perceived Gender Identity;  
Hawaii Life and Disability Insurance Guaranty Association

**Description:**

Makes various updates to title 24, Hawaii Revised Statutes, including: requiring health care providers to continue providing services during a health insurer insolvency; moving the short-term health insurance preexisting disclosure requirement to a more appropriate article; correcting a technical error in the definition of "perceived gender identity"; clarifying that health insurers are part of the Hawaii life and disability insurance guaranty association; and making housekeeping amendments. Effective 7/1/2050. (SD1)

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

