
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 a new section to article 10A to be
3 appropriately designated and to read as follows:

4 "§431:10A- Prohibition on rescissions of coverage. (a)
5 Notwithstanding sections 431:10-226.5 and 431:10A-106 to the
6 contrary, a group health plan or health insurance insurer shall
7 not rescind coverage under a health benefit plan with respect to
8 an individual, including a group to which the individual belongs
9 or family coverage in which the individual is included, after
10 the individual is covered under the plan, unless:

- 11 (1) The individual or a person seeking coverage on behalf
12 of the individual performs an act, practice, or
13 omission that constitutes fraud;
14 (2) The individual makes an intentional misrepresentation
15 of material fact as prohibited by the terms of the
16 plan or coverage; or
17 (3) The individual fails to timely pay required premiums
18 or contributions toward the cost of coverage; provided



1 that the rescission is in compliance with federal
2 regulations.

3 As used in this subsection, "a person seeking coverage on
4 behalf of the individual" shall not include an insurance
5 producer or employee or authorized representative of the health
6 carrier.

7 (b) A health carrier shall provide at least thirty days
8 advance written notice to each plan enrollee or, for individual
9 health insurance coverage, to each primary subscriber, who would
10 be affected by the proposed rescission of coverage before
11 coverage under the plan may be rescinded in accordance with
12 subsection (a) regardless of whether, in the case of group
13 health insurance coverage, the rescission applies to the entire
14 group or only to an individual within the group.

15 (c) This section applies regardless of any applicable
16 contestability period."

17 SECTION 2. Chapter 432, Hawaii Revised Statutes, is
18 amended by adding a new section to article 1 to be appropriately
19 designated and to read as follows:

20 "**§432- Prohibition on rescissions of coverage.** (a)
21 Notwithstanding sections 431:10-226.5 and 431:10A-106 to the
22 contrary, a society shall not rescind coverage under a health



1 benefit plan with respect to an individual, including a group to
2 which the individual belongs or family coverage in which the
3 individual is included, after the individual is covered under
4 the plan, unless:

- 5 (1) The individual or a person seeking coverage on behalf
6 of the individual performs an act, practice, or
7 omission that constitutes fraud;
- 8 (2) The individual makes an intentional misrepresentation
9 of material fact as prohibited by the terms of the
10 plan or coverage; or
- 11 (3) The individual fails to timely pay required premiums
12 or contributions toward the cost of coverage; provided
13 that the rescission is in compliance with federal
14 regulations.

15 As used in this subsection, "a person seeking coverage on
16 behalf of the individual" shall not include an insurance
17 producer or employee or authorized representative of the health
18 carrier.

19 (b) A society shall provide at least thirty days advance
20 written notice to each plan enrollee or, for individual health
21 insurance coverage, to each primary subscriber, who would be
22 affected by the proposed rescission of coverage before coverage



1 under the plan may be rescinded in accordance with subsection
2 (a) regardless of whether, in the case of group health insurance
3 coverage, the rescission applies to the entire group or only to
4 an individual within the group.

5 (c) This section applies regardless of any applicable
6 contestability period."

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

10 "§432D- Prohibition on rescissions of coverage. (a)
11 Notwithstanding sections 431:10-226.5 and 431:10A-106 to the
12 contrary, a health maintenance organization shall not rescind
13 coverage under a health benefit plan with respect to an
14 individual, including a group to which the individual belongs or
15 family coverage in which the individual is included, after the
16 individual is covered under the plan, unless:

17 (1) The individual or a person seeking coverage on behalf
18 of the individual performs an act, practice, or
19 omission that constitutes fraud;

20 (2) The individual makes an intentional misrepresentation
21 of material fact as prohibited by the terms of the
22 plan or coverage; or



1 (3) The individual fails to timely pay required premiums
2 or contributions toward the cost of coverage; provided
3 that the rescission is in compliance with federal
4 regulations.

5 As used in this subsection, "a person seeking coverage on
6 behalf of the individual" shall not include an insurance
7 producer or employee or authorized representative of the health
8 carrier.

