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

13 (2) Specify the requirements for completing a corporate
14 governance annual disclosure with the commissioner;
15 and

16 (3) Provide for the confidential treatment of the
17 corporate governance annual disclosure and related



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

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

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

16 **§431: -B Definitions.** As used in this article, the
17 following definitions shall apply:

18 "Commissioner" means the insurance commissioner of this
19 State.



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

4 "Insurance group" means those insurers and affiliates
5 included within an insurance holding company system as defined
6 in article 11.

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

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

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



1 commissioner of the lead state for the insurance group, in
2 accordance with the laws of the lead state, as determined by the
3 procedures outlined in the most recent Financial Analysis
4 Handbook adopted by the National Association of Insurance
5 Commissioners.

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

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

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



1 corporate governance. The insurer or insurance group is
2 encouraged to make the corporate governance annual disclosure at
3 the level at which:

4 (1) The insurer's or insurance group's risk appetite is
5 determined;

6 (2) The earnings, capital, liquidity, operations, and
7 reputation of the insurer are overseen collectively
8 and at which the supervision of those factors is
9 coordinated and exercised; or

10 (3) Legal liability for failure of general corporate
11 governance duties would be placed.

12 If the insurer or insurance group determines the level of
13 reporting based on these criteria, it shall indicate which of
14 the criteria described in paragraphs (1) to (3) was used to
15 determine the level of reporting and explain any subsequent
16 changes in level of reporting.

17 (e) The review of the corporate governance annual
18 disclosure and any additional requests for information shall be
19 made through the lead state as determined by the procedures
20 within the most recent Financial Analysis Handbook adopted by
21 the National Association of Insurance Commissioners.



1 (f) Insurers providing information substantially similar
2 to the information required by this article in other documents
3 provided to the commissioner, including proxy statements filed
4 in conjunction with Form B requirements, or other state or
5 federal filings provided to the insurance division, shall not be
6 required to duplicate that information in the corporate
7 governance annual disclosure, but shall only be required to
8 cross reference the document in which the information is
9 included.

10 §431: -D Rules. The commissioner may adopt rules and
11 issue orders to carry out the provisions of this article.

12 §431: -E Contents of corporate governance annual
13 disclosure. (a) The insurer or insurance group shall have
14 discretion over the responses to the corporate governance annual
15 disclosure inquiries; provided that the corporate governance
16 annual disclosure shall contain the material information
17 necessary to permit the commissioner to gain an understanding of
18 the insurer's or insurance group's corporate governance
19 structure, policies, and practices. The commissioner may
20 request additional information deemed material and necessary to
21 provide the commissioner with a clear understanding of the



1 corporate governance policies, the reporting or information
2 system, or the controls implementing those policies.

3 (b) Notwithstanding subsection (a), the corporate
4 governance annual disclosure shall be prepared to be consistent
5 with the National Association of Insurance Commissioners'
6 Corporate Governance Annual Disclosure Model Regulation.
7 Documentation and supporting information shall be maintained and
8 made available upon examination or request of the commissioner.

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



1 section shall not be interpreted to limit the application of
2 exceptions to disclosure under chapter 92F to any records or
3 information not specifically made confidential by this section.
4 However, the commissioner may use the documents, materials, or
5 other information in the furtherance of any regulatory or legal
6 action brought as a part of the commissioner's official duties.
7 The commissioner shall not otherwise make the documents,
8 materials, or other information public without the prior written
9 consent of the insurer. Nothing in this section shall be
10 construed to require written consent of the insurer before the
11 commissioner may share or receive confidential documents,
12 materials, or other information related to the corporate
13 governance annual disclosure pursuant to subsection (c) to
14 assist in the performance of the commissioner's regular duties.

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



1 confidential documents, materials, or information subject to
2 subsection (a).

3 (c) In order to assist in the performance of the
4 commissioner's regulatory duties, the commissioner may:

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



1 (2) Receive documents, materials, or other information
2 related to the corporate governance annual disclosure,
3 including otherwise confidential and privileged
4 documents, materials, or information, including
5 proprietary and trade-secret information or documents,
6 from regulatory officials of other state, federal, and
7 international financial regulatory agencies, including
8 members of any supervisory college as described in
9 section 431:11-107.5, and from the National
10 Association of Insurance Commissioners, and shall
11 maintain as confidential or privileged any documents,
12 materials, or information received with notice or the
13 understanding that it is confidential or privileged
14 under the laws of the jurisdiction that is the source
15 of the document, material, or information.

16 (d) The sharing of information and documents by the
17 commissioner pursuant to this article shall not constitute a
18 delegation of regulatory authority or rulemaking, and the
19 commissioner shall be solely responsible for the administration,
20 execution, and enforcement of this article.



