

MAR 06 2025

SENATE RESOLUTION

STRONGLY SUPPORTING AND RECOMMENDING THE IMPLEMENTATION OF THE
REVISED 2025 HAWAII PATIENT BILL OF RIGHTS.

1 WHEREAS, Hawaii pioneered employer-supported health
2 insurance through the Prepaid Health Care Act of 1974; however,
3 the State continues to face severe physician, nurse, and dentist
4 shortages, with over thirty-five percent of the population
5 residing in federally designated Health Professional Shortage
6 Areas--the highest percentage in the nation; and
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8 WHEREAS, the University of Hawaii Health Research Center
9 found that forty-two percent of surveyed physicians reported
10 patient harm or serious adverse events attributable to prior
11 authorization delays or denials, emphasizing a need for
12 streamlined insurance processes; and
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14 WHEREAS, recent increases in claims denials, particularly
15 those driven by automated or artificial intelligence (AI)-based
16 systems, underscore the necessity for greater transparency,
17 specialist review, and patient-friendly appeals mechanisms; and
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19 WHEREAS, the original Hawaii Patient Bill of Rights,
20 enacted over twenty-five years ago, now requires substantial
21 updates to address modern challenges, such as AI-driven denials,
22 telehealth accessibility, data-offshoring risks, and persistent
23 network inadequacies on the neighbor islands and in rural areas;
24 and
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26 WHEREAS, patients, health care providers, and cybersecurity
27 experts cite the need for robust data protection measures that
28 accommodate legitimate offshoring services while maintaining
29 Health Insurance Portability and Accountability Act-equivalent
30 safeguards, timely breach notifications, and strong enforcement;
31 and
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WHEREAS, the Insurance Commissioner's office needs expanded authority, resources, and reporting mechanisms to effectively audit, investigate, and sanction noncompliant insurers or billing entities, ensuring consistent and accountable enforcement of patients' rights; and

WHEREAS, the Revised 2025 Hawaii Patient Bill of Rights is an essential modernization step that prioritizes patient autonomy, transparent healthcare, timely access, robust data protection, AI accountability, and real enforcement--all while recognizing the practical realities of insurers, providers, and patients in a rapidly evolving healthcare landscape; now, therefore,

BE IT RESOLVED by the Senate of the Thirty-third Legislature of the State of Hawaii, Regular Session of 2025, that this body strongly supports and recommends the implementation of the following Revised 2025 Hawaii Patient Bill of Rights:

Foreword and Definitions

1. Purpose: This Bill of Rights modernizes patient protections to address AI-based coverage decisions, data security risks, and ongoing provider shortages in Hawaii.

2. Definitions:

o **AI or Automated Decision System:** Any algorithmic or software-based platform that can autonomously generate or recommend coverage determinations without direct human supervision.

o **HIPAA-equivalent Security:** A standard of data protection meeting or exceeding requirements set forth in 45 C.F.R. Parts 160 and 164 (HIPAA Privacy and Security Rules).

o **Urgent vs. Non-Urgent:** *Urgent requests* are those where delays could seriously jeopardize a patient's health, life, or overall well-being; *non-urgent requests* include all other prior authorizations not qualifying as urgent.

1. Clear Information



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2 Patients must receive clear, written (and, if necessary,
3 translated) explanations from their health insurance plan
4 regarding covered and non-covered services, presented at a
5 reading level understandable to the average enrollee.
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7 8 9 **2. Provider Directory**

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11 All insurers must maintain and publicly post an **up-to-date,**
12 **accurate, and easily accessible directory** of in-network
13 providers, updated **at least quarterly,** listing each provider's
14 specialty, languages spoken, telehealth availability, and
15 current patient capacity.
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17 18 19 **3. Specialist Referrals**

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21 All patients must be able to obtain **timely specialist referrals**
22 without undue administrative barriers or delays. Insurers shall
23 clearly communicate referral steps and **expedite** such referrals
24 in urgent or complex cases.
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26 27 28 **4. Emergency Care**

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30 No insurer may deny coverage for **legitimate emergency services**
31 based on retrospective review. If a patient believes in good
32 faith that their life or health is endangered, they have the
33 right to seek immediate emergency care without facing post-
34 service coverage denials.
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36 37 38 **5. Explanation of Illness, Options, and Patient Autonomy**

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40 **5.1 Right to Understand Care:** Patients are entitled to a clear
41 explanation of their diagnosis, treatment options (including the



option to decline treatment), and potential outcomes or risks from their healthcare provider, ensuring fully informed consent.

5.2 Right to Accept or Decline Treatment: Every mentally competent patient (or as decided by their legal health care proxy) has the right to accept, receive, reject, or discontinue any legal medical care, treatment, or prescribed medication from any legally licensed medical provider, and the right to not have that decision denied, prevented, restricted, or impeded by other persons.

6. Appeals and External Review

6.1 Notice and Forms: Whenever coverage is denied, insurers must provide a **universal external review request form** and a step-by-step guide (in print or digital form) explaining how to appeal.

6.2 Online FAQ and Hotline: Insurers shall maintain an online FAQ regarding appeals, alongside a **toll-free hotline** to assist patients.

6.3 Enforcement: The Insurance Commissioner may impose **financial penalties** or other administrative measures on insurers failing to publicize or comply with state and federal appeals requirements.

7. Network Adequacy, Telehealth, and Rural Access

7.1 Coverage in Shortage Areas: Patients in federally designated Health Professional Shortage Areas must have timely access to primary and specialty care.

7.2 Reporting Requirements: Insurers shall submit **quarterly** reports detailing provider-to-patient ratios, average wait times, and referral outcomes—disaggregated by region or island.



