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## A BILL FOR AN ACT

RELATING TO MEDICAL MALPRACTICE INSURANCE.

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

1       SECTION 1. Chapter 431, Hawaii Revised Statutes, is  
2 amended by adding a new article to be appropriately designated  
3 and to read as follows:

4                               **"ARTICLE**

5                       **MEDICAL MALPRACTICE MUTUAL INSURANCE COMPANY**

6       **§431: -101 Purpose.** The medical malpractice mutual  
7 insurance company is established to provide medical malpractice  
8 insurance coverage to physicians of the State at the highest  
9 level of service with the lowest possible cost, consistent with  
10 reasonable and applicable actuarial standards and the sound  
11 financial integrity of the company. The purposes of the company  
12 are to encourage physician involvement, and to be responsive to  
13 each policyholder's experience, practice, and operating  
14 effectiveness.

15       **§431: -102 Definitions.** As used in this article:

16       "Administrator" means the president and chief executive  
17 officer of the medical malpractice mutual insurance company.



1 "Board" means the board of directors of the medical  
2 malpractice mutual insurance company.

3 "Company" means the medical malpractice mutual insurance  
4 company established by this article.

5 "Council" means the medical malpractice mutual insurance  
6 company oversight council.

7 "Investment manager" means any fiduciary, who has been  
8 designated by the board to manage, acquire, or dispose of the  
9 company's assets, a bank as defined by law, or an insurance  
10 company qualified to perform services under the laws of more  
11 than one state.

12 "Physician" means a person licensed as a practitioner of  
13 medicine or surgery under chapter 453 or as an osteopathic  
14 physician and surgeon under chapter 460.

15 "Qualified actuary" means a member of the American Academy  
16 of Actuaries who is either a fellow of the Casualty Actuarial  
17 Society or an Associate of the Casualty Actuarial Society who  
18 has five or more years of experience.

19 **§431: -103 Medical malpractice mutual insurance company,**  
20 **established.** (a) The medical malpractice mutual insurance  
21 company is established as an independent corporation to provide  
22 medical malpractice insurance and related services to



1 physicians. The company may be reorganized as a nonprofit  
2 corporation under chapter 414D.

3 (b) The company shall be organized and operated as a  
4 domestic mutual insurance company. The company shall comply  
5 with, unless specifically excluded, all requirements of the  
6 insurance code regarding a domestic mutual insurance company.  
7 The company shall not be an agency of the State. The company or  
8 its liabilities shall not be deemed to constitute debts or  
9 liabilities of the State or pledges of the full faith and credit  
10 of the State. The company shall write medical malpractice  
11 insurance policies covering physicians as required or authorized  
12 by law to the same extent as any other private insurer. The  
13 company shall not write other lines of insurance, reinsurance,  
14 or excess insurance.

15 (c) The company may insure physicians against their  
16 liability for damages for injury or death to patients under  
17 their care like any other private insurer.

18 (d) The company's assets shall consist of real and  
19 personal property and shall include all premiums and other  
20 moneys paid to the company, all property, and other income  
21 acquired, earned, or otherwise gained by the use of premiums and  
22 other moneys paid to the company by deposits, investments,



1 exchanges, and other transactions. The company's assets shall  
2 be the sole property of the company and shall be used  
3 exclusively by the company for the operation and obligations of  
4 the company.

5 (e) Notwithstanding any other law to the contrary, the  
6 company shall be excluded from the surplus requirements of  
7 domestic mutual insurers from January 1, 2009, through December  
8 31, 2019.

9 (f) The company is exempt from participation, and shall  
10 not join, contribute financially to, nor be entitled to the  
11 protection of, any plan, association, guaranty, insolvency fund,  
12 or education and training fund authorized or required by this  
13 chapter. Notwithstanding the foregoing exemptions, beginning  
14 January 1, 2020, the company shall participate in the property  
15 and liability insurance guaranty association, pursuant to  
16 sections 431:16-101 to 431:16-117; provided that the company  
17 shall meet the surplus requirements applicable to all other  
18 domestic insurers under chapter 431 effective January 1, 2020.