1 (e) No waiver of any applicable privilege or claim of
2 confidentiality in the documents, proprietary and trade-secret
3 materials, or other information related to the corporate
4 governance annual disclosure shall occur as a result of
5 disclosure of any information related to the corporate
6 governance annual disclosure or documents to the commissioner
7 under this section or as a result of sharing as authorized in
8 this article.

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

17 (b) Any persons retained under subsection (a) shall be
18 under the direction and control of the commissioner and shall
19 act in a purely advisory capacity.



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

4 (d) As part of the retention process, a third-party
5 consultant shall verify to the commissioner, with notice to the
6 insurer, that it is free from any conflict of interest and that
7 it has internal procedures in place to monitor compliance with a
8 conflict and to comply with the confidentiality standards and
9 requirements of this article.

10 (e) A written agreement with the National Association of
11 Insurance Commissioners or a third-party consultant governing
12 sharing and use of information provided pursuant to this article
13 shall contain the following provisions and expressly require the
14 written consent of the insurer prior to making public
15 information provided under this article:

16 (1) Specific procedures and protocols for maintaining the
17 confidentiality and security of the corporate
18 governance annual disclosure and related information
19 shared with the National Association of Insurance
20 Commissioners or a third-party consultant pursuant to
21 this article;



1 (2) Procedures and protocols for sharing by the National
2 Association of Insurance Commissioners only with other
3 state regulators from states in which the insurance
4 group has domiciled insurers. The agreement shall
5 provide that the recipient agrees in writing to
6 maintain the confidentiality and privileged status of
7 the corporate governance annual disclosure and related
8 documents, materials, or other information and has
9 verified in writing the legal authority to maintain
10 confidentiality;

11 (3) A provision specifying that ownership of the corporate
12 governance annual disclosure and related information
13 shared with the National Association of Insurance
14 Commissioners or a third-party consultant remains with
15 the insurance division and that the National
16 Association of Insurance Commissioners' or third-party
17 consultant's use of the information is subject to the
18 direction of the commissioner;

19 (4) A provision that prohibits the National Association of
20 Insurance Commissioners or a third-party consultant
21 from storing the information shared pursuant to this



1 article in a permanent database after the underlying
2 analysis is completed;

3 (5) A provision requiring the National Association of
4 Insurance Commissioners or third-party consultant to
5 provide prompt notice to the commissioner and the
6 insurer or insurance group regarding any subpoena,
7 request for disclosure, or request for production of
8 the insurer's corporate governance annual disclosure
9 or related information; and

10 (6) A requirement that the National Association of
11 Insurance Commissioners or a third-party consultant
12 consent to intervention by an insurer in any judicial
13 or administrative action in which the National
14 Association of Insurance Commissioners or a third-
15 party consultant may be required to disclose
16 confidential information about the insurer shared with
17 the National Association of Insurance Commissioners or
18 a third-party consultant pursuant to this article.

19 §431: -H Sanctions. Any insurer failing, without just
20 cause, to timely file the corporate governance annual disclosure
21 as required in this article shall be required, after notice and



1 an opportunity for hearing, to pay a penalty of not less than
2 \$100 and not more than \$500 for each day's delay, to be
3 recovered by the commissioner and paid into the compliance
4 resolution fund. The maximum penalty under this section shall
5 be \$50,000. The commissioner may reduce the penalty if the
6 insurer demonstrates to the commissioner that the imposition of
7 the penalty would constitute a financial hardship to the
8 insurer.

9 §431: -I Severability. If any provision of this article
10 other than section 431: -F, or the application thereof to any
11 person or circumstance, is held invalid, such determination
12 shall not affect the provisions or applications of this article
13 which can be given effect without the invalid provision or
14 application, and to that end the provisions of this article,
15 with the exception of section 431: -F, are severable."

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

19 "§431:2- Trade and assumed names. (a) Every person
20 shall file an application with the department of commerce and
21 consumer affairs and the commissioner, on a form approved by the



1 department of commerce and consumer affairs and the
2 commissioner, for the use or change of a trade name or an
3 assumed name.

4 (b) If the department of commerce and consumer affairs or
5 the commissioner finds the application for use or change of a
6 trade name or an assumed name does not meet the requirements of
7 this chapter or the corporation laws of this State, or is
8 substantially identical to another trade name or assumed name,
9 the department of commerce and consumer affairs or the
10 commissioner shall send to the applicant written notice of
11 disapproval of the application specifying the reasons for
12 disapproval and stating that the trade name or assumed name
13 shall not become effective."

