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# A BILL FOR AN ACT

RELATING TO 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 to part I of article 13 a new section to be  
3 appropriately designated and to read as follows:

4           "§431:13-        Unfair or deceptive acts or practices in the  
5 accident and health or sickness insurance business. (a) This  
6 section applies to health care insurers under article 10A of  
7 chapter 431, mutual benefit societies under article 1 of chapter  
8 432, dental service corporations under chapter 423, and health  
9 maintenance organizations under chapter 432D.

10           (b) In addition to acts, methods, and practices generally  
11 prohibited by this article, the following are defined as unfair  
12 or deceptive acts or practices in the health care insurance  
13 business and shall be prohibited:

14           (1) Canceling or nonrenewing an enrollment or subscription  
15           in a health care plan because of the enrollee's or  
16           subscriber's health status or requirements for health  
17           care services;

- 1       (2) Rescinding or modifying an authorization for a  
2       specific type of treatment by a health care provider  
3       after the provider has rendered the health care  
4       service pursuant to the authorization;
- 5       (3) Changing the premium rates, copayments, coinsurances,  
6       or deductibles specified in a contract after receipt  
7       of payment by the health care insurer of the premium  
8       for the first month of coverage in accordance with the  
9       contract effective date; provided that changes in  
10       premium rates, copayments, coinsurances, or  
11       deductibles may be allowed:
- 12       (i) If authorized or required in a group contract;  
13       (ii) If the contract was entered into under a  
14       preliminary agreement that states that it is  
15       subject to the later execution of a definitive  
16       agreement; or
- 17       (iii) If the health care insurer and the contract-  
18       holder mutually agree in writing;
- 19       (4) Engaging in post-claims underwriting. As used in this  
20       section, "post-claims underwriting" means rescinding,  
21       canceling, or limiting a health care plan contract due  
22       to the health care insurer's failure to complete

1           medical underwriting and resolve all reasonable  
2           questions arising from written information submitted  
3           on or with an application before issuing the health  
4           care plan contract. This section shall not limit a  
5           health care insurer's remedies upon a showing of fraud  
6           or wilful misrepresentation; and

7           (5) Establishing an eligible charge for a nonparticipating  
8           health care provider service that is different from  
9           the eligible charge paid for the same service rendered  
10           by a participating provider. As used in this section,  
11           "eligible charge" means the amount that is payable by  
12           the health care insurer for a treatment, service, or  
13           product prior to a deduction for cost-sharing.

14           (c) The commissioner shall notify the health care insurer  
15 by certified mail of each consumer or health care provider  
16 complaint filed with the commissioner under this section.

17           (d) A health care insurer, with reasonable promptness, in  
18 no case more than fifteen working days of receipt of  
19 notification of a complaint or written inquiry, shall issue a  
20 written response to any notification regarding a consumer or  
21 provider complaint or any written inquiry made by the  
22 commissioner concerning the health care insurer's business

1 practices pursuant to this section. The response shall be more  
2 than an acknowledgment that the commissioner's communication has  
3 been received, and shall adequately address the complaint or  
4 inquiry and the concerns stated therein.

5 (e) If it is found by the commissioner, after notice and  
6 an opportunity to be heard, that a health care insurer has  
7 violated this section, each instance of noncompliance may be  
8 treated as a separate violation of this section.

9 (f) Evidence as to numbers and types of complaints to the  
10 commissioner against a health care insurer, and the  
11 commissioner's complaint experience with other health care  
12 insurers, shall be admissible in an administrative or judicial  
13 proceeding brought under this section.

14 (g) This section shall be applicable to every health care  
15 insurer except to the extent preempted by federal law."

16 SECTION 2. New statutory material is underscored.

17 SECTION 3. This Act shall take effect on July 1, 2050.

**Report Title:**

Insurance; Health Insurers

**Description:**

Amends the unfair or deceptive insurance practices statutes by prohibiting certain unfair or deceptive practices by health insurers. (SD1)