19 (g) On or after January 1, 2009, the company shall provide  
20 medical malpractice insurance coverage to physicians otherwise  
21 entitled to coverage but not able to or not electing to purchase  
22 coverage in the voluntary insurance market, and not authorized,





1 either individually or as a part of a group, to self-insure. An  
2 authorized self-insured is eligible for coverage upon  
3 termination of self-insurance.

4       **§431: -104 Company divisions.** (a) For purposes of  
5 providing representation on the board, the company shall consist  
6 of industry divisions and a high risk division. Assignments to  
7 each division shall be made by the administrator with the  
8 approval of the board.

9       (b) A physician with two or more claims greater than  
10 \$ , and a loss ratio greater than , over the  
11 immediately preceding three years shall be placed in the high  
12 risk division.

13       (c) The administrator, with the approval of the board,  
14 shall modify the requirements for placing physicians in the high  
15 risk division if the qualifications result in the high risk  
16 division being limited to only those physicians with measurable  
17 adverse loss ratios, demonstrated malpractice frequency records,  
18 or a demonstrated attitude of noncompliance with medical  
19 malpractice prevention programs or similar programs.

20       (d) The company shall give notice to each physician in the  
21 high risk division not less than thirty days prior to the policy  
22 renewal date requesting a report on the physician's claims for



1 the policy year. The report shall be used to determine the  
2 physician's qualification for placement in the high risk  
3 division.

4 (e) The company may apply a rating differential and charge  
5 a surcharge to any physician placed in the high risk division.  
6 The company may make multiple rate filings, consistent with  
7 sound actuarial judgment for each classification. These rate  
8 filings may be applied to risks in any division.

9 (f) The contingent liabilities of members provided in  
10 section 431:4-317 may be separated so that members assigned to  
11 the high risk division have a further contingent liability for  
12 deficits in the high risk division; provided that no contingent  
13 liability shall be in the aggregate for more than five times the  
14 annual premium rate of the member's policy nor for a term of  
15 more than one year.

16 **§431: -105 Board of directors, established.** (a) The  
17 board of directors of the company shall be responsible for the  
18 organization, management, policies, and activities of the  
19 company. The board shall consist of nine voting members and one  
20 nonvoting member. The voting members shall consist of the  
21 following:



1           (1) Eight directors who shall be physicians and owners,  
2                   officers, or employees of policyholders of the  
3                   company; and

4           (2) One director who shall be a public, at-large member  
5                   elected by the board of directors.

6 The administrator shall be the nonvoting member of the board.

7           (b) The initial eight directors shall be appointed by the  
8 governor within sixty days of July 1, 2008, and shall serve for  
9 terms of one year each. The governor shall ensure adequate  
10 representation from the major sectors of the medical profession  
11 in the State.

12           The public, at-large member initially elected by the board  
13 shall serve for a term of one year.

14           The initial board of directors shall determine the  
15 staggering and length of future directors' terms; provided that  
16 no term shall exceed three years. Upon the expiration of the  
17 terms of the initial directors, the company's policyholders  
18 shall elect the directors. Each director shall serve for terms  
19 as specified by the board unless sooner removed for cause  
20 pursuant to rules adopted by the board. Each director shall  
21 hold office until a successor is elected as provided in this  
22 section. No person shall serve more than two full terms as



1 director. Any other law to the contrary notwithstanding, the  
2 election and composition of the board of directors as provided  
3 in this section shall be deemed adequate to qualify the company  
4 as a mutual insurer under chapter 431.

5 (c) A vacancy on the board shall be filled by appointment  
6 of the governor or insurance commissioner in the case of  
7 appointed directors, or by election by the company policyholders  
8 or the board of directors in the case of positions formerly  
9 occupied by a director elected by the company policyholders or  
10 by the board of directors, respectively. The person appointed  
11 to fill a vacancy shall serve for the remainder of the term of  
12 the person's predecessor.