9 (b) A health maintenance organization shall provide at
10 least thirty days advance written notice to each plan enrollee
11 or, for individual health insurance coverage, to each primary
12 subscriber, who would be affected by the proposed rescission of
13 coverage before coverage under the plan may be rescinded in
14 accordance with subsection (a) regardless of whether, in the
15 case of group health insurance coverage, the rescission applies
16 to the entire group or only to an individual within the group.

17 (c) This section applies regardless of any applicable
18 contestability period."

19 SECTION 4. Section 431:1-209, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§431:1-209 General casualty insurance defined.** General
22 casualty insurance includes vehicle insurance as defined in



1 section 431:1-208, and accident and health or sickness insurance
2 as defined in section 431:1-205 [~~and in addition is insurance.~~]
3 when issued as an incidental coverage with or supplemental to
4 liability insurance. In addition, general casualty insurance is
5 insurance:

- 6 (1) Against legal liability for the death, injury, or
7 disability of any human being, or from damage to
8 property;
- 9 (2) Of medical, hospital, surgical, and funeral benefits
10 to persons injured, irrespective of legal liability of
11 the insured, when issued with or supplemental to
12 insurance against legal liability for the death,
13 injury, or disability of human beings;
- 14 (3) Of the obligation accepted by, imposed upon, or
15 assumed by employers under law for death, disablement,
16 or injury to employees;
- 17 (4) Against loss or damage by burglary, theft, larceny,
18 robbery, forgery, fraud, vandalism, malicious
19 mischief, confiscation, or wrongful conversion,
20 disposal, or concealment, or from any attempt of any
21 of the foregoing; also insurance against loss or
22 damage to moneys, coins, bullion, securities, notes,



- 1 drafts, acceptances, or any other valuable papers or
2 documents, resulting from any cause, except while in
3 the mail;
- 4 (5) Upon personal effects of individuals, by an all-risk
5 type of policy commonly known as the personal property
6 floater;
- 7 (6) Against loss or damage to glass and its appurtenances
8 resulting from any cause;
- 9 (7) Against any liability and loss or damage to property
10 resulting from accidents to or explosions of boilers,
11 pipes, pressure containers, machinery, or apparatus;
- 12 (8) Against loss of or damage to any property of the
13 insured resulting from the ownership, maintenance, or
14 use of elevators, except loss or damage by fire;
- 15 (9) Against loss or damage to any property caused by the
16 breakage or leakage of sprinklers, water pipes, or
17 containers, or by water entering through leaks or
18 openings in buildings;
- 19 (10) Against loss or damage resulting from failure of
20 debtors to pay their obligations to the insured
21 (credit insurance);



- 1 (11) Against loss of or damage to any domesticated or wild
2 animal resulting from any cause (livestock insurance);
- 3 (12) Against loss of or damage to any property of the
4 insured resulting from collision of any other object
5 with such property, but not including collision to or
6 by vessels, craft, piers, or other instrumentalities
7 of ocean or inland navigation (collision insurance);
- 8 (13) Against legal liability of the insured, and against
9 loss, damage, or expense incident to a claim of such
10 liability, and including any obligation of the insured
11 to pay medical, hospital, surgical, and funeral
12 benefits to injured persons, irrespective of legal
13 liability of the insured, arising out of the death or
14 injury of any person, or arising out of injury to the
15 economic interest of any person as the result of
16 negligence in rendering expert, fiduciary, or
17 professional service (malpractice insurance);
- 18 (14) Against any contract of warranty or guaranty which
19 promises service maintenance, parts replacement,
20 repair, money, or any other indemnity in the event of
21 loss of or damage to a motor vehicle or any part
22 thereof from any cause, including loss of or damage to



1 or loss of use of the motor vehicle by reason of
2 depreciation, deterioration, wear and tear, use,
3 obsolescence, or breakage if made by a warrantor or
4 guarantor who or which as such is doing an insurance
5 business; provided that service contracts, as defined
6 and meeting the requirements of chapter 481X, shall
7 not be subject to chapter 431.

8 The doing or proposing to do any business in
9 substance equivalent to the business described in this
10 section in a manner designed to evade the provisions
11 of this section is the doing of an insurance business;
12 and

13 (15) Against any other kind of loss, damage, or liability
14 properly the subject of insurance and not within any
15 other class or classes or type of insurance as defined
16 in sections 431:1-204 to 431:1-211, if such insurance
17 is not contrary to law or public policy."

