

ACT 243

H.B. NO. 2392

A Bill for an Act Relating to Health.

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

PART I

SECTION 1. The legislature finds that approximately ninety thousand people living in Hawaii have diabetes. Native Hawaiians and Asians experience a risk of developing diabetes that is twice that of the general U.S. population. Native Hawaiians, compared to all other racial groups in the State during the years 1989 through 1991, had the highest rate of mortality due to diabetes and its complications (34.7 out of every one hundred thousand residents), a rate that was one hundred thirty per cent higher than that of any other racial group in Hawaii (15.1 out of every one hundred thousand residents). Of native Hawaiians, those of pure Hawaiian descent had the highest mortality rate (93.3 out of every one hundred thousand residents), a rate that was five hundred eighteen per cent higher than that of any other racial group in the State.

The legislature finds that effective outpatient self-management by persons with diabetes results directly in a significant reduction in both the economic and human devastation wrought by the disease. There is ample evidence that tight control of blood sugar levels through patient self-management can dramatically lower the incidence of complications, increase life expectancy, and significantly enhance the quality of life of persons with diabetes. In addition, studies show that providing individuals with diabetes with the appropriate supplies and training for self-management results in a decrease in health care services utilization and costs. Hawaii fails to recover these cost savings, however, because most health plans only provide coverage for equipment and supplies, and do not cover diabetes self-management education and training.

The purpose of this Act is to require all individual and group accident and sickness health care policies providing health care coverage, and all individual and group health care contracts issued by health maintenance organizations and mutual benefit societies, to provide coverage for outpatient diabetes self-management training, education, equipment, and supplies.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 10A to be appropriately designated to read as follows:

“§431:10A- Coverage for diabetes. Each policy of accident and sickness insurance providing coverage for health care, other than an accident-only, specified disease, hospital indemnity, medicare supplement, long-term care, or other limited benefit health insurance policy, that is issued or renewed in this State, shall provide coverage for outpatient diabetes self-management training, education, equipment, and supplies, if:

- (1) The equipment, supplies, training, and education are medically necessary; and
- (2) The equipment, supplies, training, and education are prescribed by a health care professional authorized to prescribe.”

SECTION 3. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to article 1 to be appropriately designated and to read as follows:

“§432:1- **Diabetes coverage.** All group health care contracts under this chapter shall provide, to the extent provided under section 431:10A- , coverage for outpatient diabetes self-management training, education, equipment, and supplies.”

SECTION 4. Section 432D-23, Hawaii Revised Statutes, is amended to read as follows:

“§432D-23 **Required provisions and benefits.** Notwithstanding any provision of law to the contrary, each policy, contract, plan, or agreement issued in the State after January 1, 1995, by health maintenance organizations pursuant to this chapter, shall include benefits provided in sections 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-116.5, 431:10A-116.6, [and] 431:10A-119, [and] 431:10A-120, and 431:10A- , and chapter 431M.”

SECTION 5. Each insurer, health maintenance organization, and mutual benefit society required to provide coverage for outpatient diabetes self-management training, education, equipment, and supplies is requested to conduct a study of their respective diabetes coverages. Each study should be completed and a report made to the legislature no later than twenty days prior to the convening of the regular session of 2003. Each study should evaluate:

- (1) The effectiveness of and any cost savings from a continuum of care utilizing a systematic approach to diabetes disease management; and
- (2) The quality of care delivered by providers of diabetes self-management, including their levels of training and whether or not they are certified in diabetes education according to established national standards.

PART II

SECTION 6. Section 431:2-216, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Beginning with fiscal year 2000-2001, and including fiscal year 2001-2002, each mutual benefit society under article 1 of chapter 432, health maintenance organization under chapter 432D, and any other entity offering or providing health benefits or services under the regulation of the commissioner, except an insurer licensed to offer health insurance under article 10A, shall deposit with the commissioner by July 1 of each year an assessment of \$10,000 for the first zero to seventy thousand private, nongovernment members the entity covers and an additional assessment on a pro rata basis to be determined and imposed by the commissioner for covered members exceeding seventy thousand; provided that in the third year and each year thereafter, assessments shall be borne on a pro rata basis. The aggregate annual assessment shall not exceed \$1,000,000. The assessment shall be credited to the insurance regulation fund. If assessments are increased, the commissioner shall provide to any organization or entity subject to the increased assessment, justification for the increase.”

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

“(c) A health insurance plan shall not impose rates, terms, or conditions including service limits and financial requirements, on serious mental illness benefits, if similar rates, terms, or conditions are not applied to services for other medical or surgical conditions. This [subsection] chapter shall not apply to individual contracts; [or group hospital or medical service plan contracts, and nonprofit mutual

benefit association and health maintenance organization health plan contracts providing coverage to employers with twenty-five or fewer employees, and government employee health benefits plans under chapter 87; and] provided further that this [subsection] chapter shall not apply to QUEST medical plans under the department of human services until July 1, 2002.”

SECTION 8. Act 121, Session Laws of Hawaii 1999, is amended as follows:

1. By amending section 4 to read:

“SECTION 4. (a) There is established, within the [department of health] insurance division of the department of commerce and consumer affairs for administrative purposes only, the Hawaii mental health [insurance] task force to study the financial and social implications of mandated equal mental health and substance abuse insurance coverage in Hawaii.