13 (d) Within one year after appointment, each director shall  
14 be a member or an employee of a policyholder of the company and  
15 shall continue in such status during the director's term of  
16 office. Any director representing a member that fails to  
17 maintain medical malpractice insurance from the company shall be  
18 disqualified from serving on the board.

19 (e) Each director shall receive necessary traveling and  
20 board expenses incurred in the performance of duty as director  
21 and a fee commensurate with the duties expected of actual  
22 attendance at board meetings.



1 (f) No person shall be a director who has a direct and  
2 substantial interest in a competing insurer as:

3 (1) A stockholder (excluding the holding of less than one  
4 per cent of the outstanding shares in a publicly  
5 traded insurer);

6 (2) An employee;

7 (3) An attorney; or

8 (4) A contracting party (excluding an independent  
9 contractor or business owner who does less than  
10 twenty-five per cent of its total annual volume of  
11 business per year with competing insurers).

12 **§431: -106 Powers; generally.** Except as otherwise  
13 limited by this chapter, the company may:

14 (1) Sue, be sued, complain, and defend, in its corporate  
15 name;

16 (2) Have a corporate seal, which may be altered at  
17 pleasure, and use the seal by causing it, or a  
18 facsimile thereof, to be impressed, affixed, or in any  
19 other manner reproduced;

20 (3) Purchase, take, receive, lease, take by gift, devise,  
21 or bequest, or otherwise acquire, own, hold, improve,



- 1 use, and otherwise deal in and with real or personal  
2 property, or any interest therein, wherever situated;
- 3 (4) Sell, convey, mortgage, pledge, lease, exchange,  
4 transfer, and otherwise dispose of all and any part of  
5 its property and assets;
- 6 (5) Make contracts and incur liabilities, borrow money at  
7 such rates of interest as the board may determine,  
8 issue guaranty capital shares and surplus notes,  
9 require capital contributions, issue its notes,  
10 debenture bonds, and other obligations, secure any of  
11 its obligations by mortgage or pledge of all or any  
12 portion of its property or income, and secure  
13 financing by any board approved mechanism;
- 14 (6) Allocate fiduciary responsibilities among the  
15 directors and designate other persons to carry out  
16 fiduciary responsibilities;
- 17 (7) Collect, receive, hold, and disburse all money payable  
18 to or by the company;
- 19 (8) Deposit the company's money in banks or depositories  
20 selected by the board and withdraw the company's money  
21 from such banks or depositories; provided that the  
22 withdrawal shall be made or authorized only upon the



1           signatures of at least two persons approved by the  
2           board;

3           (9) Pay money from the company to effectuate the company's  
4           purpose and administration, including amounts for  
5           costs incurred to establish the company; and

6           (10) Exercise all powers necessary or convenient to effect  
7           the purposes of the company.

8           **§431: -107 Duties and responsibilities.** (a) All  
9           corporate powers shall be exercised by or under the authority of  
10          the board, unless otherwise provided in this chapter or in the  
11          articles of incorporation.

12          (b) The board shall discharge its duties:

13          (1) In accordance with the company's purpose;

14          (2) With the care, skill, prudence, and diligence under  
15          the circumstances that a prudent director, acting in a  
16          like capacity and familiar with such matters would use  
17          in conducting a similar enterprise and purpose;

18          (3) By diversifying the company's investments to minimize  
19          the risk of losses, unless it is prudent not to do so;

20          (4) In accordance with governing legal documents;

21          (5) By having an annual audit of the company by an  
22          independent certified public accountant;



- 1           (6) By securing a fidelity bond for the administrator and  
2           in its discretion for other agents dealing with the  
3           company's assets at the company's expense;
- 4           (7) By purchasing liability insurance for errors and  
5           omissions for the board, each director, and any other  
6           fiduciary employed or contracted by the company to  
7           cover liability or losses caused by the act or  
8           omission of a fiduciary;
- 9           (8) By maintaining proper books of accounts and records of  
10          the company's administration;
- 11          (9) By carrying out the reporting and disclosure  
12          requirements required by law;
- 13          (10) By appointing a qualified actuary to develop and  
14          recommend a responsible schedule of premium rates with  
15          consideration of the company's investment income or  
16          refunds, or both, and to provide actuarial  
17          certification of the company's loss reserves; and
- 18          (11) By cooperating with and assisting the council in its  
19          duties and responsibilities.
- 20          (c) Except as otherwise provided by law, the board may:





