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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. Article 2 of chapter 431, Hawaii Revised  
2 Statutes, is amended by adding a new section to be appropriately  
3 designated and to read as follows:

4           "§431:2- De-identified claims data; disclosure. . (a)  
5 The commissioner shall annually provide claims data collected  
6 pursuant to sections 432:1- , 432:2- , and 432D- to a  
7 large group purchaser at no charge if the large group purchaser  
8 requests the data and is:

9           (1) Able to demonstrate its ability to comply with state  
10           and federal laws; and

11           (2) Is either:

12           (A) An employer with an enrollment of greater than  
13           one thousand covered lives and at least five  
14           hundred covered lives enrolled with the health  
15           organization providing the information; or

16           (B) A multiemployer trust with an enrollment of  
17           greater than five hundred covered lives and at



1           least two hundred and fifty covered lives  
2           enrolled with the health organization providing  
3           the information.

4           (b) Nothing in this section shall be construed to prohibit  
5           a health organization and large group purchaser from negotiating  
6           the release of additional information not described in this  
7           section.

8           (c) All disclosures of data to the large group purchaser  
9           made pursuant to this section shall comply with the federal  
10          Health Insurance Portability and Accountability Act of 1996  
11          (Public Law 104-191) and the federal Health Information  
12          Technology for Economic and Clinical Health Act, Title XIII of  
13          the federal American Recovery and Reinvestment Act of 2009  
14          (Public Law 111-5), and implementing regulations.

15          (d) All disclosures of data to the large group purchaser  
16          made pursuant to this section shall comply with the  
17          confidentiality requirements of section 432D-21.

18          (e) De-identified claims data provided to the commissioner  
19          shall be deemed confidential information that shall not be made  
20          public by the commissioner and shall be exempt from disclosure  
21          under chapter 92F except as provided in this section.



1        (f) For purposes of this section, "health organization"  
2        means a mutual benefit society governed by article 1 of chapter  
3        432, fraternal benefit society governed by article 2 of chapter  
4        432, or health care service plan or health maintenance  
5        organization governed by chapter 432D."

6                SECTION 2. Article 1 of chapter 432, Hawaii Revised  
7 Statutes, is amended by adding a new section to be appropriately  
8 designated and to read as follows:

9                "§432:1- De-identified claims data; disclosure. (a)  
10 Each society shall annually provide to the commissioner at no  
11 charge claims data that a qualified statistician has determined  
12 are de-identified so that the claims data does not identify or  
13 does not provide a reasonable basis from which to identify an  
14 individual; provided that if the statistician is unable to  
15 determine that the data has been de-identified, then the data  
16 that cannot be de-identified shall not be provided by the  
17 society to the commissioner; provided further that a society may  
18 provide the claims data in an aggregated form as necessary to  
19 comply with section 431:2- .



1        (b) As an alternative to providing claims data required  
2 pursuant to subsection (a), the society shall provide, at no  
3 charge to the commissioner, all of the following:

4        (1) De-identified data sufficient for a large group  
5 purchaser to calculate the cost of obtaining similar  
6 services from other health providers and evaluate  
7 cost-effectiveness by service and disease category;

8        (2) De-identified aggregated patient-level data on  
9 demographics, prescribing, encounters, inpatient  
10 services, outpatient services, and any other data that  
11 is comparable to what is required of the society to  
12 comply with risk adjustment, reinsurance, or risk  
13 corridors pursuant to the federal Patient Protection  
14 and Affordable Care Act (Public Law 111-148), as  
15 amended by the federal Health Care and Education  
16 Reconciliation Act of 2010 (Public Law 111-152), and  
17 any rules, regulations, or guidance issued thereunder;  
18 and

19        (3) De-identified aggregated patient-level data used to  
20 experience rate the large group, including diagnostic



1           and procedure coding and costs assigned to each  
2           service that that society has available.

