

HB
984

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 article to be appropriately designated
3 and to read as follows:

4 "ARTICLE

5 CORPORATE GOVERNANCE ANNUAL DISCLOSURE

6 §431: -A Purpose and scope. (a) The purposes of this
7 article are to:

- 8 (1) Provide the insurance commissioner a summary of an
9 insurer or insurance group's corporate governance
10 structure, policies, and practices to permit the
11 commissioner to gain and maintain an understanding of
12 the insurer's corporate governance framework;
- 13 (2) Outline the requirements for completing a corporate
14 governance annual disclosure with the commissioner;
15 and
- 16 (3) Provide for the confidential treatment of the
17 corporate governance annual disclosure and related
18 information that will contain confidential and

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1 sensitive information related to an insurer or
2 insurance group's internal operations and proprietary
3 and trade secret information which, if made public,
4 could potentially cause the insurer or insurance group
5 competitive harm or disadvantage.

6 (b) Nothing in this article shall be construed to
7 prescribe or impose corporate governance standards and internal
8 procedures beyond those required under applicable state
9 corporate law. Notwithstanding the foregoing, nothing in this
10 article shall be construed to limit the commissioner's
11 authority, or the rights or obligations of third parties, under
12 sections 431:2-303 and 431:11-107.

13 (c) The requirements of this article shall apply to all
14 insurers domiciled in this State.

15 **§431: -B Definitions.** For the purposes of this article:

16 "Commissioner" means the insurance commissioner of this
17 State.

18 "Corporate governance annual disclosure" means a
19 confidential report filed by the insurer or insurance group made
20 in accordance with the requirements of this article.

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1 "Insurance group" means those insurers and affiliates
2 included within an insurance holding company system as defined
3 in article 11.

4 "Insurer" has the same meaning as in article 1, except that
5 it shall not include agencies, authorities or instrumentalities
6 of the United States, its possessions and territories, the
7 Commonwealth of Puerto Rico, the District of Columbia, or a
8 state or political subdivision of a state.

9 "Own risk and solvency assessment summary report" means the
10 report filed in accordance with section 431:3D-105.

11 **§431: -C Disclosure requirement.** (a) An insurer or the
12 insurance group of which the insurer is a member shall, no later
13 than June 1 of each calendar year, submit to the commissioner a
14 corporate governance annual disclosure that contains the
15 information described in section 431: -E(b). Notwithstanding
16 any request from the commissioner made pursuant to subsection
17 (c), if the insurer is a member of an insurance group, the
18 insurer shall submit the report required by this section to the
19 commissioner of the lead state for the insurance group, in
20 accordance with the laws of the lead state, as determined by the
21 procedures outlined in the most recent Financial Analysis

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1 Handbook adopted by the National Association of Insurance
2 Commissioners.

3 (b) The corporate governance annual disclosure must
4 include a signature of the insurer or insurance group's chief
5 executive officer or corporate secretary attesting to the best
6 of that individual's belief and knowledge that the insurer has
7 implemented the corporate governance practices and that a copy
8 of the disclosure has been provided to the insurer's board of
9 directors or the appropriate committee thereof.

10 (c) An insurer not required to submit a corporate
11 governance annual disclosure under this section shall do so upon
12 the commissioner's request.

13 (d) For purposes of completing the corporate governance
14 annual disclosure, the insurer or insurance group may provide
15 information regarding corporate governance at the ultimate
16 controlling parent level, an intermediate holding company level,
17 or the individual legal entity level, depending upon how the
18 insurer or insurance group has structured its system of
19 corporate governance. The insurer or insurance group is
20 encouraged to make the corporate governance annual disclosure
21 disclosures at the level at which:

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1 (1) The insurer's or insurance group's risk appetite is
2 determined;

3 (2) The earnings, capital, liquidity, operations, and
4 reputation of the insurer are overseen collectively
5 and at which the supervision of those factors is
6 coordinated and exercised; or

7 (3) Legal liability for failure of general corporate
8 governance duties would be placed.

9 If the insurer or insurance group determines the level of
10 reporting based on these criteria, it shall indicate which of
11 the criteria described in paragraphs (1) to (3) was used to
12 determine the level of reporting and explain any subsequent
13 changes in the level of reporting.

