
A BILL FOR AN ACT

RELATING TO 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 a new article to be appropriately designated
3 and to read as follows:

4 "ARTICLE

5 CORPORATE GOVERNANCE ANNUAL DISCLOSURE

6 §431: -A Purpose and scope. (a) The purposes of this
7 article are to:

8 (1) Provide the insurance commissioner a summary of an
9 insurer or insurance group's corporate governance
10 structure, policies, and practices to permit the
11 commissioner to gain and maintain an understanding of
12 the insurer's corporate governance framework.

13 (2) Outline the requirements for completing a corporate
14 governance annual disclosure with the commissioner.

15 (3) Provide for the confidential treatment of the
16 corporate governance annual disclosure and related
17 information that will contain confidential and



1 sensitive information related to an insurer or
2 insurance group's internal operations and proprietary
3 and trade secret information which, if made public,
4 could potentially cause the insurer or insurance group
5 competitive harm or disadvantage.

6 (b) Nothing in this article shall be construed to
7 prescribe or impose corporate governance standards and internal
8 procedures beyond that which is required under applicable state
9 corporate law. Notwithstanding the foregoing, nothing in this
10 article shall be construed to limit the commissioner's
11 authority, or the rights or obligations of third parties, under
12 sections 431:2-303 and 431:11-107.

13 (c) The requirements of this article shall apply to all
14 insurers domiciled in this State.

15 **§431: -B Definitions.** For the purposes of this article:

16 "Commissioner" means the insurance commissioner of this
17 State.

18 "Corporate governance annual disclosure" means a
19 confidential report filed by the insurer or insurance group made
20 in accordance with the requirements of this article.



1 "Insurance group" means those insurers and affiliates
2 included within an insurance holding company system as defined
3 in article 11.

4 "Insurer" shall have the same meaning as set forth in
5 article 1, except that it shall not include agencies,
6 authorities or instrumentalities of the United States, its
7 possessions and territories, the Commonwealth of Puerto Rico,
8 the District of Columbia, or a state or political subdivision of
9 a state.

10 "Own risk and solvency assessment summary report" shall
11 mean the report filed in accordance with section 431:3D-105.

12 **§431: -C Disclosure requirement.** (a) An insurer or the
13 insurance group of which the insurer is a member shall, no later
14 than June 1 of each calendar year, submit to the commissioner a
15 corporate governance annual disclosure that contains the
16 information described in section 431: -E. Notwithstanding any
17 request from the commissioner made pursuant to subsection (c),
18 if the insurer is a member of an insurance group, the insurer
19 shall submit the report required by this section to the
20 commissioner of the lead state for the insurance group, in
21 accordance with the laws of the lead state, as determined by the



1 procedures outlined in the most recent Financial Analysis
2 Handbook adopted by the National Association of Insurance
3 Commissioners.

4 (b) The corporate governance annual disclosure must
5 include a signature of the insurer or insurance group's chief
6 executive officer or corporate secretary attesting to the best
7 of that individual's belief and knowledge that the insurer has
8 implemented the corporate governance practices and that a copy
9 of the disclosure has been provided to the insurer's board of
10 directors or the appropriate committee thereof.

11 (c) An insurer not required to submit a corporate
12 governance annual disclosure under this section shall do so upon
13 the commissioner's request.

14 (d) For purposes of completing the corporate governance
15 annual disclosure, the insurer or insurance group may provide
16 information regarding corporate governance at the ultimate
17 controlling parent level, an intermediate holding company level
18 or the individual legal entity level, depending upon how the
19 insurer or insurance group has structured its system of
20 corporate governance. The insurer or insurance group is
21 encouraged to make the corporate governance annual disclosure



1 disclosures at the level at which the insurer's or insurance
2 group's risk appetite is determined, or at the level at which
3 the earnings, capital, liquidity, operations, and reputation of
4 the insurer are overseen collectively and at which the
5 supervision of those factors are coordinated and exercised, or
6 at the level at which legal liability for failure of general
7 corporate governance duties would be placed. If the insurer or
8 insurance group determines the level of reporting based on these
9 criteria, it shall indicate which of the three criteria was used
10 to determine the level of reporting and explain any subsequent
11 changes in level of reporting.

12 (e) The review of the corporate governance annual
13 disclosure and any additional requests for information shall be
14 made through the lead state as determined by the procedures
15 within the most recent Financial Analysis Handbook adopted by
16 the National Association of Insurance Commissioners.

17 (f) Insurers providing information substantially similar
18 to the information required by this article in other documents
19 provided to the commissioner, including proxy statements filed
20 in conjunction with Form B requirements, or other state or
21 federal filings provided to the insurance division shall not be



1 required to duplicate that information in the corporate
2 governance annual disclosure, but shall only be required to
3 cross reference the document in which the information is
4 included.

5 **§431: -D Rules.** The commissioner may adopt rules and
6 issue orders to carry out the provisions of this article.

7 **§431: -E Contents of corporate governance annual**
8 **disclosure.** (a) The insurer or insurance group shall have
9 discretion over the responses to the corporate governance annual
10 disclosure inquiries, provided the corporate governance annual
11 disclosure shall contain the material information necessary to
12 permit the commissioner to gain an understanding of the
13 insurer's or group's corporate governance structure, policies,
14 and practices. The commissioner may request additional
15 information deemed material and necessary to provide the
16 commissioner with a clear understanding of the corporate
17 governance policies, the reporting or information system, or the
18 controls implementing those policies.

19 (b) Notwithstanding subsection (a), the corporate
20 governance annual disclosure shall be prepared consistent with
21 the National Association of Insurance Commissioners' Corporate



1 Governance Annual Disclosure Model Regulation. Documentation
2 and supporting information shall be maintained and made
3 available upon examination or upon request of the commissioner.

4 **§431: -F Confidentiality.** (a) Insofar as it includes
5 information relating to specific insurers or insurance groups,
6 any record or information in the possession or control of the
7 insurance division that was obtained by, created by, or
8 disclosed to the commissioner or any other person under this
9 article, including but not limited to corporate governance
10 annual disclosures and the information they contain,
11 communications between the insurance division and insurers or
12 insurance groups, and internal records of the insurance
13 division, shall be confidential by law and privileged, shall not
14 be subject to disclosure pursuant to chapter 92F, shall not be
15 subject to subpoena, and shall not be subject to discovery or
16 admissible in evidence in any private civil action. This
17 section shall not be interpreted to limit the application of
18 exceptions to disclosure under chapter 92F to any records or
19 information not specifically made confidential by this section.
20 However, the commissioner is authorized to use the documents,
21 materials, or other information in the furtherance of any



1 regulatory or legal action brought as a part of the
2 commissioner's official duties. The commissioner shall not
3 otherwise make the documents, materials, or other information
4 public without the prior written consent of the insurer.
5 Nothing in this section shall be construed to require written
6 consent of the insurer before the commissioner may share or
7 receive confidential documents, materials, or other information
8 related to the corporate governance annual disclosure pursuant
9 to subsection (c) to assist in the performance of the
10 commissioner's regular duties.

11 (b) Neither the commissioner nor any person who receives
12 documents, materials, or other information related to the
13 corporate governance annual disclosure through examination or
14 otherwise, while acting under the authority of the commissioner,
15 or with whom such documents, materials, or other information are
16 shared pursuant to this article shall be permitted or required
17 to testify in any private civil action concerning any
18 confidential documents, materials, or information subject to
19 subsection (a).

20 (c) In order to assist in the performance of the
21 commissioner's regulatory duties, the commissioner:



- 1 (1) May, upon request, share documents, materials, or
2 other information related to the corporate governance
3 annual disclosure, including the confidential and
4 privileged documents, materials, or information
5 subject to subsection (a), including proprietary and
6 trade secret documents and materials with other state,
7 federal, and international financial regulatory
8 agencies, including members of any supervisory college
9 as defined in section 431:11-107.5, with the National
10 Association of Insurance Commissioners, and with third
11 party consultants pursuant to section 431: -G,
12 provided that the recipient agrees in writing to
13 maintain the confidentiality and privileged status of
14 the documents, material, or other information and has
15 verified in writing the legal authority to maintain
16 confidentiality; and
- 17 (2) May receive documents, materials, or other information
18 related to the corporate governance annual disclosure,
19 including otherwise confidential and privileged
20 documents, materials, or information, including
21 proprietary and trade-secret information or documents,



1 from regulatory officials of other state, federal, and
2 international financial regulatory agencies, including
3 members of any supervisory college as defined in the
4 section 431:11-107.5, and from the National
5 Association of Insurance Commissioners, and shall
6 maintain as confidential or privileged any documents,
7 materials, or information received with notice or the
8 understanding that it is confidential or privileged
9 under the laws of the jurisdiction that is the source
10 of the document, material, or information.