(b) The task force shall be [comprised] composed of the following [twenty-two] twenty-one members[:

- (1) One member of the senate committee on health and human services appointed by the president of the senate;
- (2) One member of the house of representatives committee on health appointed by the speaker of the house of representatives;
- (3) One] with one voting member from each of the following organizations and agencies appointed by the [governor:] organization or agency:
 - (A) Hawaii Medical Service Association;
 - (B) Kaiser Permanente Medical Care Program;
 - (C) Department of human services;
 - (D) Department of health;
 - (E) Equal Insurance Coalition;
 - (F) NAMI, Oahu;
 - (G) Hawaii Psychological Association;
 - (H) Chamber of Commerce of Hawaii;
 - (I) Hawaii Psychiatric Medical Association;
 - (J) Hawaii Business Health Council;
 - (K) [Hawaii Medical Association;] Hawaii Employers Council;
 - (L) Mental Health Association of Hawaii;
 - (M) National Federation of Independent Businesses;
 - (N) Hawaii Nurses’ Association;
 - (O) [Hawaii Building and Trades Council;] Healthcare Association of Hawaii;
 - (P) Hawaii Business League;
 - (Q) A consumer from United Self-Help;
 - (R) Hawaii Biodyne Inc.;
 - (S) Queen’s Health Plans;
 - (T) National Association of Social Workers, Hawaii Chapter; and
 - (U) A labor union selected by the insurance commissioner.

[(3)¹ The following members to be appointed by the task force:

- (A) Two members representing mental health consumers; and
 - (B) One member representing small business organizations in the state;
- (4)² One member representing the University of Hawaii school of public health, with expertise in biomedical statistics or economics.]
- (c) The task force shall:
- (1) Investigate ways to define and quantify unmet mental health and substance abuse needs in the State, and shall analyze possible outcome

data collection measures in order to meaningfully measure and describe:

- (A) The efficacy of mental health and substance abuse treatment in the State; and
- (B) Unmet mental health and substance abuse treatment needs;
- (2) Describe mental health and substance abuse coverage in the State, including deductibles, copayments, and covered illnesses and conditions;
- (3) Describe the relative costs of mental illness and substance abuse coverage, and other health coverage in the State;
- (4) Describe mental health and substance abuse treatment utilization in the State by adults, adolescents, and children;
- (5) Produce an analysis of the needs of individuals who have exhausted their mental health or substance abuse treatment benefits; and
- (6) Determine the effect of additional mandated [serious] mental [illness] health insurance benefits [parity] on [mental health and substance abuse services] consumers, affected health plans, businesses, health care providers, and other concerned parties, including a review of the experience of health plans in providing the coverage, and an assessment of any impact on costs, services provided, and services utilization; and
- (7) Develop treatment and utilization guidelines for severe, biologically-based mental illnesses in addition to those covered under this Act, including, but not limited to:
 - (A) Major depression;
 - (B) Obsessive compulsive disorders;
 - (C) Severe panic disorders;
 - (D) Autism and pervasive development disorders;
 - (E) Multiple personality disorder (disassociative disorder);
 - (F) Brain damage or dysfunction as defined by neuropsychological testing; and
 - (G) Other severe and disabling mental disorders such as severe anorexia, severe attention-deficit/hyperactivity disorder, and severe dyslexia].
- (d) The task force shall perform its duties as follows:
 - (1) [The task force shall not utilize any moneys from the general fund to support its functions.] Members shall serve without compensation;
 - (2) A simple majority of the members of the task force shall constitute a quorum for the transaction of business, and all actions of the task force shall require the affirmative vote of a majority of the members present;
 - (3) The task force may hold public hearings as frequently as deemed necessary and feasible to receive testimony on issues relative to the task force's investigation; and
 - (4) The task force may invite participants, including the auditor or the auditor's representative, as deemed necessary to effectuate its purposes.
- (e) The task force shall submit a report of its findings and recommendations to the speaker of the house of representatives, the president of the senate, and the governor no later than twenty days before the convening of the regular session of 2001[, and shall be dissolved upon submittal of its report. Provided that the task force shall submit the report of its findings and recommendations concerning treatment and utilization guidelines as required under subsection (c)(7) of this section, to the speaker of the house of representatives, the president of the senate, and the governor no later than twenty days before the convening of the regular session of 2000].''

2. By amending section 6 to read:

“SECTION 6. This Act shall take effect on July 1, 1999; provided that insurance, health, or service plan contracts subject to the terms of this Act and issued or renewed after December 31, 1999, shall be amended to be consistent with this Act; and provided that this Act shall be repealed on [July 1, 2005.] June 30, 2003.”

SECTION 9. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of the Act are severable.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.³

SECTION 11. This Act shall take effect on July 1, 2001; provided that:

- (1) Sections 6, 7, and 8 shall take effect upon approval; and
- (2) Sections 6 and 7 shall be repealed on June 30, 2003; and sections 431:2-216 and 431M-5, Hawaii Revised Statutes, are reenacted in the form in which they read on the day before approval of this Act.

(Approved June 19, 2000.)

Notes

1. Should be “(4)”.
2. Should be “(6)”. Paragraph (5) is missing.
3. Edited pursuant to HRS §23G-16.5.