14 (e) The review of the corporate governance annual
15 disclosure and any additional requests for information shall be
16 made through the lead state as determined by the procedures
17 within the most recent Financial Analysis Handbook adopted by
18 the National Association of Insurance Commissioners.

19 (f) Insurers providing information substantially similar
20 to the information required by this article in other documents
21 provided to the commissioner, including proxy statements filed
22 in conjunction with Form B requirements, or other state or

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1 federal filings provided to the insurance division shall not be
2 required to duplicate that information in the corporate
3 governance annual disclosure, but shall only be required to
4 cross-reference the document in which the information is
5 included.

6 §431: -D Rules. The commissioner may adopt rules and
7 issue orders to carry out the provisions of this article.

8 §431: -E Contents of corporate governance annual
9 disclosure. (a) The insurer or insurance group shall have
10 discretion over the responses to the corporate governance annual
11 disclosure inquiries, provided that the corporate governance
12 annual disclosure shall contain the material information
13 necessary to permit the commissioner to gain an understanding of
14 the insurer's or insurance group's corporate governance
15 structure, policies, and practices. The commissioner may
16 request additional information deemed material and necessary to
17 provide the commissioner with a clear understanding of the
18 corporate governance policies, the reporting or information
19 system, or the controls implementing those policies.

20 (b) Notwithstanding subsection (a), the corporate
21 governance annual disclosure shall be prepared consistent with
22 the National Association of Insurance Commissioners' Corporate

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1 Governance Annual Disclosure Model Regulation. Documentation
2 and supporting information shall be maintained and made
3 available upon examination or request of the commissioner.

4 §431: -F Confidentiality. (a) Insofar as it includes
5 information relating to specific insurers or insurance groups,
6 any record or information in the possession or control of the
7 division that was obtained by, created by, or disclosed to the
8 commissioner or any other person under this article, including,
9 but not limited to, corporate governance annual disclosures and
10 the information they contain, communications between the
11 division and insurers or insurance groups, and internal records
12 of the division, shall be confidential by law and privileged,
13 shall not be subject to disclosure pursuant to chapter 92F,
14 shall not be subject to subpoena, and shall not be subject to
15 discovery or admissible in evidence in any private civil action.
16 This section shall not be interpreted to limit the application
17 of exceptions to disclosure under chapter 92F to any records or
18 information not specifically made confidential by this section.
19 However, the commissioner may use the documents, materials, or
20 other information in the furtherance of any regulatory or legal
21 action brought as a part of the commissioner's official duties.
22 The commissioner shall not otherwise make the documents,

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1 materials, or other information public without the prior written
2 consent of the insurer. Nothing in this section shall be
3 construed to require written consent of the insurer before the
4 commissioner may share or receive confidential documents,
5 materials, or other information related to the corporate
6 governance annual disclosure pursuant to subsection (c) to
7 assist in the performance of the commissioner's regular duties.

8 (b) Neither the commissioner nor any person who received
9 documents, materials, or other information related to the
10 corporate governance annual disclosure through examination or
11 otherwise, while acting under the authority of the commissioner,
12 or with whom such documents, materials, or other information are
13 shared pursuant to this article shall be permitted or required
14 to testify in any private civil action concerning any
15 confidential documents, materials, or information subject to
16 subsection (a).

17 (c) In order to assist in the performance of the
18 commissioner's regulatory duties, the commissioner may:

19 (1) Upon request, share documents, materials, or other
20 information related to the corporate governance annual
21 disclosure, including the confidential and privileged
22 documents, materials, or information subject to

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1 subsection (a), including proprietary and trade secret
2 documents and materials with other state, federal, and
3 international financial regulatory agencies, including
4 members of any supervisory college as defined in
5 section 431:11-107.5, the National Association of
6 Insurance Commissioners, and third-party consultants
7 pursuant to section 431: -G, provided that the
8 recipient agrees in writing to maintain the
9 confidentiality and privileged status of the
10 documents, material, or other information and has
11 verified in writing the legal authority to maintain
12 confidentiality; and

13 (2) Receive documents, materials, or other information
14 related to the corporate governance annual disclosure,
15 including otherwise confidential and privileged
16 documents, materials, or information, including
17 proprietary and trade-secret information or documents,
18 from regulatory officials of other state, federal, and
19 international financial regulatory agencies, including
20 members of any supervisory college as defined in the
21 section 431:11-107.5, and from the National
22 Association of Insurance Commissioners, and shall

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1 maintain as confidential or privileged any documents,
2 materials, or information received with notice or the
3 understanding that it is confidential or privileged
4 under the laws of the jurisdiction that is the source
5 of the document, material, or information.