3           (b) The society shall obtain a formal determination from a  
4 qualified statistician that the data provided pursuant to  
5 subsection (a) has been de-identified so that the data does not  
6 identify or does not provide a reasonable basis from which to  
7 identify an individual. If the statistician is unable to  
8 determine that the data has been de-identified, the society  
9 shall not provide to the commissioner the data that cannot be  
10 de-identified. The statistician shall document the formal  
11 determination in writing and shall, upon request, provide the  
12 protocol used for de-identification to the commissioner."

13           SECTION 3. Article 2 of chapter 432, Hawaii Revised  
14 Statutes, is amended by adding a new section to be appropriately  
15 designated and to read as follows:

16           "§432:2- De-identified claims data; disclosure. (a)  
17 Each society shall annually provide to the commissioner at no  
18 charge claims data that a qualified statistician has determined  
19 are de-identified so that the claims data does not identify or  
20 does not provide a reasonable basis from which to identify an  
21 individual; provided that if the statistician is unable to



1 determine that the data has been de-identified, then the data  
2 that cannot be de-identified shall not be provided by the  
3 society to the commissioner; provided further that a society may  
4 provide the claims data in an aggregated form as necessary to  
5 comply with section 431:2- .

6 (b) As an alternative to providing claims data required  
7 pursuant to subsection (a), the society shall provide, at no  
8 charge to the commissioner, all of the following:

9 (1) De-identified data sufficient for a large group  
10 purchaser to calculate the cost of obtaining similar  
11 services from other health providers and evaluate  
12 cost-effectiveness by service and disease category;

13 (2) De-identified aggregated patient-level data on  
14 demographics, prescribing, encounters, inpatient  
15 services, outpatient services, and any other data that  
16 is comparable to what is required of the society to  
17 comply with risk adjustment, reinsurance, or risk  
18 corridors pursuant to the federal Patient Protection  
19 and Affordable Care Act (Public Law 111-148), as  
20 amended by the federal Health Care and Education  
21 Reconciliation Act of 2010 (Public Law 111-152), and



1           any rules, regulations, or guidance issued thereunder;  
2           and  
3           (3) De-identified aggregated patient-level data used to  
4           experience rate the large group, including diagnostic  
5           and procedure coding and costs assigned to each  
6           service that that society has available.

7           (b) The society shall obtain a formal determination from a  
8           qualified statistician that the data provided pursuant to this  
9           subsection have been de-identified so that the data does not  
10           identify or does not provide a reasonable basis from which to  
11           identify an individual. If the statistician is unable to  
12           determine that the data has been de-identified, the society  
13           shall not provide to the commissioner the data that cannot be  
14           de-identified. The statistician shall document the formal  
15           determination in writing and shall, upon request, provide the  
16           protocol used for de-identification to the commissioner."

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

20           "§432D-    De-identified claims data; disclosure. (a)  
21           Each health maintenance organization shall annually provide to



1 the commissioner at no charge claims data that a qualified  
2 statistician has determined are de-identified so that the claims  
3 data does not identify or does not provide a reasonable basis  
4 from which to identify an individual; provided that if the  
5 statistician is unable to determine that the data has been de-  
6 identified, then the data that cannot be de-identified shall not  
7 be provided by the health maintenance organization to the  
8 commissioner; provided further that a health maintenance  
9 organization may provide the claims data in an aggregated form  
10 as necessary to comply with section 431:2- .

11 (b) As an alternative to providing claims data required  
12 pursuant to subsection (a), the health maintenance organization  
13 shall provide, at no charge to the commissioner, all of the  
14 following:

15 (1) De-identified data sufficient for a large group  
16 purchaser to calculate the cost of obtaining similar  
17 services from other health providers and evaluate  
18 cost-effectiveness by service and disease category;

19 (2) De-identified aggregated patient-level data on  
20 demographics, prescribing, encounters, inpatient  
21 services, outpatient services, and any other data that





1 is comparable to what is required of the health  
2 maintenance organization to comply with risk  
3 adjustment, reinsurance, or risk corridors pursuant to  
4 the federal Patient Protection and Affordable Care Act  
5 (Public Law 111-148), as amended by the federal Health  
6 Care and Education Reconciliation Act of 2010 (Public  
7 Law 111-152), and any rules, regulations, or guidance  
8 issued thereunder; and

9 (3) De-identified aggregated patient-level data used to  
10 experience rate the large group, including diagnostic  
11 and procedure coding and costs assigned to each  
12 service that that health maintenance organization has  
13 available.

