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# A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. In 1996 Congress passed sweeping legislation  
2 aimed at improving the portability and protecting the privacy of  
3 individual medical records. This new law, the Health Insurance  
4 Portability and Accountability Act of 1996, commonly referred to  
5 as HIPAA, establishes guidelines for health insurers to follow  
6 in protecting this private member information. The HIPAA  
7 privacy rule defines health information as any individually  
8 identifiable health information that is communicated, stored, or  
9 transmitted in any form (i.e., electronic, printed, or orally)  
10 by a covered entity. Health information relates to past,  
11 present, or future physical or mental health conditions, or the  
12 provision of or payment for health care. It is "individually  
13 identifiable" if it identifies the individual or if it is  
14 reasonable to believe that the individual could be identified  
15 based on the information provided.

16           The legislature finds that it is in the best interest of  
17 the entire community that individual privacy be both valued and  
18 protected. The legislature further finds that this sensitive



1 information should be safeguarded and that individuals should  
2 not be penalized for their respective health conditions.

3 The purpose of this Act is to define what type of health  
4 care information and under what circumstances this information  
5 can be provided to employer groups.

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

9 "§431:10A- Request for health claims experience;  
10 circumstances and types of information. (a) Upon written  
11 request, an insurer shall provide an employer that provides  
12 health insurance coverage to its employees with the employer's  
13 aggregate group health claims experience for the current policy  
14 period, except:

15 (1) An insurer shall not be required to provide the  
16 information unless the employer requesting the  
17 information provides coverage under the particular  
18 policy being requested for at least twenty-five  
19 employees;

20 (2) An insurer shall not be required to provide health  
21 claims experience for any period of time prior to



1 eighteen months before the date on which the  
2 information is requested;

3 (3) An insurer shall not be required to provide the  
4 employer with the health claims experience of any  
5 individual; and

6 (4) An insurer shall not be required to provide  
7 information that identifies an individual or that is  
8 confidential under sections 325-101, 431:3A-301,  
9 334-5, 432D-21, 577A-3, and 577-26.

10 (b) The insurer shall provide the information no later  
11 than sixty days after receiving a request for the information  
12 from the employer.

13 (c) The insurer may charge the employer a reasonable  
14 processing fee of no more than \$50 for providing the  
15 information."

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

19 **"§432- Request for health claims experience;**  
20 **circumstances and types of information.** (a) Upon written  
21 request, a mutual benefit society shall provide an employer that  
22 provides health care coverage to its employees with the



1 employer's aggregate group health claims experience for the  
2 current policy period, except:

3 (1) A mutual benefit society shall not be required to  
4 provide the information unless the employer requesting  
5 the information provides coverage, under the  
6 particular policy being requested, for at least  
7 twenty-five employees;

8 (2) A mutual benefit society shall not be required to  
9 provide health claims experience for any period of  
10 time prior to eighteen months before the date on which  
11 the information is requested;

12 (3) A mutual benefit society shall not be required to  
13 provide the employer with the health claims experience  
14 of any individual; and

15 (4) A mutual benefit society shall not be required to  
16 provide information that identifies an individual or  
17 that is confidential under sections 325-101,  
18 431:3A-301, 334-5, 432D-21, 577A-3, and 577-26.

19 (b) The mutual benefit society shall provide the  
20 information no later than sixty days after receiving a request  
21 for the information from the employer.

1        (c) The mutual benefit society may charge the employer a  
2 reasonable processing fee of no more than \$50 for providing the  
3 information."

4        SECTION 4. Chapter 432D, Hawaii Revised Statutes, is  
5 amended by adding a new section to be appropriately designated  
6 and to read as follows:

7        **"§432D- Request for health claims experience;**  
8 **circumstances and types of information.** (a) Upon written  
9 request, a health maintenance organization shall provide an  
10 employer that provides health care coverage to its employees  
11 with the employer's aggregate group health claims experience for  
12 the current policy period except:

13        (1) A health maintenance organization shall not be  
14 required to provide the information unless the  
15 employer requesting the information provides coverage,  
16 under the particular policy being requested, for at  
17 least twenty-five employees;

18        (2) A health maintenance organization shall not be  
19 required to provide health claims experience for any  
20 period of time prior to eighteen months before the  
21 date on which the information is requested;



1        (3) A health maintenance organization shall not be  
2                    required to provide the employer with the health  
3                    claims experience of any individual; and

4        (4) A health maintenance organization shall not be  
5                    required to provide information that identifies an  
6                    individual or that is confidential under sections  
7                    325-101, 431:3A-301, 334-5, 432D-21, 577A-3, and  
8                    577-26.

9        (b) The health maintenance organization shall provide the  
10                   information no later than sixty days after receiving a request  
11                   for the information from the employer.

12        (c) The health maintenance organization may charge the  
13                   employer a reasonable processing fee of no more than \$50 for  
14                   providing the information."

15        SECTION 5. New statutory material is underscored.

16        SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: Rosalyn H Baker  
S.B.T.R.



SB2002

**Report Title:**

Health Insurance

**Description:**

Establishes the circumstances under which insurers, mutual benefit societies, and health maintenance organizations are required to provide employers with employer-sponsored group health claims experience. Establishes what type of information can be requested and provided.