6 (d) The sharing of information and documents by the
7 commissioner pursuant to this article shall not constitute a
8 delegation of regulatory authority or rulemaking, and the
9 commissioner is solely responsible for the administration,
10 execution, and enforcement of this article.

11 (e) No waiver of any applicable privilege or claim of
12 confidentiality in the documents, proprietary and trade-secret
13 materials, or other information related to the corporate
14 governance annual disclosure shall occur as a result of
15 disclosure of any information related to the corporate
16 governance annual disclosure or documents to the commissioner
17 under this section or as a result of sharing as authorized in
18 this article.

19 **§431: -G National Association of Insurance Commissioners**
20 **and third-party consultants.** (a) The commissioner may retain,
21 at the insurer's expense, third-party consultants, including
22 attorneys, actuaries, accountants, and other experts not

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1 otherwise a part of the commissioner's staff as may be
2 reasonably necessary to assist the commissioner in reviewing the
3 corporate governance annual disclosure and related information
4 or the insurer's compliance with this article.

5 (b) Any persons retained under subsection (a) shall be
6 under the direction and control of the commissioner and shall
7 act in a purely advisory capacity.

8 (c) The National Association of Insurance Commissioners
9 and third-party consultants shall be subject to the same
10 confidentiality standards and requirements as the commissioner.

11 (d) As part of the retention process, a third-party
12 consultant shall verify to the commissioner, with notice to the
13 insurer, that it is free from any conflict of interest and that
14 it has internal procedures in place to monitor compliance with a
15 conflict and to comply with the confidentiality standards and
16 requirements of this article.

17 (e) A written agreement with the National Association of
18 Insurance Commissioners or a third-party consultant governing
19 sharing and use of information provided pursuant to this article
20 shall contain the following provisions and expressly require the
21 written consent of the insurer prior to making public
22 information provided under this article:

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- 1 (1) Specific procedures and protocols for maintaining the
2 confidentiality and security of the corporate
3 governance annual disclosure and related information
4 shared with the National Association of Insurance
5 Commissioners or a third-party consultant pursuant to
6 this article;
- 7 (2) Procedures and protocols for sharing by the National
8 Association of Insurance Commissioners only with other
9 state regulators from states in which the insurance
10 group has domiciled insurers. The agreement shall
11 provide that the recipient agrees in writing to
12 maintain the confidentiality and privileged status of
13 the corporate governance annual disclosure and related
14 documents, materials, or other information and has
15 verified in writing the legal authority to maintain
16 confidentiality;
- 17 (3) A provision specifying that ownership of the corporate
18 governance annual disclosure and related information
19 shared with the National Association of Insurance
20 Commissioners or a third-party consultant remains with
21 the insurance division and that the National
22 Association of Insurance Commissioners' or third-party

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- 1 consultant's use of the information is subject to the
2 direction of the commissioner;
- 3 (4) A provision that prohibits the National Association of
4 Insurance Commissioners or a third-party consultant
5 from storing the information shared pursuant to this
6 article in a permanent database after the underlying
7 analysis is completed;
- 8 (5) A provision requiring the National Association of
9 Insurance Commissioners or a third-party consultant to
10 provide prompt notice to the commissioner and to the
11 insurer or insurance group regarding any subpoena,
12 request for disclosure, or request for production of
13 the insurer's corporate governance annual disclosure
14 or related information; and
- 15 (6) A requirement that the National Association of
16 Insurance Commissioners or a third-party consultant to
17 consent to intervention by an insurer in any judicial
18 or administrative action in which the National
19 Association of Insurance Commissioners or a third-
20 party consultant may be required to disclose
21 confidential information about the insurer shared with

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1 the National Association of Insurance Commissioners or
2 a third-party consultant pursuant to this article.

