

ACT 291

S.B. NO. 1191

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. It is the intent of the legislature to meet the compliance requirements under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). The purpose of this Act is to bring Hawaii's insurance code in

compliance with HIPAA so that the State may retain its jurisdiction over health insurance.

SECTION 2. Title 24, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§ - **Conformity to federal law.** (a) The provisions of the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191 (HIPAA), as it relates to group and individual health insurance, shall apply to title 24, except:

- (1) Where state law provides greater health benefits or coverage than the HIPAA then the state law shall be applicable;
- (2) This section shall not be applicable or affect life insurance, endowment, or annuity contracts, or any supplemental contract thereto, described in section 431:10A-101(4);
- (3) The following definitions shall be used when applying HIPAA:
 - (A) “Employee” means an employee who works on a full-time basis with a normal work week of twenty hours or more;
 - (B) “Group health issuer” means all persons offering benefits under group health plans, but shall not include those persons offering benefits exempted from title I of HIPAA under section 706(c) of the Employee Retirement Income Security Act of 1974 and sections 2747 and 2791(c) of the Public Health Service Act; and
 - (C) “Small employer” means an employer who employs between one and no more than fifty employees;
- (4) All group health issuers shall offer group health plans to small employers whose employees live, work, or reside in the group health issuer’s service areas; provided that the commissioner may exempt a group health issuer if the commissioner determines that the group health issuer does not have the capacity to deliver services adequately to enrollees of additional groups given its obligation to existing employer groups; and
- (5) A group health issuer shall be prohibited from imposing any preexisting condition exclusion.
 - (b) The insurance commissioner may adopt rules to implement, clarify, or conform title 24 to the HIPAA.
 - (c) The adoption of HIPAA for the purposes of title 24 is not an adoption for any purposes for income taxes under chapter 235.”

SECTION 3. The State shall have jurisdiction over any matter that HIPAA permits, including jurisdiction over enforcement.

SECTION 4. The insurance commissioner shall convene a task force for the purpose of reviewing all the provisions of the federal Health Insurance and Portability and Accountability Act of 1996 (HIPAA) and recommend mechanisms to ensure complete, timely, and the least disruptive adoption of the provisions of that Act within both the public and private sectors of the health care system.

The task force at a minimum shall determine the adequacy and availability of affordable coverage of HIPAA eligibles, determine the economic impact of nonresident HIPAA eligibles accessing individual coverage in Hawaii, and recommend mechanisms to achieving access to a satisfactory level of affordable individual coverage for HIPAA eligibles.

The task force shall include representatives from the private and public sectors of the health care system and other persons with a stake in the implementation of HIPAA.

The task force shall submit a report of its findings and recommendations to the legislature no later than twenty days prior to the convening of the regular session of 1998.”

SECTION 5. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on June 30, 1997.

(Approved June 21, 1997.)

Note

1. Edited pursuant to HRS §23G-16.5.