14 SECTION 3. Chapter 431, Hawaii Revised Statutes, is
15 amended by adding two new sections to part I of article 10A to
16 be appropriately designated and to read as follows:

17 "§431:10A-A Required disclaimer. Any limited benefit
18 policy, certificate, application, or sales brochure that
19 provides coverage for accident and sickness, excluding specified
20 disease, long-term care, disability income, medicare supplement,
21 dental, or vision, shall disclose in a conspicuous manner and in



1 no less than fourteen-point boldface type the following, or
2 substantially similar, statement:

3 "THIS IS NOT QUALIFYING HEALTH COVERAGE ("MINIMUM
4 ESSENTIAL COVERAGE") THAT SATISFIES THE HEALTH COVERAGE
5 REQUIREMENT OF THE AFFORDABLE CARE ACT."

6 §431:10A-B Reimbursement to providers. (a) Coverage for
7 services required by this part shall include reimbursement to
8 health care providers who perform services required by this
9 part, or to the insured member, as appropriate.

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

15 (c) For the purposes of this section, "health care
16 provider" means a provider of services, as defined in title 42
17 United States Code section 1395x(u); a provider of medical and
18 other health services, as defined in title 42 United States Code
19 section 1395x(s); and other practitioners licensed by the State
20 and working within their scope of practice."



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

"§431:11- Group-wide supervision of internationally active insurance groups. (a) The commissioner may act as the group-wide supervisor for any internationally active insurance group in accordance with this section; provided that the commissioner may otherwise acknowledge another regulatory official as the group-wide supervisor where the internationally active insurance group:

(1) Does not have substantial insurance operations in the United States;

(2) Has substantial insurance operations in the United States, but not in this State; or

(3) Has substantial insurance operations in the United States and this State, but the commissioner has determined pursuant to the factors set forth in subsections (b) and (f) that the other regulatory official is the appropriate group-wide supervisor.

An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request



1 that the commissioner make a determination or acknowledgment as
2 to a group-wide supervisor pursuant to this section.

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

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

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



1 (3) The location of the executive offices or largest
2 operational offices of the internationally active
3 insurance group;

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

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

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

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

18 However, a commissioner identified under this section as the
19 group-wide supervisor may determine that it is appropriate to
20 acknowledge another supervisor to serve as the group-wide
21 supervisor. The acknowledgment of the group-wide supervisor



1 shall be made after consideration of the factors listed in
2 paragraphs (1) through (5), and shall be made in cooperation
3 with and subject to the acknowledgment of other regulatory
4 officials involved with supervision of members of the
5 internationally active insurance group and in consultation with
6 the internationally active insurance group.

7 (c) Notwithstanding any other provision of law to the
8 contrary, when another regulatory official is acting as the
9 group-wide supervisor of an internationally active insurance
10 group, the commissioner shall acknowledge that regulatory
11 official as the group-wide supervisor; provided that in the
12 event of a material change in the internationally active
13 insurance group that results in:

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

17 (2) This State being the place of domicile of the top-
18 tiered insurer or insurers in the insurance holding
19 company system of the internationally active insurance
20 group,



1 the commissioner shall make a determination or acknowledgment as
2 to the appropriate group-wide supervisor for such an
3 internationally active insurance group pursuant to subsection
4 (b) .

5 (d) Pursuant to section 431:11-107, the commissioner may
6 collect from any insurer registered pursuant to section 431:11-
7 105 all information necessary to determine whether the
8 commissioner may act as the group-wide supervisor of an
9 internationally active insurance group or if the commissioner
10 may acknowledge another regulatory official to act as the group-
11 wide supervisor. Prior to issuing a determination that an
12 internationally active insurance group is subject to group-wide
13 supervision by the commissioner, the commissioner shall notify
14 the insurer registered pursuant to section 431:11-105 and the
15 ultimate controlling person within the internationally active
16 insurance group. The internationally active insurance group
17 shall have at least thirty days to provide the commissioner with
18 additional information pertinent to the pending determination.
19 The commissioner shall publish on the division's website the
20 identity of internationally active insurance groups that the



1 commissioner has determined are subject to group-wide
2 supervision by the commissioner.