3 **§431: -H Sanctions.** Any insurer failing, without just
4 cause, to timely file the corporate governance annual disclosure
5 as required in this article shall be required, after notice and
6 an opportunity for hearing, to pay a penalty of not less than
7 \$100 and not more than \$500 for each day's delay, to be
8 recovered by the commissioner and paid into the compliance
9 resolution fund. The maximum penalty under this section is
10 \$50,000. The commissioner may reduce the penalty if the insurer
11 demonstrates to the commissioner that the imposition of the
12 penalty would constitute a financial hardship to the insurer.

13 **§431: -I Severability.** If any provision of this article
14 other than section 431: -F, or the application thereof to any
15 person or circumstance, is held invalid, the determination of
16 invalidity shall not affect those provisions or applications of
17 this article that can be given effect without the invalid
18 provision or application, and to that end, the provisions of
19 this article, except for section 431: -F, are severable."

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

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1 "§431:2- Trade name. (a) Prior to the use or change of
2 a trade name to sell, solicit, or negotiate insurance in this
3 State, the licensee shall register the trade name with the
4 department of commerce and consumer affairs pursuant to part II
5 of chapter 482.

6 (b) Upon registration of the trade name with the
7 department of commerce and consumer affairs, the licensee may
8 apply, on a form approved by the commissioner, to add or remove
9 a trade name on a license. The applicant shall provide proof of
10 registration of a trade name to the commissioner.

11 (c) If the commissioner finds the application for use or
12 change of a trade name is substantially identical to another
13 trade name registered with the department of commerce and
14 consumer affairs, or substantially identical to a legal name or
15 trade name of a revoked license, the commissioner shall deny use
16 of the trade name on a license issued pursuant to chapter 431.

17 (d) A licensee shall inform the commissioner, by any means
18 acceptable to the commissioner, of any change of status of a
19 trade name registered with the department of commerce and
20 consumer affairs within thirty days of the change."

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

4 "§431:10A-A Required disclaimer. Any limited benefit
5 policy, certificate, application, or sales brochure that
6 provides coverage for accident and sickness, excluding specified
7 disease, long-term care, disability income, medicare supplement,
8 dental, or vision shall disclose in a conspicuous manner and in
9 not less than fourteen-point boldface type the following, or
10 substantially similar, statement:

11 "THIS IS NOT QUALIFYING HEALTH COVERAGE ("MINIMUM ESSENTIAL
12 COVERAGE") THAT SATISFIES THE HEALTH COVERAGE REQUIREMENT
13 OF THE AFFORDABLE CARE ACT."

14 §431:10A-B Reimbursement to providers. (a) Coverage for
15 services required by this part shall include reimbursement to
16 health care providers who perform services required by this
17 part, or to the insured member, as appropriate.

18 (b) Notwithstanding any law to the contrary, whenever an
19 individual or group policy, contract, plan, or agreement
20 provides for reimbursement for any service, a health care
21 provider who performs a service shall be eligible for
22 reimbursement for the performed service.

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1 (c) For purposes of this section, "health care provider"
2 means a provider of services, as defined in title 42 United
3 States Code section 1395x(u); a provider of medical and other
4 health services, as defined in title 42 United States Code
5 section 1395x(s); and a practitioner licensed by the State and
6 working within the practitioner's scope of practice."

7 SECTION 4. Chapter 431, Hawaii Revised Statutes, is
8 amended by adding to part VI of article 10A a new section to be
9 appropriately designated and to read as follows:

10 "§431:10A- Limited benefit health insurance. (a) Except
11 as provided in subsection (b) or elsewhere in this article, when
12 used in this article, the terms "accident insurance", "health
13 insurance", or "sickness insurance" shall not include an
14 accident-only; specified disease; hospital indemnity; long-term
15 care; disability; dental; vision; medicare supplement; short-
16 term, limited-duration health insurance; or other limited
17 benefit health insurance contract that pays benefits directly to
18 the insured or the insured's assigns and in which the amount of
19 the benefit paid is not based upon the actual costs incurred by
20 the insured.