11 (d) The sharing of information and documents by the
12 commissioner pursuant to this article shall not constitute a
13 delegation of regulatory authority or rulemaking, and the
14 commissioner is solely responsible for the administration,
15 execution, and enforcement of the provisions of this article.

16 (e) No waiver of any applicable privilege or claim of
17 confidentiality in the documents, proprietary and trade-secret
18 materials, or other information related to the corporate
19 governance annual disclosure shall occur as a result of
20 disclosure of any information related to the corporate
21 governance annual disclosure or documents to the commissioner



1 under this section or as a result of sharing as authorized in
2 this article.

3 **§431: -G National Association of Insurance Commissioners**
4 **and third-party consultants.** (a) The commissioner may retain,
5 at the insurer's expense, third-party consultants, including
6 attorneys, actuaries, accountants, and other experts not
7 otherwise a part of the commissioner's staff as may be
8 reasonably necessary to assist the commissioner in reviewing the
9 corporate governance annual disclosure and related information
10 or the insurer's compliance with this article.

11 (b) Any persons retained under subsection (a) shall be
12 under the direction and control of the commissioner and shall
13 act in a purely advisory capacity.

14 (c) The National Association of Insurance Commissioners
15 and third-party consultants shall be subject to the same
16 confidentiality standards and requirements as the commissioner.

17 (d) As part of the retention process, a third-party
18 consultant shall verify to the commissioner, with notice to the
19 insurer, that it is free from any conflict of interest and that
20 it has internal procedures in place to monitor compliance with a



1 conflict and to comply with the confidentiality standards and
2 requirements of this article.

3 (e) A written agreement with the National Association of
4 Insurance Commissioners or a third-party consultant governing
5 sharing and use of information provided pursuant to this article
6 shall contain the following provisions and expressly require the
7 written consent of the insurer prior to making public
8 information provided under this article:

9 (1) Specific procedures and protocols for maintaining the
10 confidentiality and security of the corporate
11 governance annual disclosure and related information
12 shared with the National Association of Insurance
13 Commissioners or a third-party consultant pursuant to
14 this article;

15 (2) Procedures and protocols for sharing by the National
16 Association of Insurance Commissioners only with other
17 state regulators from states in which the insurance
18 group has domiciled insurers. The agreement shall
19 provide that the recipient agrees in writing to
20 maintain the confidentiality and privileged status of
21 the corporate governance annual disclosure and related



1 documents, materials, or other information and has
2 verified in writing the legal authority to maintain
3 confidentiality;

4 (3) A provision specifying that ownership of the corporate
5 governance annual disclosure and related information
6 shared with the National Association of Insurance
7 Commissioners or a third-party consultant remains with
8 the insurance division and the National Association of
9 Insurance Commissioners' or third-party consultant's
10 use of the information is subject to the direction of
11 the commissioner;

12 (4) A provision that prohibits the National Association of
13 Insurance Commissioners or a third-party consultant
14 from storing the information shared pursuant to this
15 article in a permanent database after the underlying
16 analysis is completed;

17 (5) A provision requiring the National Association of
18 Insurance Commissioners or third-party consultant to
19 provide prompt notice to the commissioner and to the
20 insurer or insurance group regarding any subpoena,
21 request for disclosure, or request for production of



1 the insurer's corporate governance annual disclosure
2 or related information; and

3 (6) A requirement that the National Association of
4 Insurance Commissioners or a third-party consultant
5 consent to intervention by an insurer in any judicial
6 or administrative action in which the National
7 Association of Insurance Commissioners or a third-
8 party consultant may be required to disclose
9 confidential information about the insurer shared with
10 the National Association of Insurance Commissioners or
11 a third-party consultant pursuant to this article.

12 **§431: -H Sanctions.** Any insurer failing, without just
13 cause, to timely file the corporate governance annual disclosure
14 as required in this article shall be required, after notice and
15 an opportunity for hearing, to pay a penalty of not less than
16 \$100 and not more than \$500 for each day's delay, to be
17 recovered by the commissioner and paid into the compliance
18 resolution fund. The maximum penalty under this section is
19 \$50,000. The commissioner may reduce the penalty if the insurer
20 demonstrates to the commissioner that the imposition of the
21 penalty would constitute a financial hardship to the insurer.



1 §431: -I Severability. If any provision of this article
2 other than section 431: -F, or the application thereof to any
3 person or circumstance, is held invalid, such determination
4 shall not affect the provisions or applications of this article
5 which can be given effect without the invalid provision or
6 application, and to that end the provisions of this article,
7 with the exception of section 431: -F, are severable."

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

11 "§431:2- Trade and assumed names. (a) Every person
12 shall file an application with the department of commerce and
13 consumer affairs and the commissioner, on a form approved by the
14 department of commerce and consumer affairs and the
15 commissioner, for the use or change of a trade name or an
16 assumed name.

17 (b) If the department of commerce and consumer affairs or
18 the commissioner finds the application for use or change of a
19 trade name or an assumed name does not meet the requirements of
20 the provisions of this code, the corporation laws of this State,
21 or is substantially identical to another trade name or assumed



1 name, the department of commerce and consumer affairs or the
2 commissioner shall send to the applicant written notice of
3 disapproval of the application specifying the reasons for
4 disapproval and stating that the trade name or assumed name
5 shall not become effective."

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

9 "§431:10A- Reimbursement to providers. (a) Coverage
10 for services required by this part shall include reimbursement
11 to health care providers who perform services required by this
12 part or to the insured member, as appropriate.

13 (b) Notwithstanding any law to the contrary, whenever an
14 individual or group policy, contract, plan, or agreement
15 provides for reimbursement for any service, a health care
16 provider who performs such a service shall be eligible for
17 reimbursement for the performed service.

18 (c) For the purposes of this section, "health care
19 provider" means a provider of services, as defined in title 42
20 United States Code section 1395x(u); a provider of medical and
21 other health services, as defined in title 42 United States Code



1 section 1395x(s); and other practitioners licensed by the State
2 and working within their scope of practice."

3 SECTION 4. Chapter 431, Hawaii Revised Statutes, is
4 amended by adding a new section to article 11 to be
5 appropriately designated and to read as follows:

6 "§431:11- Group-wide supervision of internationally
7 active insurance groups. (a) The commissioner is authorized to
8 act as the group-wide supervisor for any internationally active
9 insurance group in accordance with the provisions of this
10 section. However, the commissioner may otherwise acknowledge
11 another regulatory official as the group-wide supervisor where
12 the internationally active insurance group:

- 13 (1) Does not have substantial insurance operations in the
14 United States;
15 (2) Has substantial insurance operations in the United
16 States, but not in this State; or
17 (3) Has substantial insurance operations in the United
18 States and this State, but the commissioner has
19 determined pursuant to the factors set forth in
20 subsections (b) and (f) that the other regulatory
21 official is the appropriate group-wide supervisor.



1 An insurance holding company system that does not otherwise
2 qualify as an internationally active insurance group may request
3 that the commissioner make a determination or acknowledgment as
4 to a group-wide supervisor pursuant to this section.

5 (b) In cooperation with other state, federal, and
6 international regulatory agencies, the commissioner will
7 identify a single group-wide supervisor for an internationally
8 active insurance group. The commissioner may determine that the
9 commissioner is the appropriate group-wide supervisor for an
10 internationally active insurance group that conducts substantial
11 insurance operations concentrated in this State. However, the
12 commissioner may acknowledge that a regulatory official from
13 another jurisdiction is the appropriate group-wide supervisor
14 for the internationally active insurance group. The
15 commissioner shall consider the following factors when making a
16 determination or acknowledgment under this subsection:

17 (1) The place of domicile of the insurers within the
18 internationally active insurance group that hold the
19 largest share of the group's written premiums, assets,
20 or liabilities;



1 (2) The place of domicile of the top-tiered insurer or
2 insurers in the insurance holding company system of
3 the internationally active insurance group;

4 (3) The location of the executive offices or largest
5 operational offices of the internationally active
6 insurance group;

7 (4) Whether another regulatory official is acting or is
8 seeking to act as the group-wide supervisor under a
9 regulatory system that the commissioner determines to
10 be:

11 (A) Substantially similar to the system of regulation
12 provided under the laws of this State; or

13 (B) Otherwise sufficient in terms of providing for
14 group-wide supervision, enterprise risk analysis,
15 and cooperation with other regulatory officials;
16 and

17 (5) Whether another regulatory official acting or seeking
18 to act as the group-wide supervisor provides the
19 commissioner with reasonably reciprocal recognition
20 and cooperation.