3 (e) If the commissioner is the group-wide supervisor for
4 an internationally active insurance group, the commissioner may
5 engage in any of the following group-wide supervision
6 activities:

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

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

14 (B) Reasonable and effective mitigation measures are
15 in place;

16 (2) Request, from any member of an internationally active
17 insurance group subject to the commissioner's
18 supervision, information necessary and appropriate to
19 assess enterprise risk, including but not limited to
20 information about the members of the internationally
21 active insurance group regarding:



- 1 (A) Governance, risk assessment, and management;
2 (B) Capital adequacy; and
3 (C) Material intercompany transactions;
4 (3) Coordinate and, through the authority of the
5 regulatory officials of the jurisdictions where
6 members of the internationally active insurance group
7 are domiciled, compel development and implementation
8 of reasonable measures designed to ensure that the
9 internationally active insurance group is able to
10 timely recognize and mitigate enterprise risks to
11 members of such internationally active insurance group
12 that are engaged in the business of insurance;
13 (4) Communicate with other state, federal, and
14 international regulatory agencies for members within
15 the internationally active insurance group and share
16 relevant information subject to the confidentiality
17 provisions of section 431:11-108, through supervisory
18 colleges as set forth in section 431:11-107.5 or
19 otherwise;
20 (5) Enter into agreements with or obtain documentation
21 from any insurer registered under section 431:11-105,



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

14 (6) Other group-wide supervision activities, consistent
15 with the authorities and purposes specified in this
16 subsection, as considered necessary by the
17 commissioner.

18 (f) If the commissioner acknowledges that another
19 regulatory official from a jurisdiction that is not accredited
20 by the National Association of Insurance Commissioners is the
21 group-wide supervisor, the commissioner may reasonably



1 cooperate, through supervisory colleges or otherwise, with
2 group-wide supervision undertaken by the group-wide supervisor;
3 provided that:

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

6 (2) The regulatory official acknowledged as the group-wide
7 supervisor also recognizes and cooperates with the
8 commissioner's activities as a group-wide supervisor
9 for other internationally active insurance groups
10 where applicable. Where such recognition and
11 cooperation is not reasonably reciprocal, the
12 commissioner may refuse recognition and cooperation.

13 (g) The commissioner may enter into agreements with or
14 obtain documentation from any insurer registered under section
15 431:11-105, any affiliate of the insurer, and other state,
16 federal, and international regulatory agencies for members of
17 the internationally active insurance group, that provide the
18 basis for or otherwise clarify a regulatory official's role as
19 group-wide supervisor.

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



1 (i) A registered insurer subject to this section shall be
2 liable for and shall pay the reasonable expenses of the
3 commissioner's participation in the administration of this
4 section, including the engagement of attorneys, actuaries, and
5 any other professionals, and all reasonable travel expenses."

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

9 "§432:1- Reimbursement to providers. (a) Coverage for
10 services required by this part shall include reimbursement to
11 health care providers who perform services required by this
12 article, or to the insured member, as appropriate.

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

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



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

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

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

(c) An insurer 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- .

~~[(e)]~~ (d) When a foreign or an alien insurer authorized to do business in this State wants to change the name under which its certificate of authority is issued, the insurer shall file a request for name change with the commissioner at least thirty days prior to the effective date of the name change. If within the thirty-day period the commissioner finds the name change request does not meet the requirements of this chapter or of the corporation laws of this State, the commissioner shall send to the insurer written notice of disapproval of the request



1 specifying in what respect the proposed name change fails to
2 meet the requirements of this chapter or the corporation laws of
3 this State and stating that the name change shall not become
4 effective."

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

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

12 (2) The operative date of the valuation manual is January
13 1 of the first calendar year following the first July
14 1 as of which all of the following have occurred:

15 (A) The valuation manual has been adopted by the
16 National Association of Insurance Commissioners
17 by an affirmative vote of at least forty-two
18 members, or three-fourths of the members voting,
19 whichever is greater;

20 (B) The Standard Valuation Law, as amended by the
21 National Association of Insurance Commissioners



1 in 2009, or legislation including substantially
2 similar terms and provisions, has been enacted by
3 states representing greater than seventy-five per
4 cent of the direct premiums written as reported
5 in the following annual statements submitted for
6 2008: life, accident and health annual
7 statements; health annual statements; or
8 fraternal annual statements; and

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

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



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

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

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

18 ~~(B)~~ ~~The valuation manual becomes effective pursuant~~
19 ~~to rules adopted by the commissioner;]~~

20 (4) The valuation manual shall specify all of the
21 following:



1 (A) Minimum valuation standards for and definitions
2 of the policies or contracts subject to
3 subsection (b) (2). These minimum valuation
4 standards shall be:

5 (i) The commissioner's reserve valuation method
6 for life insurance contracts, other than
7 annuity contracts, subject to subsection
8 (b) (2);

9 (ii) The commissioner's annuity reserve valuation
10 method for annuity contracts subject to
11 subsection (b) (2); and