18 SECTION 5. Section 431:2-209, Hawaii Revised Statutes, is
19 amended by amending subsection (d) to read as follows:

20 "(d) Three years after the [~~year to which they relate,~~]
21 date filed or within three years of the due date prescribed for
22 the filing of the tax report, whichever is later, the



1 commissioner may destroy [~~any foreign or alien insurer's~~] the
2 tax reports[~~7~~] of any foreign or alien insurers, surplus lines
3 brokers, or independently procured insureds, or similar records
4 or reports now or hereafter in the commissioner's possession."

5 SECTION 6. Section 431:2-402, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) The branch may review and take appropriate action on
8 complaints [~~relating to insurance fraud.~~] of fraud relating to
9 insurance under title 24, including chapters 431, 432, and 432D,
10 but excluding workers' compensation insurance under chapter
11' 386."

12 SECTION 7. Section 431:10A-102.5, Hawaii Revised Statutes,
13 is amended by amending subsection (b) to read as follows:

14 "(b) When used in sections 431:10A-104, 431:10A-105,
15 431:10A-106, 431:10A-107, 431:10A-108, 431:10A-109, 431:10A-110,
16 431:10A-111, 431:10A-112, 431:10A-113, 431:10A-114, 431:10A-117,
17 431:10A-118, 431:10A-601, 431:10A-602, 431:10A-603, and
18 431:10A-604, except as otherwise provided, the terms "accident
19 insurance", "accident and health or sickness insurance", "health
20 insurance", or "sickness insurance" shall include an accident-
21 only, specified disease, hospital indemnity, long-term care,
22 disability, dental, vision, medicare supplement, or other



1 limited benefit health insurance contract regardless of the
2 manner in which benefits are paid[-]; provided that if any of
3 the requirements set forth in the foregoing sections as applied
4 to long-term care insurance are in conflict with the provisions
5 of article 10H, the provisions of article 10H shall govern and
6 control."

7 SECTION 8. Section 431:11A-101, Hawaii Revised Statutes,
8 is amended by amending the definition of "licensed insurer" or
9 "insurer" to read as follows:

10 "Licensed insurer" or "insurer" means any person, firm,
11 association, or corporation duly licensed to transact a property
12 or casualty insurance business in this State. The following are
13 not licensed insurers for the purposes of this article:

14 [~~1~~] ~~All risk retention groups as defined in the Superfund~~
15 ~~Amendments Reauthorization Act of 1986, P.L. No. 99-~~
16 ~~499, 100 Stat. 1613 (1986), and the Risk Retention~~
17 ~~Act, 15 U.S.C. section 3901 et seq. (1982 and Supp.~~
18 ~~1986), and chapter 431K;~~

19 ~~(2)]~~ (1) All residual market pools and joint underwriting
20 authorities or associations; and



1 ~~[(3)]~~ (2) Captive ~~[insurers]~~ insurance companies as defined
2 in section 431:19-101~~[-]~~, other than risk retention
3 captive insurance companies."

4 SECTION 9. Section 431:19-101, Hawaii Revised Statutes, is
5 amended by amending the definition of "captive insurance
6 company" to read as follows:

7 "Captive insurance company" or "captive insurer" means a
8 class 1 company, class 2 company, class 3 company, class 4
9 company, or class 5 company formed or authorized under this
10 article."

11 SECTION 10. Section 431M-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§431M-2 Policy coverage.** (a) All individual and group
14 accident and health or sickness insurance policies issued in
15 this State, individual or group hospital or medical service plan
16 contracts, and nonprofit mutual benefit society, fraternal
17 benefit society, and health maintenance organization health plan
18 contracts shall include within their hospital and medical
19 coverage the benefits of alcohol dependence, drug dependence,
20 and mental ~~[illness]~~ health treatment services ~~[provided in~~
21 ~~section 431M-4]~~, except that this section shall not apply to



1 insurance policies that are issued solely for single diseases,
2 or otherwise limited, specialized coverage.