1 However, a commissioner identified under this section as the
2 group-wide supervisor may determine that it is appropriate to
3 acknowledge another supervisor to serve as the group-wide
4 supervisor. The acknowledgment of the group-wide supervisor
5 shall be made after consideration of the factors listed in
6 paragraphs (1) through (5), and shall be made in cooperation
7 with and subject to the acknowledgment of other regulatory
8 officials involved with supervision of members of the
9 internationally active insurance group, and in consultation with
10 the internationally active insurance group.

11 (c) Notwithstanding any other provision of law, when
12 another regulatory official is acting as the group-wide
13 supervisor of an internationally active insurance group, the
14 commissioner shall acknowledge that regulatory official as the
15 group-wide supervisor. However, in the event of a material
16 change in the internationally active insurance group that
17 results in:

18 (1) The internationally active insurance group's insurers
19 domiciled in this State holding the largest share of
20 the group's premiums, assets, or liabilities; or



1 (2) This State being the place of domicile of the top-
2 tiered insurer or insurers in the insurance holding
3 company system of the internationally active insurance
4 group,

5 the commissioner shall make a determination or acknowledgment as
6 to the appropriate group-wide supervisor for such an
7 internationally active insurance group pursuant to subsection
8 (b).

9 (d) Pursuant to section 431:11-107, the commissioner is
10 authorized to collect from any insurer registered pursuant to
11 section 431:11-105 all information necessary to determine
12 whether the commissioner may act as the group-wide supervisor of
13 an internationally active insurance group or if the commissioner
14 may acknowledge another regulatory official to act as the group-
15 wide supervisor. Prior to issuing a determination that an
16 internationally active insurance group is subject to group-wide
17 supervision by the commissioner, the commissioner shall notify
18 the insurer registered pursuant to section 431:11-105 and the
19 ultimate controlling person within the internationally active
20 insurance group. The internationally active insurance group
21 shall have not less than thirty days to provide the commissioner



1 with additional information pertinent to the pending
2 determination. The commissioner shall publish on the division's
3 internet website the identity of internationally active
4 insurance groups that the commissioner has determined are
5 subject to group-wide supervision by the commissioner.

6 (e) If the commissioner is the group-wide supervisor for
7 an internationally active insurance group, the commissioner is
8 authorized to engage in any of the following group-wide
9 supervision activities:

10 (1) Assess the enterprise risks within the internationally
11 active insurance group to ensure that:

12 (A) The material financial condition and liquidity
13 risks to the members of the internationally
14 active insurance group that are engaged in the
15 business of insurance are identified by
16 management; and

17 (B) Reasonable and effective mitigation measures are
18 in place;

19 (2) Request, from any member of an internationally active
20 insurance group subject to the commissioner's
21 supervision, information necessary and appropriate to



1 assess enterprise risk, including, but not limited to,
2 information about the members of the internationally
3 active insurance group regarding:

4 (A) Governance, risk assessment, and management;

5 (B) Capital adequacy; and

6 (C) Material intercompany transactions;

7 (3) Coordinate and, through the authority of the
8 regulatory officials of the jurisdictions where
9 members of the internationally active insurance group
10 are domiciled, compel development and implementation
11 of reasonable measures designed to ensure that the
12 internationally active insurance group is able to
13 timely recognize and mitigate enterprise risks to
14 members of such internationally active insurance group
15 that are engaged in the business of insurance;

16 (4) Communicate with other state, federal, and
17 international regulatory agencies for members within
18 the internationally active insurance group and share
19 relevant information subject to the confidentiality
20 provisions of section 431:11-108, through supervisory



1 colleges as set forth in section 431:11-107.5 or

2 otherwise;

3 (5) Enter into agreements with or obtain documentation
4 from any insurer registered under section 431:11-105,
5 any member of the internationally active insurance
6 group, and any other state, federal, and international
7 regulatory agencies for members of the internationally
8 active insurance group, providing the basis for or
9 otherwise clarifying the commissioner's role as group-
10 wide supervisor, including provisions for resolving
11 disputes with other regulatory officials. Such
12 agreements or documentation shall not serve as
13 evidence in any proceeding that any insurer or person
14 within an insurance holding company system not
15 domiciled or incorporated in this State is doing
16 business in this State or is otherwise subject to
17 jurisdiction in this State; and

18 (6) Other group-wide supervision activities, consistent
19 with the authorities and purposes enumerated in this
20 subsection, as considered necessary by the
21 commissioner.



1 (f) If the commissioner acknowledges that another
2 regulatory official from a jurisdiction that is not accredited
3 by the National Association of Insurance Commissioners is the
4 group-wide supervisor, the commissioner is authorized to
5 reasonably cooperate, through supervisory colleges or otherwise,
6 with group-wide supervision undertaken by the group-wide
7 supervisor, provided that:

8 (1) The commissioner's cooperation is in compliance with
9 the laws of this State; and

10 (2) The regulatory official acknowledged as the group-wide
11 supervisor also recognizes and cooperates with the
12 commissioner's activities as a group-wide supervisor
13 for other internationally active insurance groups
14 where applicable. Where such recognition and
15 cooperation is not reasonably reciprocal, the
16 commissioner is authorized to refuse recognition and
17 cooperation.

18 (g) The commissioner is authorized to enter into
19 agreements with or obtain documentation from any insurer
20 registered under section 431:11-105, any affiliate of the
21 insurer, and other state, federal, and international regulatory



1 agencies for members of the internationally active insurance
2 group, that provide the basis for or otherwise clarify a
3 regulatory official's role as group-wide supervisor.

4 (h) The commissioner may adopt rules necessary for the
5 administration of this section.

6 (i) A registered insurer subject to this section shall be
7 liable for and shall pay the reasonable expenses of the
8 commissioner's participation in the administration of this
9 section, including the engagement of attorneys, actuaries, and
10 any other professionals, and all reasonable travel expenses."

11 SECTION 5. Chapter 432, Hawaii Revised Statutes, is
12 amended by adding a new section to part VI of article 1 to be
13 appropriately designated and to read as follows:

14 "§432:1- Reimbursement to providers. (a) Coverage for
15 services required by this part shall include reimbursement to
16 health care providers who perform services required by this
17 article or to the insured member, as appropriate.

18 (b) Notwithstanding any law to the contrary, whenever an
19 individual and group contract, policy, plan, or agreement that
20 provides health care coverage under this article provides for
21 reimbursement for any service, a health care provider who



1 performs such a service shall be eligible for reimbursement for
2 the performed service.

3 (c) For the purposes of this section, "health care
4 provider" has the same meaning as in section 431:10A -B(c)."

5 SECTION 6. Section 431:3-202, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§431:3-202 Insurer's name.** (a) Every insurer shall
8 conduct its business in its own legal name.

9 (b) No insurer shall assume or use a name deceptively
10 similar to that of any other authorized insurer[~~, nor which~~] or
11 a name that tends to deceive or mislead as to the type of
12 organization of the insurer.

13 (c) An insurer shall apply to the department of commerce
14 and consumer affairs and the commissioner for approval of the
15 use or change of a trade name or an assumed name pursuant to
16 section 431:2- .

17 [~~(e)~~] (d) When a foreign or an alien insurer authorized to
18 do business in this State wants to change the name under which
19 its certificate of authority is issued, the insurer shall file a
20 request for name change with the commissioner at least thirty
21 days prior to the effective date of the name change. If within



1 the thirty-day period the commissioner finds the name change
2 request does not meet the requirements of this chapter or of the
3 corporation laws of this State, the commissioner shall send to
4 the insurer written notice of disapproval of the request
5 specifying in what respect the proposed name change fails to
6 meet the requirements of this chapter or the corporation laws of
7 this State and stating that the name change shall not become
8 effective."