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

14 (B) Which policies or contracts or types of policies
15 or contracts that are subject to the requirements
16 of a principle-based valuation in subsection
17 (p) (1) and the minimum valuation standards
18 consistent with those requirements;

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



1 (i) Requirements for the format of reports to
2 the commissioner under subsection (p) (2) (C)
3 that shall include information necessary to
4 determine if the valuation is appropriate
5 and in compliance with this section;

6 (ii) Assumptions shall be prescribed for risks
7 over which the company does not have
8 significant control or influence; and

9 (iii) Procedures for corporate governance and
10 oversight of the actuarial function, and a
11 process for appropriate waiver or
12 modification of such procedures;

13 (D) For policies not subject to a principle-based
14 valuation under subsection (p), the minimum
15 valuation standard shall either:

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

19 (ii) Develop reserves that quantify the benefits
20 and guarantees, and the funding, associated
21 with the contracts and their risks at a



1 level of conservatism that reflects
2 conditions that include unfavorable events
3 that have a reasonable probability of
4 occurring;

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

12 (F) The data and form of the data required under
13 subsection (q), with whom the data shall be
14 submitted, and may specify other requirements,
15 including data analyses and reporting of
16 analyses;

17 (5) [~~In the absence of~~] Absent a specific valuation
18 requirement, or if a specific valuation requirement in
19 the valuation manual is not, in the opinion of the
20 commissioner, in compliance with this section, then
21 the company shall, with respect to these requirements,



1 comply with minimum valuation standards prescribed by
2 the commissioner by rule;

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

15 (7) The commissioner may require a company to change any
16 assumption or method that, in the opinion of the
17 commissioner, is necessary to comply with the
18 requirements of the valuation manual or this section,
19 and the company shall adjust the reserves as required
20 by the commissioner. The commissioner may take other



1 disciplinary action as permitted pursuant to this
2 chapter."

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

5 "**§431:9-203 General qualifications for license.** (a) For
6 the protection of the public, the commissioner shall not issue
7 or extend any license for an adjuster or independent bill
8 reviewer:

9 (1) Except as provided by this article; or

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

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

16 (c) An applicant shall apply to the department of commerce
17 and consumer affairs and the commissioner for approval of the
18 use of a trade name or an assumed name pursuant to section
19 431:2- .

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



- 1 (1) Inform the commissioner by any means acceptable to the
2 commissioner of any change of status within thirty
3 days of the change; [~~and~~]
- 4 (2) Report any change of status to the business
5 registration division if the licensee is a business
6 entity registered with the department of commerce and
7 consumer affairs pursuant to title 23 or title 23A, or
8 if the licensee has registered a trade name pursuant
9 to part II of chapter 482[~~-~~]; and
- 10 (3) Apply to the department of commerce and consumer
11 affairs and the commissioner for approval to change
12 the status of a trade name or an assumed name pursuant
13 to section 431:2- .

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

17 [~~(d)~~] (e) As used in this section, "change of status"
18 includes but shall not be limited to change of legal name,
19 assumed name, trade name, business address, home address,
20 mailing address, business phone number, business fax number,



1 business electronic mail address, business website address, or
2 home phone number."

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

5 "§431:9A-110 Legal, trade, and assumed names. (a) Every
6 insurance producer doing business in this State shall notify the
7 commissioner in writing of the insurance producer's legal name
8 ~~[and trade name, if applicable].~~

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

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

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



- 1 (1) The text is in plain language [~~, achieving~~] and
2 achieves a minimum score of forty on the Flesch
3 reading ease test or an equivalent score on any other
4 comparable test prescribed by the commissioner under
5 section 431:10-105(a);
- 6 (2) The contract is printed, except for specification
7 pages, schedules, and tables, in not less than ten-
8 point type [~~, one point leaded~~];
- 9 (3) The style, arrangement, and general appearance of the
10 contract give no undue prominence to any endorsements,
11 riders, or other portions of the text; and
- 12 (4) A table of contents or an index of principal sections
13 is provided with the contract when the text consists
14 of more than three thousand words printed on three or
15 less pages or when the text has more than three pages,
16 regardless of the total number of printed words [~~, and~~
- 17 ~~(5) For any short-term health insurance policies that~~
18 ~~impose preexisting conditions provisions, any policy,~~
19 ~~application, or sales brochure shall disclose in a~~
20 ~~conspicuous manner in not less than fourteen point~~
21 ~~bold face type the following statement:~~



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

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

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

- (1) Notwithstanding any provision to the contrary,
whenever a policy, contract, plan, or agreement
provides for reimbursement for any visual or
optometric service, which is within the lawful scope
of practice of a duly licensed optometrist, the person
entitled to benefits or the person performing the
services shall be entitled to reimbursement whether
the service is performed by a licensed physician or by
a licensed optometrist. Visual or optometric services
shall include eye or visual examination, or both, or a