- 1           (1) Transact medical malpractice insurance policies  
2                   required or authorized by state law to the same extent  
3                   as any other insurer;
- 4           (2) Provide the terms and conditions of an insurance  
5                   policy;
- 6           (3) Provide that any written instrument be executed for  
7                   the company by the administrator or the  
8                   administrator's agent;
- 9           (4) Enter into agreements to reinsure all or part of the  
10                  company's exposure to loss and to limit the risk to  
11                  the company; and
- 12          (5) Employ persons to administer the company, including  
13                  legal counsel, accountants, insurance consultants,  
14                  administrators, qualified actuaries, investment  
15                  managers, adjustors, other experts, and clerical  
16                  employees and pay compensation and expenses in  
17                  connection therewith.

18           **§431: -108 Administrator; appointment; duties.** (a) The  
19 board shall hire an administrator, who shall serve at the  
20 pleasure of the board. The administrator shall be the president  
21 of the company and the chief executive officer, who shall be



1 responsible for the day-to-day operations and management of the  
2 company.

3 (b) The administrator shall have proven, successful  
4 experience as an executive at the general management level in  
5 the insurance business. The administrator shall manage and  
6 conduct the business of the company according to the board's  
7 direction and policies. The administrator shall receive  
8 compensation authorized by the board.

9 (c) Before entering the duties of office, the  
10 administrator shall give a fidelity bond in an amount and with  
11 sureties approved by the board. The premium for the bond shall  
12 be paid by the company.

13 (d) The administrator shall be an ex officio, nonvoting  
14 member of the board.

15 **§431: -109 Financial management.** (a) The board shall  
16 select a custodial trustee to collect, receive, hold, or  
17 disburse moneys payable to or by the company.

18 (b) The board shall invest the company's principal and  
19 income without distinction between principal and income and keep  
20 the company's assets invested in real or personal property or  
21 other securities. The board may retain cash temporarily



1 awaiting investment or to meet contemplated payments without  
2 liability for interest thereon.

3 (c) The board shall manage the company's assets, except to  
4 the extent that the authority to manage the company's assets is  
5 delegated to other qualified investment managers. The board may  
6 appoint investment managers to manage, acquire, or dispose of  
7 any of the company's assets. An investment manager may be  
8 designated as an "investment agent". The investment manager  
9 shall acknowledge in writing that the investment manager is a  
10 fiduciary under the company.

11 (d) The board may:

12 (1) Sell the company's securities. No purchaser of the  
13 company's securities is bound to see to the  
14 application of the purchase money or inquire as to the  
15 validity of such sale;

16 (2) Vote on behalf of any stocks, bonds, or securities of  
17 any corporation or issuer held in the company or  
18 request any action to such corporation or issuer. The  
19 board may give general or special proxies or powers of  
20 attorney with or without powers of substitution;

21 (3) Participate in reorganizations, recapitalization,  
22 consolidations, mergers, and similar transactions for



- 1 stocks, bonds, or other securities of any corporation  
2 that are held by the company, and accept and retain  
3 any property received thereunder for the company;
- 4 (4) Exercise any subscription rights and conversion  
5 privileges for the company's stocks or securities;
- 6 (5) Compromise, compound, and settle any debt or  
7 obligation due to or from the company; reduce the  
8 amount of principal and interest, damages, and costs  
9 of collection in settling such debts;
- 10 (6) Cause securities held by it to be registered in its  
11 own name or in the name of a nominee without  
12 indicating that the securities are held in a fiduciary  
13 capacity and to hold any securities in bearer form.  
14 The company's records, however, shall show that such  
15 investments are part of the company;
- 16 (7) Delegate its investment powers to investment managers  
17 of the company to expedite the purchase and sale of  
18 securities. The purchase or sale of securities by  
19 these managers shall be in the name selected by the  
20 board. The authority of these managers to purchase or  
21 sell securities for the company shall be evidenced by  
22 written authority executed by the administrator. The