9 SECTION 7. Section 431:5-307, Hawaii Revised Statutes, is
10 amended by amending subsection (o) to read as follows:

11 "(o) (1) For policies issued on or after the operative date of
12 the valuation manual, the standard prescribed in the
13 valuation manual is the minimum standard of valuation
14 required under subsection (b) (2), except as provided
15 under paragraph (5) or (7) of this subsection;

16 (2) The operative date of the valuation manual is January
17 1 of the first calendar year following the first July
18 1 as of which all of the following have occurred:

19 (A) The valuation manual has been adopted by the
20 National Association of Insurance Commissioners
21 by an affirmative vote of at least forty-two



1 members, or three-fourths of the members voting,
2 whichever is greater;

3 (B) The Standard Valuation Law, as amended by the
4 National Association of Insurance Commissioners
5 in 2009, or legislation including substantially
6 similar terms and provisions, has been enacted by
7 states representing greater than seventy-five per
8 cent of the direct premiums written as reported
9 in the following annual statements submitted for
10 2008: life, accident and health annual
11 statements; health annual statements; or
12 fraternal annual statements; and

13 (C) The Standard Valuation Law, as amended by the
14 National Association of Insurance Commissioners
15 in 2009, or legislation including substantially
16 similar terms and provisions, has been enacted by
17 at least forty-two of the following fifty-five
18 jurisdictions: the fifty states of the United
19 States, American Samoa, the American Virgin
20 Islands, the District of Columbia, Guam, and
21 Puerto Rico;



(3) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when ~~[all of the following have occurred:]~~

~~(A)~~ ~~The~~ the change to the valuation manual has been adopted by the National Association of Insurance Commissioners by an affirmative vote representing:

~~[(i)]~~ (A) At least three-fourths of the members of the National Association of Insurance Commissioners voting, but not less than a majority of the total membership; and

~~[(ii)]~~ (B) Members of the National Association of Insurance Commissioners representing jurisdictions totaling greater than seventy-five per cent of the direct premiums written as reported in the following annual statements most recently available prior to the vote in ~~[clause (i)]~~ subparagraph (A): life, accident and health annual statements;



1 health annual statements; or fraternal

2 annual statements; [and

3 ~~(B) The valuation manual becomes effective pursuant~~

4 ~~to rules adopted by the commissioner;]~~

5 (4) The valuation manual shall specify all of the
6 following:

7 (A) Minimum valuation standards for and definitions
8 of the policies or contracts subject to
9 subsection (b) (2). These minimum valuation
10 standards shall be:

11 (i) The commissioner's reserve valuation method
12 for life insurance contracts, other than
13 annuity contracts, subject to subsection
14 (b) (2);

15 (ii) The commissioner's annuity reserve valuation
16 method for annuity contracts subject to
17 subsection (b) (2); and

18 (iii) Minimum reserves for all other policies or
19 contracts subject to subsection (b) (2);

20 (B) Which policies or contracts or types of policies
21 or contracts that are subject to the requirements



1 of a principle-based valuation in subsection
2 (p)(1) and the minimum valuation standards
3 consistent with those requirements;

4 (C) For policies and contracts subject to a
5 principle-based valuation under subsection (p):

6 (i) Requirements for the format of reports to
7 the commissioner under subsection (p)(2)(C)
8 that shall include information necessary to
9 determine if the valuation is appropriate
10 and in compliance with this section;

11 (ii) Assumptions shall be prescribed for risks
12 over which the company does not have
13 significant control or influence; and

14 (iii) Procedures for corporate governance and
15 oversight of the actuarial function, and a
16 process for appropriate waiver or
17 modification of such procedures;

18 (D) For policies not subject to a principle-based
19 valuation under subsection (p), the minimum
20 valuation standard shall either:



(i) Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or

(ii) Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring;

(E) Other requirements including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules, and internal controls; and

(F) The data and form of the data required under subsection (q), with whom the data shall be submitted, and may specify other requirements,



1 including data analyses and reporting of
2 analyses;

3 (5) [~~In the absence of~~] Absent a specific valuation
4 requirement, or if a specific valuation requirement in
5 the valuation manual is not, in the opinion of the
6 commissioner, in compliance with this section, then
7 the company shall, with respect to these requirements,
8 comply with minimum valuation standards prescribed by
9 the commissioner by rule;

10 (6) The commissioner may engage a qualified actuary, at
11 the expense of the company, to perform an actuarial
12 examination of the company and opine on the
13 appropriateness of any reserve assumption or method
14 used by the company, or to review and opine on a
15 company's compliance with any requirement set forth in
16 this section. The commissioner may rely upon the
17 opinion[7] regarding provisions contained within this
18 section[7] of a qualified actuary engaged by the
19 commissioner of another state, district, or territory
20 of the United States. As used in this paragraph,
21 "engage" includes employment and contracting; and



(7) The commissioner may require a company to change any assumption or method that, in the opinion of the commissioner, is necessary to comply with the requirements of the valuation manual or this section, and the company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted pursuant to this chapter."

SECTION 8. Section 431:9-203, Hawaii Revised Statutes, is amended to read as follows:

"§431:9-203 General qualifications for license. (a) For the protection of the public, the commissioner shall not issue or extend any license for an adjuster or independent bill reviewer:

(1) Except as provided by this article; or

(2) To any individual less than eighteen years of age.

(b) An applicant for a license under this article shall notify the commissioner of the applicant's legal name ~~[and trade name, if applicable. An applicant doing business under any name other than [the] applicant's legal name shall notify the commissioner prior to using the assumed name]~~.



1 (c) An applicant shall apply to the department of commerce
2 and consumer affairs and the commissioner for approval of the
3 use of a trade name or an assumed name pursuant to section
4 431:2- .

5 [~~e~~] (d) A licensee shall:

6 (1) Inform the commissioner by any means acceptable to the
7 commissioner of any change of status within thirty
8 days of the change; [~~and~~]

9 (2) Report any change of status to the business
10 registration division if the licensee is a business
11 entity registered with the department of commerce and
12 consumer affairs pursuant to title 23 or title 23A, or
13 if the licensee has registered a trade name pursuant
14 to part II of chapter 482 [~~-~~]; and

15 (3) A licensee shall apply to the department of commerce
16 and consumer affairs and the commissioner for approval
17 to change the status of a trade name or an assumed
18 name pursuant to section 431:2- .

19 Failure to timely inform the commissioner or business
20 registration division of a change of status shall result in a
21 penalty pursuant to section 431:2-203.



1 ~~[(d)]~~ (e) As used in this section, "change of status"
2 includes, but shall not be limited to, change of legal name,
3 assumed name, trade name, business address, home address,
4 mailing address, business phone number, business fax number,
5 business electronic mail address, business website address, or
6 home phone number."

7 SECTION 9. Section 431:9A-110, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§431:9A-110 Legal, trade, and assumed names.** (a) Every
10 insurance producer doing business in this State shall notify the
11 commissioner in writing of the insurance producer's legal name
12 ~~[and trade name, if applicable]~~.

13 (b) ~~[An insurance producer doing business under any name~~
14 ~~other than the producer's legal name shall notify the~~
15 ~~commissioner in writing prior to using the assumed name.]~~ An
16 insurance producer shall apply to the department of commerce and
17 consumer affairs and the commissioner for approval of the use or
18 change of a trade name or an assumed name pursuant to section
19 431:2- ."

20 SECTION 10. Section 431:10-104, Hawaii Revised Statutes,
21 is amended to read as follows:



1 "§431:10-104 General readability requirements. In
2 addition to any other requirements of law, no contract shall be
3 delivered or issued for delivery in this State unless:

4 (1) The text is in plain language[~~, achieving~~] and
5 achieves a minimum score of forty on the Flesch
6 reading ease test or an equivalent score on any other
7 comparable test prescribed by the commissioner under
8 section 431:10-105(a);

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

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

15 (4) A table of contents or an index of principal sections
16 is provided with the contract when the text consists
17 of more than three thousand words printed on three or
18 less pages or when the text has more than three pages,
19 regardless of the total number of printed words[~~, and~~

20 ~~(5) For any short term health insurance policies that~~
21 ~~impose preexisting conditions provisions, any policy,~~



1 ~~application, or sales brochure shall disclose in a~~
2 ~~conspicuous manner in not less than fourteen point~~
3 ~~bold face type the following statement:~~

4 ~~"THIS POLICY EXCLUDES COVERAGE FOR CONDITIONS FOR~~
5 ~~WHICH MEDICAL ADVICE, DIAGNOSIS, CARE, OR TREATMENT~~
6 ~~WAS RECOMMENDED OR RECEIVED DURING THE [insert~~
7 ~~exclusion period] IMMEDIATELY PRECEDING THE EFFECTIVE~~
8 ~~DATE OF COVERAGE."] ."~~