1 correction of any visual or muscular anomaly, and the
2 supplying of ophthalmic materials, lenses, contact
3 lenses, spectacles, eyeglasses, and appurtenances
4 thereto;

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

16 (3) Notwithstanding any provision to the contrary,
17 whenever the policy provides reimbursement or payment
18 for any service, which is within the lawful scope of
19 practice of a psychologist licensed in this State, the
20 person entitled to benefits or performing the service
21 shall be entitled to reimbursement or payment, whether



1 the service is performed by a licensed physician or
2 licensed psychologist;

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

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

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

18 The services provided in this paragraph are
19 subject to any coinsurance provisions that may be in
20 force in these policies, contracts, plans, or
21 agreements.



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

14 (5) (A) (i) Notwithstanding any provision to the
15 contrary, whenever a policy, contract, plan,
16 or agreement provides coverage for the
17 children of the insured, that coverage shall
18 also extend to the date of birth of any
19 newborn child to be adopted by the insured;
20 provided that the insured gives written
21 notice to the insurer of the insured's



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

11 (ii) Where notification has not been received by
12 the insurer prior to the child's birth or
13 within the specified period following the
14 child's birth, insurance coverage shall be
15 effective from the first day following the
16 insurer's receipt of legal notification of
17 the insured's ability to consent for
18 treatment of the infant for whom coverage is
19 sought; and



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

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

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



1 process if the newborn has been treated from
2 birth by a provider not contracting or
3 affiliated with the health maintenance
4 organization[, and

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

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

16 "§431:10A-116.6 Contraceptive services. (a)

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



1 subscriber who is covered by the policy, subject to the
2 exclusion under section 431:10A-116.7 and the exclusion under
3 section 431:10A-102.5.

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

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

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

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

20 (d) Coverage required by this section shall include
21 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 an insured.

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 United States Food and
15 Drug Administration-approved contraceptive drugs or devices used
16 to 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."



SECTION 13. Section 431:10A-118.3, Hawaii Revised

Statutes, is amended by amending subsection (e) to read as follows:

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

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

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

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

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



SECTION 14. Section 431:11-102, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

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

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

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

(2) Meets the following criteria:

(A) Premiums written in at least three countries;

(B) The percentage of gross premiums written outside the United States is at least ten per cent of the insurance holding company system's total gross written premiums; and

(C) Based on a three-year rolling average, the total assets of the insurance holding company system



1 are at least \$50,000,000,000 or the total gross
2 written premiums of the insurance holding company
3 system are at least \$10,000,000,000."

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

6 "(a) Documents, materials, or other information in the
7 possession or control of the insurance division that are
8 obtained by or disclosed to the commissioner or any other person
9 in the course of an examination or investigation made pursuant
10 to section 431:11-107 and all information reported or provided
11 to the insurance division pursuant to sections 431:11-104(b)(12)
12 and (13), 431:11-105, [~~and~~] 431:11-106, and 431:11- , shall be
13 confidential by law and privileged, shall not be disclosable
14 under chapter 92F, shall not be subject to subpoena, and shall
15 not be subject to discovery or admissible in evidence in any
16 private civil action. The commissioner may use the documents,
17 materials, or other information in the furtherance of any
18 regulatory or legal action brought as part of the commissioner's
19 official duties. The commissioner shall not otherwise make the
20 documents, materials, or other information public without prior
21 written consent of the insurer to which it pertains unless the



1 commissioner, after giving the insurer and its affiliates who
2 would be affected thereby notice and opportunity to be heard,
3 determines that the interest of the policyholders, shareholders,
4 or the public will be served by the publication thereof, in
5 which event the commissioner may publish all or any part in such
6 manner as may be deemed appropriate."

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

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

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

18 Every filing shall:

19 (1) State its proposed effective date;

20 (2) Indicate the character and extent of the coverage
21 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



1 executive order, or ~~by~~ order or rule of a public
2 body, not covered by a previous filing; and

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

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

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

13 "**§431:14-104.5 Loss cost filings.** When required by the
14 commissioner, the rating organization or advisory organization
15 shall file for approval all prospective loss costs, ~~[and all]~~
16 supplementary rating information, and every change ~~[or]~~,
17 amendment, or modification ~~[of any of the foregoing]~~ thereto
18 proposed for use in this State. The filings shall be subject to
19 ~~[section]~~ sections 431:14-104 ~~[and section]~~, 431:14-105, and
20 431:14-106 and other provisions of article 14 relating to
21 filings made by insurers."