1 board shall require these managers to keep it  
2 currently informed as to the nature and amount of the  
3 investments made for the company by them. The board  
4 may enter into appropriate agreements with these  
5 managers setting forth their investment powers and  
6 limitations. The board may terminate the services of  
7 these managers. These managers shall be subject to  
8 the board's instructions;

9 (8) Pay taxes or assessments that are assessed against the  
10 company;

11 (9) Require any applicant or policyholder to furnish the  
12 board with such information necessary for the  
13 company's administration; and

14 (10) Delegate its authority to the administrator or any  
15 authorized representative to maintain any legal  
16 proceedings necessary to protect the company or the  
17 directors or to secure payment due to the company. In  
18 connection with this delegation, the board or the  
19 administrator or their representative may compromise,  
20 settle, or release claims on behalf of or against the  
21 company or the board.



1           **§431: -110 Oversight council.** (a) There is established  
2 the medical malpractice mutual insurance company oversight  
3 council which shall meet at least once annually. For  
4 administrative purposes only, the council shall be assigned to  
5 the department of commerce and consumer affairs. The council  
6 shall oversee the activities of the company to ensure that the  
7 company fulfills its purpose as set forth in this article.

8           (b) The council shall consist of five members who shall  
9 include:

10           (1) A member of the senate appointed by the president of  
11 the senate;

12           (2) A member of the house of representatives appointed by  
13 the speaker of the house of representatives;

14           (3) The director of health;

15           (4) The director of commerce and consumer affairs; and

16           (5) An at-large member who is an owner, officer, or  
17 employee of the company policyholder appointed by the  
18 governor;

19 provided that if any designee under paragraphs (1) to (4) does  
20 not meet the test in subsection (c), the president of the  
21 senate, speaker of the house of representatives, or governor, as  
22 applicable, shall designate an appropriate representative.



1 Section 26-34 shall not apply to appointments under this  
2 section.

3 (c) No person shall serve on the council who within the  
4 second degree of consanguinity or affinity has a direct and  
5 substantial interest in an insurer that competes with the  
6 company, including but not limited to:

- 7 (1) A stockholder of a competing company (excluding a  
8 holder of less than one per cent of the outstanding  
9 shares in a publicly traded company);  
10 (2) An employee of a competing company;  
11 (3) An attorney who represents a competing company; or  
12 (4) A party who contracts with a competing company  
13 (excluding an independent contractor or business owner  
14 who does less than twenty-five per cent of its total  
15 annual volume of business per year with competing  
16 insurers).

17 (d) Members of the council shall serve without  
18 compensation, but shall be reimbursed for reasonable expenses  
19 necessary for the performance of their duties.

20 (e) The administrator shall serve as liaison officer to  
21 the council. Not later than sixty days after July 20, 2010 and  
22 every June 15 thereafter, the board shall provide to the council



1 any and all data and information the council may require,  
2 including but not limited to:

3 (1) The company's statutorily required annual financial  
4 statement;

5 (2) Copies of any reports issued by the insurance division  
6 in connection with the triennial examination of the  
7 company; and

8 (3) Actuarial certification of loss reserves.

9 (f) After receipt of the data and information required  
10 pursuant to subsection (e), the council shall review the  
11 activities of the company and determine whether the company is  
12 fulfilling its purpose as set forth in this article. The  
13 council shall promptly, but in no event later than October 15,  
14 2010, and every October 15 thereafter, submit a report to the  
15 governor with a copy to the board of directors, stating whether  
16 the company is fulfilling its purpose as set forth in this  
17 article. If the council determines that there are any  
18 deficiencies in the company's fulfillment of its purposes as set  
19 forth in this article, it shall include in its report a detailed  
20 description of any deficiencies. Within a time frame  
21 established by the council, but in no event later than six  
22 months after delivery of the council's report in accordance with





1 this section, the company shall respond in writing to any  
2 deficiencies identified in the council's report. The medical  
3 malpractice insurance company shall provide staff support to the  
4 council.