21 (b) When used in sections 431:10A-104, 431:10A-105,
22 431:10A-106, 431:10A-107, 431:10A-108, 431:10A-109, 431:10A-110,

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1 431:10A-111, 431:10A-112, 431:10A-113, 431:10A-114, 431:10A-117,
2 431:10A-118, 431:10A-201, 431:10A-202, 431:10A-203, 431:10A-204,
3 431:10A-205, 431:10A-208, 431:10A-601, 431:10A-602, 431:10A-603,
4 and 431:10A-604, except as otherwise provided, the terms
5 "accident insurance", "accident and health or sickness
6 insurance", "health insurance", or "sickness insurance" shall
7 include an accident-only; specified disease; hospital indemnity;
8 long-term care; disability; dental; vision; medicare supplement;
9 short-term, limited-duration health insurance; or other limited
10 benefit health insurance contract regardless of the manner in
11 which benefits are paid; provided that if any of the
12 requirements in the foregoing sections as applied to long-term
13 care insurance conflict with article 10H, the provisions of
14 article 10H shall govern and control."

15 SECTION 5. Chapter 431, Hawaii Revised Statutes, is
16 amended by adding a new section to article 11 to be
17 appropriately designated and to read as follows:

18 "§431:11- Group-wide supervision of internationally
19 active insurance groups. (a) The commissioner is authorized to
20 act as the group-wide supervisor for any internationally active
21 insurance group in accordance with this section; provided that
22 the commissioner may otherwise acknowledge another regulatory

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1 official as the group-wide supervisor where the internationally
2 active insurance group:

3 (1) Does not have substantial insurance operations in the
4 United States;

5 (2) Has substantial insurance operations in the United
6 States, but not in this State; or

7 (3) Has substantial insurance operations in the United
8 States and this State, but the commissioner has
9 determined pursuant to the factors in subsections
10 (b) and (f) that the other regulatory official is
11 the appropriate group-wide supervisor.

12 An insurance holding company system that does not otherwise
13 qualify as an internationally active insurance group may request
14 that the commissioner make a determination or acknowledgment as
15 to a group-wide supervisor pursuant to this section.

16 (b) In cooperation with other state, federal, and
17 international regulatory agencies, the commissioner shall
18 identify a single group-wide supervisor for an internationally
19 active insurance group. The commissioner may determine that the
20 commissioner is the appropriate group-wide supervisor for an
21 internationally active insurance group that conducts substantial

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1 insurance operations concentrated in this State. However, the
2 commissioner may acknowledge that a regulatory official from
3 another jurisdiction is the appropriate group-wide supervisor
4 for the internationally active insurance group. The
5 commissioner shall consider the following factors when making a
6 determination or an acknowledgment under this subsection:

7 (1) The place of domicile of the insurers within the
8 internationally active insurance group that holds the
9 largest share of the group's written premiums, assets,
10 or liabilities;

11 (2) The place of domicile of the top-tiered insurer or
12 insurers in the insurance holding company system of
13 the internationally active insurance group;

14 (3) The location of the executive offices or largest
15 operational offices of the internationally active
16 insurance group;

17 (4) Whether another regulatory official is acting or is
18 seeking to act as the group-wide supervisor under a
19 regulatory system that the commissioner determines to
20 be:

21 (A) Substantially similar to the system of regulation
22 provided under the laws of this State; or

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1 (B) Otherwise sufficient in terms of providing for
2 group-wide supervision, enterprise risk analysis,
3 and cooperation with other regulatory officials;
4 and

5 (5) Whether another regulatory official acting or seeking
6 to act as the group-wide supervisor provides the
7 commissioner with reasonably reciprocal recognition
8 and cooperation.

9 However, a commissioner identified under this section as the
10 group-wide supervisor may determine that it is appropriate to
11 acknowledge another supervisor to serve as the group-wide
12 supervisor. The acknowledgment of the group-wide supervisor
13 shall be made after consideration of the factors in paragraphs
14 (1) through (5), and shall be made in cooperation with and
15 subject to the acknowledgment of other regulatory officials
16 involved with supervising members of the internationally
17 active insurance group, and in consultation with the
18 internationally active insurance group.