9 SECTION 11. Section 431:10A-116, Hawaii Revised Statutes,
10 is amended to read as follows:

11 **"§431:10A-116 Coverage for specific services.** Every
12 person insured under a policy of accident and health or sickness
13 insurance delivered or issued for delivery in this State shall
14 be entitled to the reimbursements and coverages specified below:

- 15 (1) Notwithstanding any provision to the contrary,
16 whenever a policy, contract, plan, or agreement
17 provides for reimbursement for any visual or
18 optometric service, which is within the lawful scope
19 of practice of a duly licensed optometrist, the person
20 entitled to benefits or the person performing the
21 services shall be entitled to reimbursement whether



1 the service is performed by a licensed physician or by
2 a licensed optometrist. Visual or optometric services
3 shall include eye or visual examination, or both, or a
4 correction of any visual or muscular anomaly, and the
5 supplying of ophthalmic materials, lenses, contact
6 lenses, spectacles, eyeglasses, and appurtenances
7 thereto;

8 (2) Notwithstanding any provision to the contrary, for all
9 policies, contracts, plans, or agreements issued on or
10 after May 30, 1974, whenever provision is made for
11 reimbursement or indemnity for any service related to
12 surgical or emergency procedures, which is within the
13 lawful scope of practice of any practitioner licensed
14 to practice medicine in this State, reimbursement or
15 indemnification under the policy, contract, plan, or
16 agreement shall not be denied when the services are
17 performed by a dentist acting within the lawful scope
18 of the dentist's license;

19 (3) Notwithstanding any provision to the contrary,
20 whenever the policy provides reimbursement or payment
21 for any service, which is within the lawful scope of



1 practice of a psychologist licensed in this State, the
2 person entitled to benefits or performing the service
3 shall be entitled to reimbursement or payment, whether
4 the service is performed by a licensed physician or
5 licensed psychologist;

6 (4) Notwithstanding any provision to the contrary, each
7 policy, contract, plan, or agreement issued on or
8 after February 1, 1991, except for policies that only
9 provide coverage for specified diseases or other
10 limited benefit coverage, but including policies
11 issued by companies subject to chapter 431, article
12 10A, part II and chapter 432, article 1 shall provide
13 coverage for screening by low-dose mammography for
14 occult breast cancer as follows:

15 (A) For women forty years of age and older, an annual
16 mammogram; and

17 (B) For a woman of any age with a history of breast
18 cancer or whose mother or sister has had a
19 history of breast cancer, a mammogram upon the
20 recommendation of the woman's physician.



1 The services provided in this paragraph are
2 subject to any coinsurance provisions that may be in
3 force in these policies, contracts, plans, or
4 agreements.

5 For the purpose of this paragraph, the term "low-
6 dose mammography" means the x-ray examination of the
7 breast using equipment dedicated specifically for
8 mammography, including, but not limited to, the x-ray
9 tube, filter, compression device, screens, films, and
10 cassettes, with an average radiation exposure delivery
11 of less than one rad mid-breast, with two views for
12 each breast. An insurer may provide the services
13 required by this paragraph through contracts with
14 providers; provided that the contract is determined to
15 be a cost-effective means of delivering the services
16 without sacrifice of quality and meets the approval of
17 the director of health; and

18 (5) (A) (i) Notwithstanding any provision to the
19 contrary, whenever a policy, contract, plan,
20 or agreement provides coverage for the
21 children of the insured, that coverage shall



1 also extend to the date of birth of any
2 newborn child to be adopted by the insured;
3 provided that the insured gives written
4 notice to the insurer of the insured's
5 intent to adopt the child prior to the
6 child's date of birth or within thirty days
7 after the child's birth or within the time
8 period required for enrollment of a natural
9 born child under the policy, contract, plan,
10 or agreement of the insured, whichever
11 period is longer; provided further that if
12 the adoption proceedings are not successful,
13 the insured shall reimburse the insurer for
14 any expenses paid for the child; and

15 (ii) Where notification has not been received by
16 the insurer prior to the child's birth or
17 within the specified period following the
18 child's birth, insurance coverage shall be
19 effective from the first day following the
20 insurer's receipt of legal notification of
21 the insured's ability to consent for



1 treatment of the infant for whom coverage is
2 sought; and

3 (B) When the insured is a member of a health
4 maintenance organization [~~HMO~~], coverage of an
5 adopted newborn is effective:

6 (i) From the date of birth of the adopted
7 newborn when the newborn is treated from
8 birth pursuant to a provider contract with
9 the health maintenance organization, and
10 written notice of enrollment in accord with
11 the health maintenance organization's usual
12 enrollment process is provided within thirty
13 days of the date the insured notifies the
14 health maintenance organization of the
15 insured's intent to adopt the infant for
16 whom coverage is sought; or

17 (ii) From the first day following receipt by the
18 health maintenance organization of written
19 notice of the insured's ability to consent
20 for treatment of the infant for whom
21 coverage is sought and enrollment of the



1 adopted newborn in accord with the health
2 maintenance organization's usual enrollment
3 process if the newborn has been treated from
4 birth by a provider not contracting or
5 affiliated with the health maintenance
6 organization[, and

7 ~~(6) Notwithstanding any provision to the contrary, any~~
8 ~~policy, contract, plan, or agreement issued or renewed~~
9 ~~in this State shall provide reimbursement for services~~
10 ~~provided by advanced practice registered nurses~~
11 ~~licensed pursuant to chapter 457. Services rendered by~~
12 ~~advanced practice registered nurses are subject to the~~
13 ~~same policy limitations generally applicable to health~~
14 ~~care providers within the policy, contract, plan, or~~
15 ~~agreement]."~~

16 SECTION 12. Section 431:10A-116.6, Hawaii Revised
17 Statutes, is amended to read as follows:

18 "**§431:10A-116.6 Contraceptive services.** (a)

19 Notwithstanding any provision of law to the contrary, each
20 employer group accident and health or sickness policy, contract,
21 plan, or agreement issued or renewed in this State on or after



1 January 1, 2000, shall cease to exclude contraceptive services
2 or supplies for the subscriber or any dependent of the
3 subscriber who is covered by the policy, subject to the
4 exclusion under section 431:10A-116.7 and the exclusion under
5 section 431:10A-102.5.

6 (b) Except as provided in subsection (c), all policies,
7 contracts, plans, or agreements under subsection (a), that
8 provide contraceptive services or supplies, or prescription drug
9 coverage, shall not exclude any prescription contraceptive
10 supplies or impose any unusual copayment, charge, or waiting
11 requirement for such supplies.

12 (c) Coverage for oral contraceptives shall include at
13 least one brand from the monophasic, multiphasic, and the
14 progestin-only categories. A member shall receive coverage for
15 any other oral contraceptive only if:

16 (1) Use of brands covered has resulted in an adverse drug
17 reaction; or

18 (2) The member has not used the brands covered and, based
19 on the member's past medical history, the prescribing
20 health care provider believes that use of the brands
21 covered would result in an adverse reaction.



1 (d) Coverage required by this section shall include
2 reimbursement to a prescribing health care provider or
3 dispensing entity for prescription contraceptive supplies
4 intended to last for up to a twelve-month period for an insured.

5 ~~[(e) Coverage required by this section shall include~~
6 ~~reimbursement to a prescribing and dispensing pharmacist who~~
7 ~~prescribes and dispenses contraceptive supplies pursuant to~~
8 ~~section 461-11.6.]~~

9 ~~[(f)]~~ (e) For purposes of this section:

10 "Contraceptive services" means physician-delivered,
11 physician-supervised, physician assistant-delivered, advanced
12 practice registered nurse-delivered, nurse-delivered, or
13 pharmacist-delivered medical services intended to promote the
14 effective use of contraceptive supplies or devices to prevent
15 unwanted pregnancy.

16 "Contraceptive supplies" means all United States Food and
17 Drug Administration-approved contraceptive drugs or devices used
18 to prevent unwanted pregnancy.

19 ~~[(g)]~~ (f) Nothing in this section shall be construed to
20 extend the practice or privileges of any health care provider



1 beyond that provided in the laws governing the provider's
2 practice and privileges."

3 SECTION 13. Section 431:10A-118.3, Hawaii Revised
4 Statutes, is amended by amending subsection (e) to read as
5 follows:

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

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

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

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

19 "Transgender person" means a person who has gender identity
20 disorder or gender dysphoria, has received health care services
21 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 14. Section 431:11-102, Hawaii Revised Statutes,
4 is amended by adding two new definitions to be appropriately
5 inserted and to read as follows:

6 "Group-wide supervisor" means the regulatory official
7 authorized to engage in conducting and coordinating group-wide
8 supervision activities who is determined or acknowledged by the
9 commissioner under section 431:11- to have sufficient
10 significant contacts with the internationally active insurance
11 group.

