
A BILL FOR AN ACT

RELATING TO ASSOCIATION HEALTH PLANS.

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

1 SECTION 1. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new section to part I of article 10A to be
3 appropriately designated and to read as follows:

4 "§431:10A- Association health plan policy; compliance
5 with state law. (a) Every association health plan policy
6 issued in this State shall comply with all laws of this State,
7 regardless of the domicile of the sponsoring association that
8 has sponsored the policy.

9 (b) For the purposes of this section:

10 "Association health plan policy" means a policy sponsored
11 by a sponsoring association formed in this State or another
12 state that is authorized to issue association health plans under
13 the regulations of the United States Department of Labor.

14 "Sponsoring association" means a nonstock corporation that:

15 (1) Has been actively in existence for at least five
16 years;



- 1 (2) Has had an average of no fewer than five members, all
2 of whom are employers, in the preceding five years;
- 3 (3) Has been formed and maintained in good faith for
4 purposes other than obtaining or providing health
5 benefits;
- 6 (4) Does not condition membership in the sponsoring
7 association on any factor relating to the health
8 status of an individual, including an employee of a
9 member of the sponsoring association or a dependent of
10 the employee;
- 11 (5) Makes any association health plan policy available to
12 all members regardless of any factor relating to the
13 health status of the members or individuals eligible
14 for coverage through a member;
- 15 (6) Requires a true employer/employee relationship for
16 membership in the sponsoring association and does not
17 make any association health plan policy available to
18 any person who is not a member of the association; and
- 19 (7) Operates as a nonprofit entity under section 501(c)(6)
20 of the Internal Revenue Code of 1986."



1 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new section to part II of article 10A to be
3 appropriately designated and to read as follows:

4 "§431:10A- Association health plan policy; compliance
5 with state law. (a) Every association health plan policy
6 issued in this State shall comply with all laws of this State,
7 regardless of the domicile of the sponsoring association that
8 has sponsored the policy.

9 (b) For the purposes of this section:

10 "Association health plan policy" means a policy sponsored
11 by a sponsoring association formed in this State or another
12 state that is authorized to issue association health plans under
13 the regulations of the United States Department of Labor.

14 "Sponsoring association" means a nonstock corporation that:

- 15 (1) Has been actively in existence for at least five
- 16 years;
- 17 (2) Has had an average of no fewer than five members, all
- 18 of whom are employers, in the preceding five years;
- 19 (3) Has been formed and maintained in good faith for
- 20 purposes other than obtaining or providing health
- 21 benefits;



- 1 (4) Does not condition membership in the sponsoring
- 2 association on any factor relating to the health
- 3 status of an individual, including an employee of a
- 4 member of the sponsoring association or a dependent of
- 5 the employee;
- 6 (5) Makes any association health plan policy available to
- 7 all members regardless of any factor relating to the
- 8 health status of the members or individuals eligible
- 9 for coverage through a member;
- 10 (6) Requires a true employer/employee relationship for
- 11 membership in the sponsoring association and does not
- 12 make any association health plan policy available to
- 13 any person who is not a member of the association; and
- 14 (7) Operates as a nonprofit entity under section 501(c)(6)
- 15 of the Internal Revenue Code of 1986."

16 SECTION 3. Section 431:3-203, Hawaii Revised Statutes, is
 17 amended to read as follows:

18 "**§431:3-203 Qualifications for authority.** (a) To qualify
 19 for and hold a certificate of authority, an insurer ~~[must]~~
 20 shall:

- 21 (1) Be [a] one of the following:



- 1 (A) A stock, mutual, or reciprocal insurer of the
2 same general type as may be formed as a domestic
3 insurer under article 4;
- 4 (B) A voluntary unincorporated association formed for
5 the purpose of enabling cooperative action to
6 provide accident and health or sickness
7 insurance, as defined under section 431:1-205, in
8 accordance with this chapter or the laws of any
9 other state that authorizes the issuance of
10 accident and health or sickness insurance of the
11 type authorized under this chapter; or
- 12 (C) A sponsoring association formed in this State or
13 another state that is authorized to issue
14 association health plans under the regulations of
15 the United States Department of Labor;
- 16 (2) Have capital funds as required by this code based upon
17 the type and domicile of the insurer and the classes
18 of insurance [~~which~~] that the insurer is authorized to
19 transact in its domicile;
- 20 (3) Transact or propose to transact in this State
21 insurances [~~which~~] that are among those authorized by



1 its charter, and only such insurance as meets the
2 standards and requirements of this code; and

3 (4) Fully comply with and qualify according to the
4 provisions of this code.

5 (b) In addition to the requirements in subsection (a), to
6 qualify for and hold a certificate of authority, foreign and
7 alien insurers must have continuously, actively, and
8 successfully transacted the business of insurance for at least
9 five years immediately prior thereto; provided that [~~in~~]:

10 (1) In the case of a reorganization (including a merger,
11 corporate acquisition, or formation of a subsidiary)
12 of a capital stock or mutual insurer, the five-year
13 period shall be computed from the date of the
14 organization of the original or parent insurer or
15 insurers if substantially the same management
16 continues[-]; and

17 (2) This subsection shall not apply to a sponsoring
18 association authorized to issue association health
19 plans under the regulations of the United States
20 Department of Labor."



1 SECTION 4. Section 431:8-201, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§431:8-201 Transacting insurance business without
4 certificate of authority prohibited. It shall be unlawful for
5 any insurer to transact an insurance business in this State, as
6 defined in section 431:1-215, without a certificate of
7 authority; provided that this section shall not apply to:

- 8 (1) The lawful transaction of surplus lines insurance;
9 (2) The lawful transaction of reinsurance by insurers;
10 (3) Transactions in this State involving a policy lawfully
11 solicited, written, and delivered outside of this
12 State covering only subjects of insurance not
13 resident, located, or expressly to be performed in
14 this State at the time of issuance, and subsequent to
15 the issuance of the policy;
16 (4) Attorneys acting in the ordinary relation of attorney
17 and client in the adjustment of claims or losses;
18 (5) Transactions in this State involving group life and
19 group accident and health or sickness or blanket
20 accident and health or sickness insurance or group
21 annuities where the master policy of the groups was



1 lawfully issued in and delivered pursuant to the laws
2 of a state in which the insurer was authorized to do
3 an insurance business; provided that this paragraph
4 shall not apply to transactions of association health
5 plans;

6 (6) Transactions in this State involving any policy of
7 insurance or annuity contract issued prior to July 1,
8 1988;

9 (7) Transactions in this State involving ocean marine
10 insurance; and

11 (8) Transactions of contracts of insurance for property
12 and casualty multi-state risks; provided that the
13 producer is licensed to sell, solicit, or negotiate
14 that insurance in the home state of the insured."

15 SECTION 5. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 6. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 7. This Act shall take effect on July 1, 2018.



Report Title:

Association Health Plan Policies; Authorization; Sponsoring Associations

Description:

Requires association health plan policies to comply with the laws of this State regardless of the association's domicile. Enables certain voluntary associations and sponsoring associations, including employer associations that issue association health plans, to qualify for authorization to transact insurance in the State. (SD1)

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