19 (c) Notwithstanding any other provision of law to the
20 contrary, when another regulatory official is acting as the
21 group-wide supervisor of an internationally active insurance
22 group, the commissioner shall acknowledge that regulatory

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1 official as the group-wide supervisor; provided that in the
2 event a material change in the internationally active
3 insurance group results in:

4 (1) The internationally active insurance group's insurers
5 domiciled in this State holding the largest share of
6 the group's premiums, assets, or liabilities; or

7 (2) This State being the place of domicile of the top-
8 tiered insurer or insurers in the insurance holding
9 company system of the internationally active insurance
10 group,

11 the commissioner shall make a determination or acknowledgment as
12 to the appropriate group-wide supervisor for the internationally
13 active insurance group pursuant to subsection (b).

14 (d) Pursuant to section 431:11-107, the commissioner is
15 authorized to collect from any insurer registered pursuant to
16 section 431:11-105 all information necessary to determine
17 whether the commissioner may act as the group-wide supervisor of
18 an internationally active insurance group or if the commissioner
19 may acknowledge another regulatory official to act as the group-
20 wide supervisor. Prior to issuing a determination that an
21 internationally active insurance group is subject to group-wide
22 supervision by the commissioner, the commissioner shall notify

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1 the insurer registered pursuant to section 431:11-105 and the
2 ultimate controlling person within the internationally active
3 insurance group. The internationally active insurance group
4 shall have not less than thirty days to provide the commissioner
5 with additional information pertinent to the pending
6 determination. The commissioner shall publish on the division's
7 internet website the identity of internationally active
8 insurance groups that the commissioner has determined are
9 subject to group-wide supervision by the commissioner.

10 (e) If the commissioner is the group-wide supervisor for
11 an internationally active insurance group, the commissioner is
12 authorized to engage in any of the following group-wide
13 supervision activities:

14 (1) Assess the enterprise risks within the internationally
15 active insurance group to ensure that:

16 (A) The material financial condition and liquidity
17 risks to the members of the internationally
18 active insurance group that are engaged in the
19 business of insurance are identified by
20 management; and

21 (B) Reasonable and effective mitigation measures are in
22 place;

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- 1 (2) Request, from any member of an internationally active
2 insurance group subject to the commissioner's
3 supervision, information necessary and appropriate to
4 assess enterprise risk, including, but not limited to,
5 information about the members of the internationally
6 active insurance group regarding:
- 7 (A) Governance, risk assessment, and management;
8 (B) Capital adequacy; and
9 (C) Material intercompany transactions;
- 10 (3) Coordinate and, through the authority of the
11 regulatory officials of the jurisdictions where
12 members of the internationally active insurance group
13 are domiciled, compel development and implementation
14 of reasonable measures designed to ensure that the
15 internationally active insurance group is able to
16 timely recognize and mitigate enterprise risks to
17 members of the internationally active insurance group
18 that are engaged in the business of insurance;
- 19 (4) Communicate with other state, federal, and
20 international regulatory agencies for members within
21 the internationally active insurance group and share
22 relevant information subject to the confidentiality

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1 provisions of section 431:11-108, through supervisory
2 colleges as set forth in section 431:11-107.5 or
3 otherwise;

4 (5) Enter into agreements with or obtain documentation
5 from any insurer registered under section 431:11-105,
6 any member of the internationally active insurance
7 group, and any other state, federal, and international
8 regulatory agencies for members of the internationally
9 active insurance group, providing the basis for or
10 otherwise clarifying the commissioner's role as group-
11 wide supervisor, including provisions for resolving
12 disputes with other regulatory officials. These
13 agreements or documents shall not serve as evidence in
14 any proceeding that any insurer or person within an
15 insurance holding company system not domiciled or
16 incorporated in this State is doing business in this
17 State or is otherwise subject to jurisdiction in this
18 State; and

19 (6) Other group-wide supervision activities, consistent
20 with the authorities and purposes enumerated above, as
21 considered necessary by the commissioner.