12 "Internationally active insurance group" means an insurance
13 holding company system that:

14 (1) Includes an insurer registered under section 431:11-
15 105; and

16 (2) Meets the following criteria:

17 (A) Premiums written in at least three countries;

18 (B) The percentage of gross premiums written outside
19 the United States is at least ten percent of the
20 insurance holding company system's total gross
21 written premiums; and



1 (C) Based on a three-year rolling average, the total
2 assets of the insurance holding company system
3 are at least \$50,000,000,000 or the total gross
4 written premiums of the insurance holding company
5 system are at least \$10,000,000,000."

6 SECTION 15. Section 431:11-108, Hawaii Revised Statutes,
7 is amended by amending subsection (a) to read as follows:

8 "(a) Documents, materials, or other information in the
9 possession or control of the insurance division that are
10 obtained by or disclosed to the commissioner or any other person
11 in the course of an examination or investigation made pursuant
12 to section 431:11-107 and all information reported or provided
13 to the insurance division pursuant to sections 431:11-104(b) (12)
14 and (13), 431:11-105, [~~and~~] 431:11-106, and 431:11- , shall be
15 confidential by law and privileged, shall not be disclosable
16 under chapter 92F, shall not be subject to subpoena, and shall
17 not be subject to discovery or admissible in evidence in any
18 private civil action. The commissioner may use the documents,
19 materials, or other information in the furtherance of any
20 regulatory or legal action brought as part of the commissioner's
21 official duties. The commissioner shall not otherwise make the



1 documents, materials, or other information public without prior
2 written consent of the insurer to which it pertains unless the
3 commissioner, after giving the insurer and its affiliates who
4 would be affected thereby notice and opportunity to be heard,
5 determines that the interest of the policyholders, shareholders,
6 or the public will be served by the publication thereof, in
7 which event the commissioner may publish all or any part in such
8 manner as may be deemed appropriate."

9 SECTION 16. Section 431:14-104, Hawaii Revised Statutes,
10 is amended as follows:

11 1. By amending subsections (a) and (b) to read:

12 "(a) Every insurer shall file with the commissioner every
13 manual of classifications, rules, and rates, every rating plan,
14 every other rating rule, and every modification of any of the
15 foregoing that it proposes to use; provided that filings with
16 regard to specific inland marine risks, which by general custom
17 of the business are not written according to manual rate or
18 rating plans, and bail bonds, subject to section 804-62, shall
19 not be required pursuant to this subsection.

20 Every filing shall:

21 (1) State its proposed effective date;



(2) Indicate the character and extent of the coverage contemplated;

(3) Include a report on investment income; and

(4) Be accompanied by a \$50 fee [~~payable to the commissioner,~~] to be deposited in the commissioner's education and training fund.

(b) [~~For each~~] Each filing [~~an insurer~~] shall [~~submit~~] be submitted to the commissioner[+]

~~(1) An electronic copy of the filing, or~~

~~(2) Two printed copies of the filing.~~

~~The commissioner may also request a printed version of an electronic filing to be submitted pursuant to paragraph (1).]~~
via the National Association of Insurance Commissioners' System for Electronic Rates and Forms Filing or an equivalent service approved by the commissioner."

2. By amending subsection (k) to read:

"(k) The following rates shall become effective when filed:

(1) Specific inland marine [~~rates~~] rate filings on risks specially rated by a rating organization or an advisory organization;



(2) Any special filing with respect to a surety or guaranty bond required by law ~~[or by]~~, court or executive order, or ~~[by]~~ order or rule of a public body, not covered by a previous filing; and

(3) Any special filing with respect to any class of insurance, subdivision, or combination thereof that is subject to individual risk premium modification and has been agreed to by an insured under a formal or an informal bid process.

The filed rates shall be deemed ~~[to meet the requirements of this article until the time the commissioner reviews the filing and]~~ approved so long as the filing remains in effect."

SECTION 17. Section 431:14-104.5, Hawaii Revised Statutes, is amended to read as follows:

"**§431:14-104.5 Loss cost filings.** When required by the commissioner, the rating organization or advisory organization shall file for approval all prospective loss costs, ~~[and all]~~ supplementary rating information, and every change ~~[or]~~, amendment, or modification ~~[of any of the foregoing]~~ thereto proposed for use in this State. The filings shall be subject to ~~[section]~~ sections 431:14-104 ~~[and section]~~, 431:14-105, and



1 431:14-106 and other provisions of article 14 relating to
2 filings made by insurers."

3 SECTION 18. Section 431:14-105, Hawaii Revised Statutes,
4 is amended to read as follows:

5 "§431:14-105 Policy revisions that alter coverage. (a)

6 Any policy revisions that alter coverage in any manner shall be
7 filed with the commissioner and shall include an analysis of the
8 impact [of] each revision has on rates[-

9 (b) ~~A filing shall consist of either:~~

10 ~~(1) An electronic copy of the filing; or~~

11 ~~(2) Two printed copies of the filing.~~

12 ~~The commissioner may also request a printed version of an~~
13 ~~electronic filing to be submitted pursuant to paragraph (1).] or~~
14 loss costs.

15 [(e)] (b) After review by the commissioner, the
16 commissioner shall determine whether a rate filing for the
17 policy revision must be submitted in accordance with section
18 431:14-104."

19 SECTION 19. Section 431:14-108, Hawaii Revised Statutes,
20 is amended to read as follows:



1 "§431:14-108 Deviations. (a) Except for those lines of
2 insurance for which the commissioner determines ~~[that]~~
3 individual rate filings shall be made, every member of or
4 subscriber to a rating organization shall adhere to the filings
5 the organization made on its behalf ~~[by the organization, except~~
6 ~~that]~~. However, any insurer may ~~[make written application]~~
7 submit a rate filing to the commissioner to file a deviation
8 from the class rates, schedules, rating plans, or rules
9 respecting any class of insurance, ~~[or]~~ class of risk within a
10 class of insurance, or combination thereof. The ~~[application]~~
11 rate filing shall specify the basis for the deviation and shall
12 be accompanied by the data upon which the applicant relies. ~~[A]~~
13 The filer shall send simultaneously a copy of the ~~[application]~~
14 deviation and data ~~[shall be sent simultaneously]~~ to the rating
15 organization.

16 ~~[(b) The commissioner shall set a time and place for a~~
17 ~~hearing at which the insurer and the rating organization may be~~
18 ~~heard, and shall give them not less than ten days' written~~
19 ~~notice thereof. In the event the commissioner is advised by the~~
20 ~~rating organization that it does not desire a hearing, the~~



1 ~~commissioner may, upon the consent of the applicant, waive the~~
2 ~~hearing.~~

3 ~~(e)]~~ (b) In considering the ~~[application to file a]~~
4 ~~deviation,~~ the commissioner shall ~~[give consideration to]~~
5 consider the available statistics and the principles for
6 ratemaking ~~[as provided]~~ in section 431:14-103. The
7 commissioner shall ~~[issue an order permitting]~~ approve the
8 filing of the deviation ~~[to be filed]~~ if the commissioner finds
9 it ~~[to be]~~ justified. The deviation shall become effective upon
10 ~~[issuance of]~~ the commissioner's ~~[order.]~~ approval of the
11 proposed effective date of the filing. The commissioner shall
12 ~~[issue an order denying]~~ disapprove the ~~[application]~~ rate
13 filing if the commissioner finds ~~[that]~~ the deviation is not
14 justified or ~~[that]~~ the resulting premiums would be excessive,
15 inadequate, or unfairly discriminatory. Each deviation
16 ~~[permitted to be]~~ filed shall be effective for a period of one
17 year from the date of ~~[the order]~~ approval, unless terminated
18 sooner with ~~[the]~~ approval ~~[of]~~ by the commissioner."

19 SECTION 20. Section 431:14G-105, Hawaii Revised Statutes,
20 is amended by amending subsections (a) and (b) to read as
21 follows:



1 "(a) Every managed care plan shall file with the
2 commissioner every rate, charge, classification, schedule,
3 practice, or rule and every modification of any of the foregoing
4 that it proposes to use. Every filing shall:

5 (1) State its proposed effective date;

6 (2) Indicate the character and extent of the coverage
7 contemplated;

8 (3) Include a report on investment income; and

9 (4) Be accompanied by a \$50 fee [~~payable to the~~
10 ~~commissioner which shall~~] to be deposited in the
11 commissioner's education and training fund.