1 **7.3 Telehealth Provisions:** Telehealth services, if legally
2 permissible within a provider's scope of practice, shall be
3 covered at parity with in-person services to mitigate access
4 barriers.

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6 **7.4. Prohibition of Burdensome Prior Authorization:** Prior
7 authorization procedures in shortage areas must not unduly limit
8 provider productivity or delay critical patient care.
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12 **8. Transparent and Timely Prior Authorization**

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14 **8.1 Turnaround Times:**

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16 o **Urgent Requests:** One business day for a decision.
17 o **Non-Urgent Requests:** Three business days for a decision.
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19 **8.2 AI Oversight:**

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21 o If AI or an automated decision system **initiates a denial**, that
22 denial must be reviewed and co-signed by a **board-certified**
23 **specialist** in the relevant field before being finalized.
24 o Patients and providers shall be notified in **writing** when AI is
25 used at any stage of the coverage determination.
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27 **8.3 Data Tracking:** Insurers must compile and submit **monthly** data
28 on prior authorization approval/denial rates, average processing
29 times, and the **percentage of AI-based denials overturned on**
30 **appeal**.
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34 **9. Data Protection and Privacy**

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36 **9.1 HIPAA-equivalent Safeguards:** All accredited health plans or
37 billing entities, whether located onshore or offshore, must
38 uphold **HIPAA-level security** measures when storing or
39 transmitting personally identifiable patient data (including
40 Social Security numbers, medical ID numbers, etc.).
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1 **9.2 Offshoring Accountability:**

2 o Prior to offshoring data, an entity must file an **attestation**
3 with the Insurance Commissioner confirming that any overseas
4 subcontractors adhere to **encryption, breach notification, audit**
5 **logging, and confidentiality protocols.**

6 o Entities shall undergo **random audits** or produce security
7 certifications upon request.

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9 **9.3 Breach Notification and Penalties:** In the event of a
10 suspected or actual data breach, the entity must notify affected
11 patients **and** the Insurance Commissioner within **72 hours**,
12 implementing a corrective action plan. Repeated or willful
13 violations may result in **finances, revocation of accreditation**, or
14 other sanctions.

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17 **10. Enforcement and Oversight**

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19 **10.1 Authority of the Insurance Commissioner:**

20 o Empowered to **audit, investigate, and enforce** all provisions of
21 this Bill of Rights.

22 o May impose **finances, clawbacks, revocation of accreditation**, and
23 other appropriate remedies for noncompliance.

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25 **10.2 Annual Public Report:**

26 o The Insurance Commissioner shall publish an **annual report**
27 detailing enforcement actions, complaint data, AI usage rates,
28 denial statistics, and any data breaches or security
29 infractions.

30 o The report shall include **trend analyses** (e.g., median time-to-
31 decision for prior authorizations, telehealth adoption rates,
32 network adequacy improvements).

33
34 **10.3 Multidisciplinary Advisory Group:**

35 o Composed of physicians, cybersecurity experts, patient
36 advocates, telehealth specialists, and others.

37 o Convenes periodically to **review compliance**, recommend updates,
38 and study emerging issues (e.g., advanced AI, new data-security
39 threats).



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2 **11. Anti-Retaliation and Support for Providers**
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4 **11.1 Anti-Retaliation:** Insurers, health plans, or affiliated
5 entities shall not retaliate against providers (e.g., network
6 exclusion or contract termination) for filing formal complaints,
7 submitting testimony, or participating in external reviews
8 concerning the insurer's compliance with this Bill of Rights.
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10 **11.2 Technical Assistance:** The Insurance Commissioner, in
11 collaboration with the Department of Health, shall explore or
12 establish **technical support** programs to help smaller or rural
13 practices adopt secure data systems, comply with prior
14 authorization reporting, and integrate telehealth services
15 effectively.
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19 **12. Phased Implementation**
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21 **12.1 Immediate Effect:** Provisions related to patient
22 communications (Items 1 to 6), emergency care, and urgent prior
23 authorizations (Item 8.1) shall take effect **immediately upon**
24 **enactment.**
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26 **12.2 Data Offshoring and AI Protocols:** Insurers may have **six to**
27 **twelve months** from the date of enactment to fully implement or
28 certify AI oversight processes and offshore data security
29 compliance (excluding Social Security numbers and medical ID
30 numbers, which must be protected immediately).
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32 **12.3 Follow-up Review:** Within **one year** of implementation, the
33 Insurance Commissioner shall submit a **progress report** to the
34 Legislature with recommendations for any further legislative
35 refinements.; and
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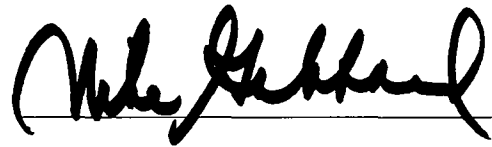
37 BE IT FURTHER RESOLVED that all insurers, health care
38 providers, and billing entities are strongly encouraged to begin
39 voluntary compliance with these updated patient protections
40 prior to any mandatory deadlines in order to foster a
41 collaborative and smooth transition; and
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1 BE IT FURTHER RESOLVED that ongoing stakeholder input will
2 be sought to address outstanding issues, such as payment parity,
3 facility fees, and self-insured plan coverage, which may require
4 additional state or federal action; and
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6 BE IT FURTHER RESOLVED that certified copies of this
7 Resolution be transmitted to the Governor, Director of Health,
8 Director of Commerce and Consumer Affairs, and Insurance
9 Commissioner.
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OFFERED BY:

A handwritten signature in black ink, appearing to read "Mike Gubman", is written over a horizontal line.