

## ACT 151

H.B. NO. 2797

A Bill for an Act Relating to Insurance Code.

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

SECTION 1. Section 431:2-201.5, Hawaii Revised Statutes, is amended to read as follows:

**“§431:2-201.5 Conformity to federal law.** (a) The provisions of [the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191,] title 42 United States Code section 300(gg), et seq., as [it relates] they relate to group and individual health insurance [and to long-term care insurance to the extent provided in article 10H of chapter 431,] shall apply to title 24, except:

- (1) Where state law provides greater health benefits or coverage than [the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191] title 42 United States Code section 300(gg), et seq., 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 [the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191:] title 42 United States Code section 300(gg), et seq.:
  - (A) “Employee” means an employee who works on a full-time basis with a normal workweek of twenty hours or more;
  - (B) “Group health issuer” means all persons offering [benefits under group health plans,] health insurance coverage to any group or association, but shall not include those persons offering benefits exempted from Title I of the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191 under [section 706(c)] sections 732(c) and 733(c) of title I 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 all small group health plans to all 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.

For the purpose of this subsection, “Small group health plans” means the medical plans currently offered, advertised, or marketed by a group health issuer for small employees.

(b) The [insurance] commissioner may adopt rules to implement, clarify, or conform title 24 to [the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191.] title 42 United States Code section 300(gg), et seq.

(c) The adoption of the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191 for the purposes of title 24 is not an adoption for any purposes for income taxes under chapter 235.

(d) The State shall have jurisdiction over any matter that title 42 United States Code section 300(gg), et seq., permits, including jurisdiction over enforcement.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 2, 2000.

(Approved May 30, 2000.)