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# A BILL FOR AN ACT

RELATING TO HEALTH CARE INSURANCE.

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

1 PART I

2 SECTION 1. The legislature finds that, according to the  
3 department of health, cancer is the second leading cause of  
4 death among Hawaii residents, claiming more than two thousand  
5 two hundred Hawaii residents each year. The legislature further  
6 finds that cancer patients should have full access to effective  
7 treatment options at early stages of their illnesses.

8 The purpose of this Act is to prohibit health insurers that  
9 cover treatment for stage two cancer from requiring an insured  
10 diagnosed with stage two cancer to undergo step therapy prior to  
11 covering the insured for the drug prescribed by the insured's  
12 health care provider, under certain conditions.

13 SECTION 2. Chapter 431, Hawaii Revised Statutes, is  
14 amended by adding a new section to part I of article 10A to be  
15 appropriately designated and to read as follows:

16 "§431:10A- Step therapy prohibited; stage two cancer.

17 (a) No individual accident and health or sickness policy issued



1 or renewed in the State after December 31, 2019, that provides  
2 coverage for the treatment of stage two cancer shall require an  
3 insured who is diagnosed with a stage two cancer to undergo step  
4 therapy prior to covering the drug prescribed by the insured's  
5 health care provider if the prescribed drug is:

6 (1) An investigational new drug; or

7 (2) A prescription drug:

8 (A) That is approved by the United States Food and  
9 Drug Administration;

10 (B) Whose use is consistent with best practices for  
11 the treatment of the stage two cancer; and

12 (C) That is listed on the insurer's prescription drug  
13 formulary.

14 (b) For the purposes of this section:

15 "Investigational new drug" has the same meaning as provided  
16 under 21 Code of Federal Regulations section 312.3.

17 "Step therapy" means a protocol that requires an insured to  
18 use a prescription drug or sequence of prescription drugs, other  
19 than the drug that the insured's health care provider recommends  
20 for the insured's treatment, before the insurer provides  
21 coverage for the recommended prescription drug."



1 SECTION 3. Chapter 431, Hawaii Revised Statutes, is  
2 amended by adding a new section to part II of article 10A to be  
3 appropriately designated and to read as follows:

4 "§431:10A- Step therapy prohibited; stage two cancer.

5 (a) No group accident and health or sickness policy issued or  
6 renewed in the State after December 31, 2019, that provides  
7 coverage for the treatment of stage two cancer shall require an  
8 insured who is diagnosed with a stage two cancer to undergo step  
9 therapy prior to covering the drug prescribed by the insured's  
10 health care provider if the prescribed drug is:

- 11 (1) An investigational new drug; or
- 12 (2) A prescription drug:
  - 13 (A) That is approved by the United States Food and
  - 14 Drug Administration;
  - 15 (B) Whose use is consistent with best practices for
  - 16 the treatment of the stage two cancer; and
  - 17 (C) That is listed on the insurer's prescription drug
  - 18 formulary.

19 (b) For the purposes of this section:

20 "Investigational new drug" has the same meaning as provided  
21 under 21 Code of Federal Regulations section 312.3.



1       "Step therapy" means a protocol that requires an insured to  
2 use a prescription drug or sequence of prescription drugs, other  
3 than the drug that the insured's health care provider recommends  
4 for the insured's treatment, before the insurer provides  
5 coverage for the recommended prescription drug."

6       SECTION 4. Chapter 432, Hawaii Revised Statutes, is  
7 amended by adding a new section to part VI of article 1 to be  
8 appropriately designated and to read as follows:

9       "§432:1- Step therapy prohibited; stage two cancer. (a)  
10 No individual or group hospital or medical service plan contract  
11 issued or renewed in the State after December 31, 2019, that  
12 provides coverage for the treatment of stage two cancer shall  
13 require a subscriber or member who is diagnosed with a stage two  
14 cancer to undergo step therapy prior to covering the drug  
15 prescribed by the subscriber's or member's health care provider  
16 if the prescribed drug is:

17       (1) An investigational new drug; or

18       (2) A prescription drug:

19           (A) That is approved by the United States Food and  
20           Drug Administration;



1           (B) Whose use is consistent with best practices for  
2           the treatment of the stage two cancer; and

3           (C) That is listed on the mutual benefit society's  
4           prescription drug formulary.

5           (b) For the purposes of this section:

6           "Investigational new drug" has the same meaning as provided  
7           under 21 Code of Federal Regulations section 312.3.

8           "Step therapy" means a protocol that requires a subscriber  
9           or member to use a prescription drug or sequence of prescription  
10           drugs, other than the drug that the subscriber's or member's  
11           health care provider recommends for the subscriber's or member's  
12           treatment, before the mutual benefit society provides coverage  
13           for the recommended prescription drug."

14           SECTION 5. Chapter 432D, Hawaii Revised Statutes, is  
15           amended by adding a new section to be appropriately designated  
16           and to read as follows:

17           "§432D- Step therapy prohibited; stage two cancer. (a)  
18           No policy, contract, plan, or agreement issued or renewed in the  
19           State after December 31, 2019, that provides coverage for the  
20           treatment of stage two cancer shall require an enrollee who is  
21           diagnosed with a stage two cancer to undergo step therapy prior



1 to covering the drug prescribed by the enrollee's health care  
2 provider if the prescribed drug is:

3 (1) An investigational new drug; or

4 (2) A prescription drug:

5 (A) That is approved by the United States Food and  
6 Drug Administration;

7 (B) Whose use is consistent with best practices for  
8 the treatment of the stage two cancer; and

9 (C) That is listed on the health maintenance  
10 organization's prescription drug formulary.

11 (b) For the purposes of this section:

12 "Investigational new drug" has the same meaning as provided  
13 under 21 Code of Federal Regulations section 312.3.

14 "Step therapy" means a protocol that requires an enrollee  
15 to use a prescription drug or sequence of prescription drugs,  
16 other than the drug that the enrollee's health care provider  
17 recommends for the enrollee's treatment, before the health  
18 maintenance organization provides coverage for the recommended  
19 prescription drug."



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PART II

SECTION 6. The state auditor shall conduct a review to determine:

- (1) If an impact assessment report pursuant to section 23-51, Hawaii Revised Statutes, is warranted for coverage of the benefits mandated in this Act;
- (2) If the benefits mandated in this Act trigger any requirement to defray the cost of new mandated benefits in excess of the essential health benefits as required by section 1311(d)(3) of the federal Patient Protection and Affordable Care Act (P.L. 111-148); and
- (3) If the prohibition of step therapy under certain conditions would circumvent the medical necessity provisions in section 432E-1.4, Hawaii Revised Statutes.

The state auditor shall submit a report of its findings and recommendations, including any recommended legislation, no later than twenty days before the convening of the 2020 session of the legislature.



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PART III

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SECTION 7. This Act does not affect rights and duties that

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matured, penalties that were incurred, and proceedings that were

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begun before its effective date.

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SECTION 8. New statutory material is underscored.

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SECTION 9. This Act shall take effect on July 1, 2050.





**Report Title:**

Health Care Insurance; Step Therapy; State Auditor

**Description:**

Prohibits a health care insurer from requiring an insured diagnosed with stage two cancer to undergo step therapy prior to covering the insured for the drug prescribed by the insured's health care provider, under certain conditions. Requires analysis and report by State Auditor to determine if federal ACA provisions or state sunrise analysis requirements have been triggered. (SB493 HD1)

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