3 (b) The policies and contracts set forth in subsection (a)
4 shall not impose any financial requirements or treatment
5 limitations on mental health or substance use disorder benefits
6 that are more restrictive than the predominant financial
7 requirements and treatment limitations, either quantitative or
8 nonquantitative, imposed on medical and surgical benefits in
9 accordance with the Mental Health Parity and Addiction Equity
10 Act of 2008."

11 SECTION 11. Section 432:1-406, Hawaii Revised Statutes, is
12 amended by amending the definition of "uncovered expenditures"
13 to read as follows:

14 "Uncovered expenditures" means the costs to the mutual
15 benefit society for health care services that are the obligation
16 of the mutual benefit society, for which a member may be liable
17 in the event of the mutual benefit society's insolvency, and for
18 which no alternative arrangements have been made that are
19 acceptable to the commissioner. Uncovered expenditures include
20 but are not limited to out-of-area services, referral services,
21 and hospital services. Uncovered expenditures do not include
22 expenditures for services when a provider has agreed not to bill



1 the member even though the provider is not paid by the mutual
2 benefit society, or for services that are guaranteed, insured,
3 or assumed by a person or organization other than a mutual
4 benefit society."

5 SECTION 12. Section 432:2-102, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) Nothing in this article shall exempt fraternal
8 benefit societies from the provisions and requirements of part
9 IV of article 2, part IV of article 3, and article 15 of chapter
10 431, and [~~of section 431:2-215.~~] sections 431:2-215, 431:3-303,
11 431:3-304, and 431:3-305."

12 SECTION 13. Section 432D-1, Hawaii Revised Statutes, is
13 amended by amending the definition of "uncovered expenditures"
14 to read as follows:

15 "Uncovered expenditures" means the costs to the health
16 maintenance organization for health care services that are the
17 obligation of the health maintenance organization, for which an
18 enrollee may also be liable in the event of the health
19 maintenance organization's insolvency, and for which no
20 alternative arrangements have been made that are acceptable to
21 the commissioner. Uncovered expenditures include but are not
22 limited to out-of-area services, referral services, and hospital



1 services. Uncovered expenditures do not include expenditures
2 for services when a provider has agreed not to bill the enrollee
3 even though the provider is not paid by the health maintenance
4 organization, or for services that are guaranteed, insured, or
5 assumed by a person or organization other than the health
6 maintenance organization."

7 SECTION 14. Section 432D-19, Hawaii Revised Statutes, is
8 amended by amending subsection (d) to read as follows:

9 "(d) Article 2, article 2D, part IV of article 3, article
10 6, part III of article 7, article 9A, article 13, article 14G,
11 and article 15 of chapter 431, and sections 431:3-301 [~~and~~],
12 431:3-302, 431:3-303, 431:3-304, and 431:3-305, and the powers
13 granted by those provisions to the commissioner shall apply to
14 health maintenance organizations, so long as the application in
15 any particular case is in compliance with and is not preempted
16 by applicable federal statutes and regulations."

17 SECTION 15. Section 432G-1, Hawaii Revised Statutes, is
18 amended by amending the definition of "uncovered expenditures"
19 to read as follows:

20 ""Uncovered expenditures" means the costs to the dental
21 insurer for dental care services that are the obligation of the
22 dental insurer, for which an enrollee may also be liable in the



1 event of the dental insurer's insolvency, and for which no
2 alternative arrangements have been made that are acceptable to
3 the commissioner. Uncovered expenditures include but are not
4 limited to out-of-area services, referral services, and hospital
5 services. Uncovered expenditures shall not include expenditures
6 for services when a provider has agreed not to bill the enrollee
7 even though the provider is not paid by the dental insurer, or
8 for services that are guaranteed, insured, or assumed by a
9 person or organization other than the dental insurer."

10 SECTION 16. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 17. This Act shall take effect on July 1, 2150.



Report Title:

Insurance; Rescission of Coverage; Health Benefit Plans

Description:

Conforms Title 24, HRS, to the federal Patient Protection and Affordable Care Act and NAIC model laws. Clarifies the authority of insurers with general casualty insurance authority. Clarifies retention requirements. Expands the authority of the Insurance Fraud Investigations Branch. Includes long-term care insurance as part of limited benefit health insurance. Makes housekeeping amendments to Title 24, HRS. Effective July 1, 2015. (SB2820 HD1)

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