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

"§431:14-105 Policy revisions that alter coverage. (a)
Any policy revisions that alter coverage in any manner shall be
filed with the commissioner and shall include an analysis of the
impact ~~[of]~~ each revision has on rates~~[-~~

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

~~(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).] or
loss costs.~~

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

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

"§431:14-108 Deviations. (a) Except for those lines of
insurance for which the commissioner determines ~~[that]~~
individual rate filings shall be made, every member of or



1 subscriber to a rating organization shall adhere to the filings
2 the organization made on its behalf [~~by the organization, except~~
3 ~~that~~]; provided that any insurer may [~~make written application~~]
4 submit a rate filing to the commissioner to file a deviation
5 from the class rates, schedules, rating plans, or rules
6 respecting any class of insurance, [~~e~~] class of risk within a
7 class of insurance, or combination thereof. The [~~application~~]
8 rate filing shall specify the basis for the deviation and shall
9 be accompanied by the data upon which the applicant relies. [A]
10 The filer shall send simultaneously a copy of the [~~application~~]
11 deviation and data [~~shall be sent simultaneously~~] to the rating
12 organization.

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

20 ~~(e)]~~ (b) In considering the [~~application to file a~~]
21 deviation, the commissioner shall [~~give consideration to~~]



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

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

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



- 1 (1) State its proposed effective date;
- 2 (2) Indicate the character and extent of the coverage
- 3 contemplated;
- 4 (3) Include a report on investment income; and
- 5 (4) Be accompanied by a \$50 fee [~~payable to the~~
- 6 ~~commissioner which shall~~] to be deposited in the
- 7 commissioner's education and training fund.

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

10 ~~(1) An electronic copy of the filing, or~~
11 ~~(2) Two printed copies of the filing,~~
12 ~~provided that the commissioner may request that an insurer that~~
13 ~~submits an electronic copy of the filing pursuant to paragraph~~
14 ~~(1) to also submit a printed copy of the electronic filing.] via~~
15 the National Association of Insurance Commissioners' System for
16 Electronic Rates and Forms Filing or an equivalent service
17 approved by the commissioner."

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

20 "**§431:19-103 Names of companies.** (a) No captive
21 insurance company shall adopt a name that is the same,



1 deceptively similar, or likely to be confused with or mistaken
2 for any other existing business name registered in the State[
3 ~~except that the commissioner may allow a branch captive~~
4 ~~insurance company to be licensed in this State under a different~~
5 ~~trade name if the normal name of the branch captive insurance~~
6 ~~company is not available for use in this State].~~

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

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

14 "(a) No insurance laws of this State, other than those
15 [contained] in this article, article 15, or [contained in
16 ~~specific references contained~~] specifically referenced in this
17 section [or], article, or article 15, shall apply to captive
18 insurance companies.

19 (b) Sections 431:3-302 to 431:3-304.5, 431:3-307, 431:3-
20 401 to 431:3-409, 431:3-411, 431:3-412, and 431:3-414; articles
21 1, 2, 3D, 4A, 5, 6, 9A, 9B, 9C, 11, and 11A[~~and 15~~]; and



1 chapter 431K shall apply to risk retention captive insurance
2 companies.

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

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

7 "(e) A health carrier shall meet the following access plan
8 requirements:

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

15 (2) The health carrier may request the commissioner to
16 deem sections of the access plan as proprietary,
17 competitive, or trade secret information that shall
18 not be made public. Information is proprietary,
19 competitive, or a trade secret if disclosure of the
20 information would cause the health carrier's
21 competitors to obtain valuable business information.



1 The health carrier shall make the access plans, absent
2 proprietary, competitive, or trade secret information,
3 available online, at the health carrier's business
4 premises, and to any person upon request; and

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

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

17 "(f) Selection standards shall be developed pursuant to
18 the following:

19 (1) Health carrier selection standards for selecting and
20 tiering, as applicable, participating providers shall



1 be developed for providers and each health care
2 professional specialty;

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

11 (3) Selection criteria shall not be established in a
12 manner:

13 (A) That would allow a health carrier to discriminate
14 against high risk populations by excluding
15 providers because the providers are located in
16 geographic areas that contain populations or
17 providers presenting a risk of higher than
18 average claims, losses, or health care services
19 utilization;

20 (B) That would exclude providers because the
21 providers treat or specialize in treating



1 populations presenting a risk of higher than
2 average claims, losses, or health care services
3 utilization; or

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

14 (4) Notwithstanding paragraph (3), a carrier shall not be
15 prohibited from declining to select a provider who
16 fails to meet the other legitimate selection criteria
17 of the carrier developed in compliance with this
18 article; and

19 (5) This article does not require a health carrier, its
20 intermediaries, or the provider networks with which
21 the carrier and its intermediaries contract, to employ



1 specific providers acting within the scope of the
2 providers' license or certification under applicable
3 state law that may meet the selection criteria of the
4 carrier, or to contract with or retain more providers
5 acting within the scope of the providers' license or
6 certification under applicable state law than are
7 necessary to maintain a sufficient provider network."