12 (b) [~~For each~~] Each filing[, ~~an insurer~~] shall [~~submit~~] be
13 submitted to the commissioner[+]

14 ~~(1) An electronic copy of the filing, or~~

15 ~~(2) Two printed copies of the filing,~~

16 ~~provided that the commissioner may request that an insurer that~~
17 ~~submits an electronic copy of the filing pursuant to paragraph~~

18 ~~(1) to also submit a printed copy of the electronic filing.]~~ via

19 the National Association of Insurance Commissioners' System for

20 Electronic Rates and Forms Filing or an equivalent service

21 approved by the commissioner."



SECTION 21. Section 431:19-103, Hawaii Revised Statutes,
is amended to read as follows:

"§431:19-103 Names of companies. (a) No captive
insurance company shall adopt a name that is the same,
deceptively similar, or likely to be confused with or mistaken
for any other existing business name registered in the State[
~~except that the commissioner may allow a branch captive
insurance company to be licensed in this State under a different
trade name if the normal name of the branch captive insurance
company is not available for use in this State].~~

(b) A captive insurance company shall apply to the
department of commerce and consumer affairs and the commissioner
for approval of the use or change of a trade name or an assumed
name pursuant to section 431:2- ."

SECTION 22. Section 431:19-115, Hawaii Revised Statutes,
is amended by amending subsections (a), (b), and (c) to read as
follows:

"(a) No insurance laws of this State, other than those
[~~contained~~] in this article, article 15, or [~~contained in~~
~~specific references contained~~] specifically referenced in this



1 section ~~[ex]~~, article, or article 15, shall apply to captive
2 insurance companies.

3 (b) Sections 431:3-302 to 431:3-304.5, 431:3-307, 431:3-
4 401 to 431:3-409, 431:3-411, 431:3-412, and 431:3-414; articles
5 1, 2, 4A, 5, 6, 9A, 9B, 9C, 11, and 11A~~[, and 15]~~; and chapter
6 431K shall apply to risk retention captive insurance companies.

7 (c) Articles 1, 2, and 6~~[, and 15]~~ shall apply to class 5
8 companies."

9 SECTION 23. Section 431:26-103, Hawaii Revised Statutes,
10 is amended by amending subsection (e) to read as follows:

11 "(e) A health carrier shall meet the following access plan
12 requirements:

13 (1) Beginning on July 1, 2017, a health carrier shall file
14 with the commissioner for approval, prior to or at the
15 time it files a newly offered network plan, in a
16 manner and form defined by rule or order of the
17 commissioner, an access plan that meets the
18 requirements of this article;

19 (2) The health carrier may request the commissioner to
20 deem sections of the access plan as proprietary,
21 competitive, or trade secret information that shall



1 not be made public. Information is proprietary,
2 competitive, or a trade secret if disclosure of the
3 information would cause the health carrier's
4 competitors to obtain valuable business information.
5 The health carrier shall make the access plans, absent
6 proprietary, competitive, or trade secret information,
7 available online, at the health carrier's business
8 premises, and to any person upon request; and

9 (3) The health carrier shall prepare an access plan prior
10 to offering a new network plan and shall notify the
11 commissioner of any material change to any existing
12 network plan within fifteen business days after the
13 change occurs. The carrier shall include in the
14 notice to the commissioner a reasonable timeframe
15 within which the carrier will submit to the
16 commissioner for approval or file with the
17 commissioner, as appropriate, an update to an existing
18 access plan."

19 SECTION 24. Section 431:26-104, Hawaii Revised Statutes,
20 is amended by amending subsection (f) to read as follows:



1 "(f) Selection standards shall be developed pursuant to
2 the following:

3 (1) Health carrier selection standards for selecting and
4 tiering, as applicable, participating providers shall
5 be developed for providers and each health care
6 professional specialty;

7 (2) The standards shall be used in determining the
8 selection of participating providers by the health
9 carrier and the intermediaries with which the health
10 carrier contracts. The standards shall meet
11 requirements relating to health care professional
12 credentialing verification developed by the
13 commissioner by order or through rules adopted
14 pursuant to chapter 91;

15 (3) Selection criteria shall not be established in a
16 manner:

17 (A) That would allow a health carrier to discriminate
18 against high risk populations by excluding
19 providers because the providers are located in
20 geographic areas that contain populations or
21 providers presenting a risk of higher than



1 average claims, losses, or health care services
2 utilization;

3 (B) That would exclude providers because the
4 providers treat or specialize in treating
5 populations presenting a risk of higher than
6 average claims, losses, or health care services
7 utilization; or

8 (C) That would discriminate with respect to
9 participation under the health benefit plan
10 against any provider who is acting within the
11 scope of the provider's license or certification
12 under applicable state law or regulations;
13 provided that this subparagraph shall not be
14 construed to require a health carrier to contract
15 with any provider who is willing to abide by the
16 terms and conditions for participation
17 established by the carrier;

18 (4) Notwithstanding paragraph (3), a carrier shall not be
19 prohibited from declining to select a provider who
20 fails to meet the other legitimate selection criteria



1 of the carrier developed in compliance with this
2 article; and

3 (5) This article does not require a health carrier, its
4 intermediaries, or the provider networks with which
5 the carrier and its intermediaries contract, to employ
6 specific providers acting within the scope of the
7 providers' license or certification under applicable
8 state law that may meet the selection criteria of the
9 carrier, or to contract with or retain more providers
10 acting within the scope of the providers' license or
11 certification under applicable state law than are
12 necessary to maintain a sufficient provider network."

13 SECTION 25. Section 432:1-604.5, Hawaii Revised Statutes,
14 is amended to read as follows:

15 "**§432:1-604.5 Contraceptive services.** (a)

16 Notwithstanding any provision of law to the contrary, each
17 employer group health policy, contract, plan, or agreement
18 issued or renewed in this State on or after January 1, 2000,
19 shall cease to exclude contraceptive services or supplies, and
20 contraceptive prescription drug coverage for the subscriber or



1 any dependent of the subscriber who is covered by the policy,
2 subject to the exclusion under section 431:10A-116.7.

3 (b) Except as provided in subsection (c), all policies,
4 contracts, plans, or agreements under subsection (a), that
5 provide contraceptive services or supplies, or prescription drug
6 coverage, shall not exclude any prescription contraceptive
7 supplies or impose any unusual copayment, charge, or waiting
8 requirement for such drug or device.

9 (c) Coverage for contraceptives shall include at least one
10 brand from the monophasic, multiphasic, and the progestin-only
11 categories. A member shall receive coverage for any other oral
12 contraceptive only if:

13 (1) Use of brands covered has resulted in an adverse drug
14 reaction; or

15 (2) The member has not used the brands covered and, based
16 on the member's past medical history, the prescribing
17 health care provider believes that use of the brands
18 covered would result in an adverse reaction.

19 (d) Coverage required by this section shall include
20 reimbursement to a prescribing health care provider or



1 dispensing entity for prescription contraceptive supplies
2 intended to last for up to a twelve-month period for a member.

3 ~~[(e) Coverage required by this section shall include~~
4 ~~reimbursement to a prescribing and dispensing pharmacist who~~
5 ~~prescribes and dispenses contraceptive supplies pursuant to~~
6 ~~section 461-11.6.~~

7 ~~+(f)]~~ (e) For purposes of this section:

8 "Contraceptive services" means physician-delivered,
9 physician-supervised, physician assistant-delivered, advanced
10 practice registered nurse-delivered, nurse-delivered, or
11 pharmacist-delivered medical services intended to promote the
12 effective use of contraceptive supplies or devices to prevent
13 unwanted pregnancy.

14 "Contraceptive supplies" means all Food and Drug
15 Administration-approved contraceptive drugs or devices used to
16 prevent unwanted pregnancy.

17 ~~+(g)]~~ (f) Nothing in this section shall be construed to
18 extend the practice or privileges of any health care provider
19 beyond that provided in the laws governing the provider's
20 practice and privileges."