14 (b) The health maintenance organization shall obtain a  
15 formal determination from a qualified statistician that the data  
16 provided pursuant to this subsection have been de-identified so  
17 that the data does not identify or does not provide a reasonable  
18 basis from which to identify an individual. If the statistician  
19 is unable to determine that the data has been de-identified, the  
20 health maintenance organization shall not provide to the  
21 commissioner the data that cannot be de-identified. The



1 statistician shall document the formal determination in writing  
2 and shall, upon request, provide the protocol used for de-  
3 identification to the commissioner."

4 SECTION 5. Section 92F-13, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§92F-13 Government records; exceptions to general rule.

7 This part shall not require disclosure of:

- 8 (1) Government records which, if disclosed, would  
9 constitute a clearly unwarranted invasion of personal  
10 privacy;
- 11 (2) Government records pertaining to the prosecution or  
12 defense of any judicial or quasi-judicial action to  
13 which the State or any county is or may be a party, to  
14 the extent that such records would not be  
15 discoverable;
- 16 (3) Government records that, by their nature, must be  
17 confidential in order for the government to avoid the  
18 frustration of a legitimate government function;
- 19 (4) Government records which, pursuant to state or federal  
20 law including an order of any state or federal court,  
21 are protected from disclosure; [and]



1 (5) Inchoate and draft working papers of legislative  
2 committees including budget worksheets and unfiled  
3 committee reports; work product; records or  
4 transcripts of an investigating committee of the  
5 legislature which are closed by rules adopted pursuant  
6 to section 21-4 and the personal files of members of  
7 the legislature[-]; and

8 (6) De-identified claims data provided to the insurance  
9 commissioner pursuant to articles 1 and 2 of chapter  
10 432, and chapter 432D, except as provided in those  
11 sections."

12 SECTION 6. Section 432D-21, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[+]§432D-21[+] Confidentiality of medical information.

15 (a) Any data or information pertaining to the diagnosis,  
16 treatment, or health of any enrollee or applicant obtained from  
17 such person or from any provider by any health maintenance  
18 organization shall be held in confidence and shall not be  
19 disclosed to any person except to the extent that it may be  
20 necessary to carry out the purposes of this chapter, upon the  
21 express consent of the enrollee or applicant, pursuant to



1 statute or court order for the production of evidence or the  
 2 discovery thereof, or in the event of a claim or litigation  
 3 between such person and the health maintenance organization  
 4 wherein such data or information is pertinent. A health  
 5 maintenance organization shall be entitled to claim any  
 6 statutory privileges against disclosure which the provider who  
 7 furnished the information to the health maintenance organization  
 8 is entitled to claim.

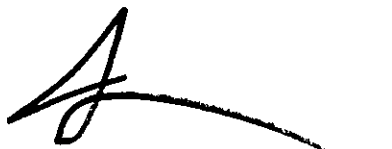
9 (b) Nothing in this section shall prohibit a health  
 10 maintenance organization from releasing relevant information  
 11 described in this section for the purposes set forth in section  
 12 432D- ."


13 SECTION 7. Statutory material to be repealed is bracketed  
 14 and stricken. New statutory material is underscored.

15 SECTION 8. This Act shall take effect on July 1, 2015.

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INTRODUCED BY: 

  
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# H.B. NO. 728

**Report Title:**

Insurance; Health Organizations; De-identified Claims Data;  
Disclosure

**Description:**

Requires a health organization to annually disclose de-identified claims data to Insurance Commissioner. Requires Insurance Commissioner to annually disclose de-identified claims data to a large group purchaser upon request. Exempts de-identified claims data from public disclosure except as provided. Makes conforming amendments.

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