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

10 **"§432:1-604.5 Contraceptive services. (a)**

11 Notwithstanding any provision of law to the contrary, each
12 employer group health policy, contract, plan, or agreement
13 issued or renewed in this State on or after January 1, 2000,
14 shall cease to exclude contraceptive services or supplies, and
15 contraceptive prescription drug coverage for the subscriber or
16 any dependent of the subscriber who is covered by the policy,
17 subject to the exclusion under section 431:10A-116.7.

18 (b) Except as provided in subsection (c), all policies,
19 contracts, plans, or agreements under subsection (a) [7] that
20 provide contraceptive services or supplies[7] or prescription
21 drug coverage[7] shall not exclude any prescription



1 contraceptive supplies or impose any unusual copayment, charge,
2 or waiting requirement for such drug or device.

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

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

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

13 (d) Coverage required by this section shall include
14 reimbursement to a prescribing health care provider or
15 dispensing entity for prescription contraceptive supplies
16 intended to last for up to a twelve-month period for a member.

17 ~~[(e) Coverage required by this section shall include~~
18 ~~reimbursement to a prescribing and dispensing pharmacist who~~
19 ~~prescribes and dispenses contraceptive supplies pursuant to~~
20 ~~section 461-11.6.~~

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



1 "Contraceptive services" means physician-delivered,
2 physician-supervised, physician assistant-delivered, advanced
3 practice registered nurse-delivered, nurse-delivered, or
4 pharmacist-delivered medical services intended to promote the
5 effective use of contraceptive supplies or devices to prevent
6 unwanted pregnancy.

7 "Contraceptive supplies" means all Food and Drug
8 Administration-approved contraceptive drugs or devices used to
9 prevent unwanted pregnancy.

10 [~~(g)~~] (f) Nothing in this section shall be construed to
11 extend the practice or privileges of any health care provider
12 beyond that provided in the laws governing the provider's
13 practice and privileges."

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

16 "(e) As used in this section unless the context requires
17 otherwise:

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



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

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

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

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

16 "(e) As used in this section unless the context requires
17 otherwise:

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



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

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

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

14 SECTION 28. Section 432:1-611, Hawaii Revised Statutes, is
15 repealed.

16 [~~"§432:1-611 Reimbursement for services of advanced~~
17 ~~practice registered nurses. All individual and group hospital~~
18 ~~and medical service plan contracts and medical service~~
19 ~~corporation contracts under this article shall provide~~
20 ~~reimbursement for health plan covered services provided by~~



~~advanced practice registered nurses licensed pursuant to chapter
457-"]~~

SECTION 29. In codifying the new sections added by sections 1 and 3 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 30. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 31. This Act shall take effect on July 1, 2050; provided that:

(1) Sections 1, 4, 14, and 15 shall take effect on January 1, 2020;

(2) The first filing of the corporate governance annual disclosure, required by section 1 of this Act, shall be in 2020; and

(3) Sections 23 and 24 of this Act shall be repealed on December 31, 2020; provided that sections 431:26-103(e) and 431:26-104(f), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act.



Report Title:

Insurance; Health Insurance; National Association of Insurance Commissioners; Corporate Governance Annual Disclosure Model Act; Trade Name; Assumed Name; Provider Reimbursement; Insurance Holding Company System Regulatory Act; Captive Insurer; Network Adequacy Model Act

Description:

Updates various areas of the State's insurance laws to: adopt the NAIC's Corporate Governance Annual Disclosure Model Act beginning on 1/1/2020; allow the Department of Commerce and Consumer Affairs and the Insurance Commissioner to determine whether a request to add or change a trade name or assumed name satisfies certain requirements; clarify certain provider reimbursement requirements; adopt revisions to the Insurance Holding Company System Regulatory Act beginning on 1/1/2020; provide the Insurance Commissioner with additional regulatory authority to supervise or liquidate a captive insurer; enable the Insurance Division to create stopgap measures, until 12/31/2020, to implement the Network Adequacy Model Act; and make various housekeeping amendments to clarify existing language and avoid ambiguities. (SB2774 HD1)

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