5 (g) If the governor determines that corrective action is  
6 appropriate after reviewing the council's report and the  
7 company's response, the governor shall inform the legislature,  
8 and the legislature shall consider what action is needed.

9 §431: -111 Premium rates, determination. (a) The board  
10 shall establish the premium rates to be charged for insurance  
11 sold by the company. The company shall comply with the  
12 requirements set forth in article 14 of this chapter. Premium  
13 rates shall be set at levels sufficient, when invested, to carry  
14 all claims to maturity, to meet the reasonable expenses for  
15 administering the company, and to maintain a reasonable surplus.

16 (b) The board shall hire a qualified actuary to assist  
17 with the development of sound premium rates.

18 §431: -112 Reserves, investment. The board may invest  
19 or reinvest any surplus or reserves within the limitations  
20 established for insurance companies under chapter 431.

21 §431: -113 Financial statements and other reports. (a)  
22 The company shall submit to the commissioner an annual statement



1 of financial condition audited by an independent certified  
2 accountant. The audit report shall contain an actuarial opinion  
3 prepared by a qualified actuary on the company's claims reserves  
4 and expenses. The financial statement shall be on a form  
5 prescribed by the commissioner and shall include actuarially  
6 appropriate reserves for:

- 7 (1) Known claims and associated expenses;
  - 8 (2) Claims incurred but not reported and associated  
9 expenses;
  - 10 (3) Unearned premiums; and
  - 11 (4) Bad debts, reserves for which shall be shown as  
12 liabilities.
- 13 (b) The company shall compile and maintain statistical and  
14 actuarial data relating to the determination of premium rate  
15 levels, the incidence of injuries related to medical  
16 malpractice, the cost of injuries, and other relevant data. The  
17 compiled information shall be submitted annually to the  
18 commissioner and to the director of health.

19 **§431: -114 Annual accounting; dividends.** (a) The  
20 company shall conduct an annual accounting of its incurred loss  
21 experience and expenses.



1 (b) The board may declare and apportion reasonable  
2 dividends to policyholders, determined by an actuarial opinion  
3 prepared by a qualified actuary after evaluating the impact of  
4 the dividends on the solvency of the company. The dividends may  
5 be paid or credited to policyholders according to  
6 classifications of policies established by the board.

7 (c) No dividends shall be:

8 (1) Paid or credited in a manner that unfairly  
9 discriminates between policies within the same  
10 classification;

11 (2) Made contingent upon payment of any renewal premium on  
12 any policy; or

13 (3) Paid or credited in the first three years of operation  
14 of the company.

15 **§431: -115 Audits.** The administrator, or designated  
16 representative, shall have reasonable access to any  
17 policyholder's payroll and employment records during regular  
18 working hours to carry out audits of payroll reported, the  
19 number of employees on the payroll, and other information  
20 necessary for the administration of this article.

21 **§431: -116 Denial, cancellation, and termination.** The  
22 company may deny coverage or renewal of an existing policy or



1 may terminate an existing policy of a policyholder or applicant  
2 for:

- 3 (1) Nonpayment of an undisputed premium;
- 4 (2) Refusal to permit on-site peer reviews;
- 5 (3) Failure to comply with medical malpractice prevention  
6 programs required by the company; or
- 7 (4) Failure to accurately disclose information concerning  
8 the applicant's or policyholder's ownership, change of  
9 ownership, operations, or payroll, including the  
10 allocation of payroll among state and federal  
11 compensation programs, and other information necessary  
12 for the board to determine premium rates.

13 **§431: -117 Wilful misrepresentation and fraud.** (a) Any  
14 person who wilfully makes a false statement or representation  
15 for the purpose of directly obtaining any compensation or  
16 payment or for the purpose of avoiding any compensation or  
17 payment under this article shall be subject to the common law  
18 remedies for misrepresentation and fraud.

