

---

## A BILL FOR AN ACT

RELATING TO VOLUNTARY WELLNESS PROGRAMS.

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

1           SECTION 1. The legislature finds that as healthcare  
2 insurers, employers, and medicaid programs expand the reach and  
3 approach of "wellness programs" for participants as a means to  
4 control costs and promote health, there has been a significant  
5 increase in incentive-based wellness programs imposing mandatory  
6 requirements and conditions on participants with punitive  
7 results, and it has become apparent that protections are needed.  
8           The federal Affordable Care Act and the Hawaii prepaid  
9 healthcare act sought to encourage and extend healthcare  
10 coverage to individuals who may have difficulty otherwise  
11 obtaining coverage, but mandatory wellness programs and programs  
12 with punitive consequences may discourage such increased  
13 participation, especially among vulnerable populations.  
14 Voluntary wellness programs that encourage and motivate healthy  
15 behavior have been most successful, and they are consistent with  
16 the goals of the Affordable Care Act and the Hawaii prepaid  
17 healthcare act to encourage and extend healthcare coverage.  
18 Research has not shown that mandatory wellness programs



1 requiring participation are any more successful, though they can  
2 lead to serious negative consequences for participants. As  
3 stated in the recently issued Joint Consensus Statement of the  
4 Joint Committee of the Health Enhancement Research Organization,  
5 American College of Occupational and Environmental Medicine,  
6 American Cancer Society and American Cancer Society Cancer  
7 Action Network, American Diabetes Association, and American  
8 Heart Association, "the fundamental goal of any wellness program  
9 should be to provide opportunities for individuals to improve  
10 their health and wellness. A wellness program should not be  
11 used in a way that threatens an employee's ability to maintain  
12 health insurance because any resulting decrease in access to  
13 care would be in direct conflict with the primary objective of  
14 improving employee health."

15 The purpose of this Act is to establish protections for  
16 wellness program participants by adding a new part to the  
17 Patient's Bill of Rights and Responsibilities Act.

18 SECTION 2. Chapter 432E, Hawaii Revised Statutes, is  
19 amended by adding a new part to be appropriately designated and  
20 to read as follows:

21 **"PART . WELLNESS PROGRAMS**

22 **§432E- Definitions.** As used in this part:



1 "Wellness program" means a program designed to promote  
2 health and prevent disease that may contain rewards and  
3 incentives for participation, and includes programs offered by  
4 healthcare insurers, employers, and medicaid programs.

5 "Healthcare insurers" means health carriers including  
6 companies or organizations that provide or sell a health benefit  
7 plan, and the employer-union health benefit trust fund.

8 "Participants" means consumers of health benefit plans,  
9 including their dependents, employees receiving healthcare  
10 coverage or insurance through an employer, including their  
11 dependents, and medicaid beneficiaries.

12 **§432E- Ability to offer participatory wellness**  
13 **programs.** Healthcare insurers, employers, and medicaid programs  
14 may offer participatory wellness programs to their respective  
15 participants subject to the limitations in this part.

16 **§432E- Participation in wellness program. (a)**  
17 Participation in a wellness program shall be voluntary on the  
18 part of the participant and shall be available to all similarly-  
19 situated participants of the insurer, employer, or medicaid  
20 program plan. When offered by an insurer, the terms of the  
21 wellness program shall be set forth in the plan's policy or  
22 contract.



1 (b) A wellness program may include the following programs  
2 or services:

- 3 (1) The use of a health risk assessment tool;
- 4 (2) A smoking cessation program;
- 5 (3) A weight management program;
- 6 (4) A stress management program;
- 7 (5) A worker injury prevention program;
- 8 (6) A nutrition education or healthy food program; and
- 9 (7) Health or fitness incentive programs.

10 (c) (1) A wellness program may use rewards and incentives that  
11 do not undermine voluntary participation; except that  
12 the following are prohibited as participation rewards  
13 and incentives:

- 14 (A) A discount or increase in participant's health  
15 benefit plan cost or premium rate;
- 16 (B) A rebate or refund of premium to participants;
- 17 (C) Conditions for eligibility for health benefit  
18 plan coverage or suspension or termination of  
19 existing coverage;
- 20 (D) Adverse employment actions;



- 1 (E) Bonuses based on percentage or number of plan
- 2 participants voluntarily participating in a
- 3 wellness program; or
- 4 (F) Adjustments to employee compensation, rate of
- 5 pay, or salary adjustment based upon individual
- 6 participation in a wellness program.
- 7 (2) Permissible rewards and incentives include:
- 8 (A) Full or partial reimbursement of the cost of
- 9 participating in smoking cessation or weight
- 10 management programs;
- 11 (B) Full or partial reimbursement of the cost of
- 12 membership in a health club or fitness center or
- 13 goal-orientated fitness training program; and
- 14 (C) Monetary rewards in the form of gift cards or
- 15 gift certificates; provided that the recipient of
- 16 the reward is encouraged to use the reward for a
- 17 product or a service that promotes good health,
- 18 such as healthy cook books or foods, over-the-
- 19 counter vitamins, exercise equipment, or payment
- 20 of entry or training fees for exercise classes or
- 21 athletic events and competitions.



1           §432E-       Confidentiality of information due to  
2 participation on wellness program. (a) Any personal health  
3 information, including biometrics or health histories, obtained  
4 based upon an individual's participation in a wellness program  
5 shall be protected health information for the purposes of this  
6 part, and shall be protected in compliance with the Health  
7 Insurance Portability and Accountability Act of 1996. A  
8 participant in any wellness program that utilizes a health risk  
9 assessment or other personal health information shall be  
10 provided with the option of choosing a health care professional  
11 for obtaining and assessing personal health information.

12           (b) No person shall share personal health information  
13 obtained due to participation in a wellness program with a  
14 participant's employer or prospective employer. Any other  
15 information obtained due to participation in a wellness program  
16 shall not be shared with a participant's employer or prospective  
17 employer unless done so to verify eligibility for rewards or  
18 incentives offered by the participant's employer.

19           (c) Any personal health information obtained due to  
20 participation in a wellness program shall not be shared with a  
21 participant's health insurance provider, unless done so pursuant



1 to the written permission of the participant that expresses the  
2 participant's voluntary authorization and direction."

3 SECTION 3. This Act shall take effect on July 1, 2013.

4

INTRODUCED BY:

Kal Rumba (B/R)

JAN 22 2013



# H.B. NO. 753

**Report Title:**

Patients' Bill of Rights; Wellness Programs

**Description:**

Authorizes healthcare insurers, employers, and Medicaid programs to offer voluntary wellness programs to their participants.

Protects confidentiality of personal health information obtained due to participation in the wellness program.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