1 SECTION 26. Section 432:1-607.3, Hawaii Revised Statutes,
2 is amended by amending subsection (e) to read as follows:

3 "(e) As used in this section unless the context requires
4 otherwise:

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

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

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

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



1 SECTION 27. Section 432D-26.3, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) As used in this section unless the context requires
4 otherwise:

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

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

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

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



SECTION 28. Section 481R-4, Hawaii Revised Statutes, is amended to read as follows:

"§481R-4 Registration requirements; exemptions. (a)

Before conducting business in this State or issuing any warranty, a warrantor shall register with the commissioner, on a form prescribed by the commissioner, and shall pay to the commissioner a fee as ~~[provided under]~~ set forth in section 431:7-101. A person who sells or solicits a vehicle protection product, but who is not a warrantor, shall not be required to register with the commissioner as a warrantor.

(b) ~~[Warrantor registration records shall be updated annually and shall contain the following information:]~~ A warrantor shall inform the commissioner, by any means acceptable to the commissioner, of any change of status within thirty days of the change. As used in this subsection, "change of status" includes, but is not limited to:

- (1) The address of the principal office of the warrantor;
- (2) The name and address of the warrantor's agent for the service of process in this State, if other than the warrantor;



(3) The identities of the warrantor's executive officer or officers directly responsible for the warrantor's vehicle protection product business; and

(4) The name, address, and telephone number of any administrators designated by the warrantor to be responsible for the administration of vehicle protection product warranties in this State[+]_.

~~[-(5)-] A copy of each warranty form the warrantor proposes to use in this State; and~~

~~[-(6)-]~~ (c) A warrantor shall provide an annual statement that the warrantor is in compliance with the financial security requirements of section 481R-5 and that details how the warrantor intends to meet the requirements, and proof of compliance with the requirements.

~~[-(e)-]~~ (d) The marketing, selling, offering for sale, issuing, making, proposing to make, and administering of vehicle protection products shall be exempt from:

(1) Chapter 481X; and

(2) The insurance laws of this State.



1 ~~[(d)]~~ (e) The following contracts and agreements shall be
2 exempt from this chapter and shall only be subject to other
3 statutes and laws that specifically apply to them:

4 (1) Warranties or guarantees, other than those provided as
5 part of a vehicle protection product; and

6 (2) Service contracts regulated by chapter 481X.

7 ~~[(e)]~~ (f) A seller shall not be deemed to be a warrantor
8 unless, in addition to acting as a seller, the person is named
9 under the terms of a vehicle protection product warranty as the
10 contractual obligor to the consumer."

11 SECTION 29. Section 481R-8, Hawaii Revised Statutes, is
12 amended by amending its title and subsection (a) to read as
13 follows:

14 " ~~[(f)] §481R-8 [f]—Warrantor records—~~ Recordkeeping. (a)
15 ~~[Each]~~ The warrantor shall maintain accurate accounts, books,
16 warranty forms, and other records ~~[regarding]~~ of all
17 transactions regulated under this chapter. The warrantor's
18 records shall include:

19 (1) A copy of each warranty form the warrantor proposes to
20 use in this State;



1 ~~[(1)]~~ (2) A copy of the warranty for each unique form of
2 vehicle protection product sold;

3 ~~[(2)]~~ (3) The name and address of each ~~[consumer]~~ warranty
4 holder;

5 ~~[(3)]~~ (4) A list of the locations where the warrantor's
6 vehicle protection products are marketed, sold, or
7 offered for sale; and

8 ~~[(4)]~~ (5) Files that contain at least the dates and
9 descriptions of payments to consumers related to the
10 vehicle protection product."

11 SECTION 30. Section 481X-3, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~[(1)]~~ §481X-3 ~~[(1)]~~ Registration~~[-]~~ requirements. (a) Before
14 conducting business in this State~~[-]~~ or issuing any service
15 contracts, a provider shall register with the commissioner, on a
16 form prescribed by the commissioner, and shall pay to the
17 commissioner a fee as ~~[provided under]~~ set forth in section
18 431:7-101.

19 (b) ~~[Provider registration shall be updated annually and~~
20 ~~shall contain the following information:]~~ A provider shall
21 inform the commissioner, by any means acceptable to the



1 commissioner, of any change of status within thirty days of the
2 change. As used in this subsection, "change of status"
3 includes, but is not limited to:

4 (1) The address of the principal office of the provider;

5 (2) The name and address of the provider's agent for the
6 service of process in this State, if other than the
7 provider;

8 (3) The identities of the provider's executive officer or
9 officers directly responsible for the provider's
10 service contract business; and

11 (4) The name, address, and telephone number of any
12 administrators designated by the provider to be
13 responsible for the administration of service
14 contracts in this State[;

15 ~~(5) A copy of each service contract form the provider~~
16 ~~proposes to use in this State; and~~

17 ~~(6) A statement that the provider is in compliance with~~
18 ~~the financial responsibility requirements of section~~
19 ~~481X-4 and that details how the provider intends to~~
20 ~~meet the requirements, and proof of compliance with~~
21 ~~the requirements].~~



1 (c) A provider shall provide an annual statement that the
2 provider is in compliance with the financial responsibility
3 requirements of section 481X-4, and that details how the
4 provider intends to meet the requirements and proof of
5 compliance with the requirements."

6 SECTION 31. Section 481X-5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~f~~] **§481X-5** [~~f~~] **Recordkeeping.** (a) The provider [~~or~~
9 ~~provider's administrator~~] shall [~~keep~~] maintain accurate
10 accounts, books, service contract forms, and other records of
11 all transactions regulated under this chapter~~[-]~~, including:

12 [~~(b) Accounts, books, and records maintained as required~~
13 ~~by this section shall include the following:-]~~

14 (1) A copy of each service contract form the provider
15 proposes to use in this State;

16 [~~(1)~~] (2) [Copies] A copy of each [type] unique form of
17 service contract sold;

18 [~~(2)~~] (3) The name and address of each contract holder~~[, to~~
19 ~~the extent that the name and address have been~~
20 ~~furnished by the contract holder];~~



1 ~~[(3)]~~ (4) A list of the locations where the provider's
2 service contracts are marketed, sold, or offered for
3 sale; and

4 ~~[(4)]~~ (5) ~~[Recorded claims files which at a minimum shall]~~
5 Files that contain at least the ~~[date]~~ dates and
6 ~~[description]~~ descriptions of ~~[each claim]~~ claims
7 under the provider's service contracts.

8 ~~[(e)]~~ (b) The provider for each service contract shall
9 retain records required under this section for at least one year
10 after coverage under the contract has expired. A provider
11 discontinuing business in this State shall maintain records
12 required under this section until it provides the commissioner
13 with satisfactory proof that the provider has discharged all
14 contractual obligations to contract holders in this State.

15 ~~[(d)]~~ (c) The records required under this section may be~~[-~~
16 ~~but are not required to be,~~] maintained on a computer disk or
17 other recordkeeping technology. If records are maintained in a
18 form other than hard copy, ~~[the records]~~ they shall be in a form
19 allowing duplication as legible hard ~~[copy]~~ copies at the
20 request of the commissioner.



1 ~~[(e)]~~ (d) Upon request of the commissioner, the provider
2 shall make available to the commissioner all accounts, books,
3 service contract forms, and other records concerning service
4 contracts sold by the provider ~~[reasonably necessary]~~ to enable
5 the commissioner to determine compliance ~~[or noncompliance]~~ with
6 this chapter."

7 SECTION 32. Section 432:1-611, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§432:1-611 Reimbursement for services of advanced~~
10 ~~practice registered nurses. All individual and group hospital~~
11 ~~and medical service plan contracts and medical service~~
12 ~~corporation contracts under this article shall provide~~
13 ~~reimbursement for health plan covered services provided by~~
14 ~~advanced practice registered nurses licensed pursuant to chapter~~
15 ~~457."]~~

16 SECTION 33. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 34. In codifying the new sections added by section
19 1 of this Act the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



1 SECTION 35. This Act shall take effect on July 1, 2050;
2 provided that sections 1, 4, 14, and 15 shall become effective
3 on January 1, 2020, and the first filing of the corporate
4 governance annual disclosure shall be in 2020, and sections 23
5 and 24 of this Act shall be repealed on December 31, 2020.



Report Title:

Insurance; Corporate Governance; National Association of Insurance Commissioners; Housekeeping; Conformity

Description:

Amends various portions of the Hawaii Insurance Code by adopting NAIC model language for corporate governance annual disclosures, establishing a procedure for changes in trade name or an assumed name, and clarifying reimbursement to health insurance providers. Clarifies requirements for reporting and recordkeeping for vehicle protection product warrantors and service contract providers. Makes various housekeeping amendments. (HB2347 HD1)

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