19 (b) The company shall develop and implement a program to  
20 identify and investigate fraudulent insurance acts.

21 **§431: -118 Medical malpractice prevention programs.** (a)  
22 The company shall work with policyholders, physicians, and



1 interested individuals to develop, implement, and monitor  
2 medical malpractice prevention programs.

3 (b) The company shall promote prevention programs to  
4 policyholders by:

5 (1) Analyzing reports of incidents of medical malpractice  
6 to help determine the cause of those acts or  
7 omissions;

8 (2) Conducting studies for risk and hazard identification  
9 and assessments by safety and medical professionals;

10 (3) Conducting educational programs designed to prevent  
11 frequently recurring incidents of medical malpractice;  
12 and

13 (4) Inspecting hospitals, clinics, and medical offices and  
14 investigating unsafe practices and conditions to  
15 promote patient safety and eliminate hazards.

16 (c) Company representatives shall have reasonable access  
17 to the premises of any policyholder or applicant during regular  
18 working hours to carry out medical malpractice prevention  
19 evaluations.

20 (d) Upon the completion of a detailed inspection and  
21 recognition of a high regard for patient safety, a deviation may



1 be applied to the rate structure of that insured noting special  
2 recognition of those efforts.

3       **§431: -119 Discontinuation of residual market plan.** (a)

4 The residual market plan, as authorized by section 431:14-116.6,  
5 is discontinued effective December 31, 2008, or the date the  
6 company writes its first policy, whichever date is later, except  
7 for dissolution of any obligations for claims arising out of any  
8 policies written pursuant to the plan with inception dates of or  
9 before December 31, 2008, or the date the company writes its  
10 first policy, whichever date is later. It is the intent of this  
11 section to provide for an orderly transfer of policies from the  
12 residual market plan as authorized by section 431:14-116.6 to  
13 the company.

14       (b) The residual market plan shall continue its operation  
15 for all policies with inception dates of or before December 31,  
16 2008, or the date the company writes its first policy, whichever  
17 date is later. All policies written thereunder shall be for  
18 one-year terms, and shall not be terminated prior to expiration  
19 except for cause. In no case shall policies with inception  
20 dates of January 1, 2009, or the date the company writes its  
21 first policy, whichever date is later, be provided under the  
22 residual market plan authorized by section 431:14-116.6.



1           **§431: -120 Discontinuation of assigned risks.** (a)

2 Assigned risk coverage, as authorized by section 431:14-116, is  
3 discontinued effective December 31, 2008, or the date the  
4 company writes its first policy, whichever date is later, except  
5 for dissolution of any obligations for claims arising out of any  
6 policies written pursuant to section 431:14-116 with inception  
7 dates on or before December 31, 2008, or the date the company  
8 writes its first policy, whichever date is later. It is the  
9 intent of this section to provide for an orderly transfer of  
10 assigned risks as authorized by section 431:14-116 to the  
11 company.

12           (b) Assigned risk coverage, as authorized under section  
13 431:14-116 shall continue operation for all policies with  
14 inception dates of or before December 31, 2008, or the date the  
15 company writes its first policy, whichever date is later. All  
16 policies written thereunder shall be for one-year terms, and  
17 shall not be terminated prior to expiration except for cause.  
18 In no case shall policies with inception dates of January 1,  
19 2009, or the date the company writes its first policy, whichever  
20 date is later, be provided for assigned risks authorized by  
21 section 431:14-116."



1 SECTION 2. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ . or so much  
3 thereof as may be necessary for fiscal year 2008-2009 for the  
4 development of the medical malpractice mutual insurance company.

5 The sum appropriated shall be expended by the department of  
6 commerce and consumer affairs for the purposes of this Act.

7 SECTION 3. This Act shall take effect on July 1, 2008.

8

INTRODUCED BY:

Andy Evans  
W. Evans

JAN 14 2008





**Report Title:**

Medical Malpractice Mutual Insurance Company

**Description:**

Establishes a medical malpractice mutual insurance company modeled upon the employers' mutual insurance company.