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1 (f) If the commissioner acknowledges that another
2 regulatory official from a jurisdiction that is not accredited
3 by the National Association of Insurance Commissioners is the
4 group-wide supervisor, the commissioner is authorized to
5 reasonably cooperate, through supervisory colleges or otherwise,
6 with group-wide supervision undertaken by the group-wide
7 supervisor, provided that:

8 (1) The commissioner's cooperation is in compliance with the
9 laws of this State; and

10 (2) The regulatory official acknowledged as the group-wide
11 supervisor also recognizes and cooperates with the
12 commissioner's activities as a group-wide supervisor
13 for other internationally active insurance groups
14 where applicable. Where such recognition and
15 cooperation is not reasonably reciprocal, the
16 commissioner is authorized to refuse recognition and
17 cooperation.

18 (g) The commissioner is authorized to enter into
19 agreements with or obtain documentation from any insurer
20 registered under section 431:11-105, any affiliate of the
21 insurer, and other state, federal, and international regulatory
22 agencies for members of the internationally active insurance

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1 group, that provide the basis for or otherwise clarify a
2 regulatory official's role as group-wide supervisor.

3 (h) The commissioner may promulgate rules necessary for
4 the administration of this section.

5 (i) A registered insurer subject to this section shall be
6 liable for and shall pay the reasonable expenses of the
7 commissioner's participation in the administration of this
8 section, including the engagement of attorneys, actuaries, and
9 any other professionals, and all reasonable travel expenses."

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

13 "§432:1- Reimbursement to providers. (a) Coverage for
14 services required by this part shall include reimbursement to
15 health care providers who perform services required by this
16 article, or to the insured member, as appropriate.

17 (b) Notwithstanding any law to the contrary, whenever an
18 individual or group policy, contract, plan, or agreement that
19 provides health care coverage under this article provides for
20 reimbursement for any service, a health care provider who
21 performs a service shall be eligible for reimbursement for the
22 performed service.

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1 (c) For purposes of this section, "health care provider"
2 has the same meaning as in section 431:10A -B(c)."

3 SECTION 7. Section 431:3-202, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§431:3-202 Insurer's name. (a) Every insurer shall
6 conduct its business in its own legal name.

7 (b) No insurer shall assume or use a name deceptively
8 similar to that of any other authorized insurer [~~, nor which~~] or
9 a name that tends to deceive or mislead as to the type of
10 organization of the insurer.

11 (c) An insurer shall apply to the department of commerce
12 and consumer affairs and the commissioner for approval of the
13 use or change of a trade name pursuant to section 431:2- .

14 [~~(e)~~] (d) When a foreign or an alien insurer authorized to
15 do business in this State wants to change the name under which
16 its certificate of authority is issued, the insurer shall file a
17 request for name change with the commissioner at least thirty
18 days prior to the effective date of the name change. If within
19 the thirty-day period the commissioner finds the name change
20 request does not meet the requirements of this chapter or of the
21 corporation laws of this State, the commissioner shall send to
22 the insurer written notice of disapproval of the request

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1 specifying in what respect the proposed name change fails to
2 meet the requirements of this chapter or the corporation laws of
3 this State and stating that the name change shall not become
4 effective."

5 SECTION 8. Section 431:5-307, Hawaii Revised Statutes, is
6 amended by amending subsection (o) to read as follows:

7 "(o) (1) For policies issued on or after the operative date of
8 the valuation manual, the standard prescribed in the
9 valuation manual is the minimum standard of valuation
10 required under subsection (b) (2), except as provided
11 under paragraph (5) or (7) of this subsection;

12 (2) The operative date of the valuation manual is January
13 1 of the first calendar year following the first July
14 1 as of which all of the following have occurred:

15 (A) The valuation manual has been adopted by the
16 National Association of Insurance Commissioners
17 by an affirmative vote of at least forty-two
18 members, or three-fourths of the members voting,
19 whichever is greater;

20 (B) The Standard Valuation Law, as amended by the
21 National Association of Insurance Commissioners
22 in 2009, or legislation including substantially

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1 similar terms and provisions, has been enacted by
2 states representing greater than seventy-five per
3 cent of the direct premiums written as reported
4 in the following annual statements submitted for
5 2008: life, accident and health annual
6 statements; health annual statements; or
7 fraternal annual statements; and

8 (C) The Standard Valuation Law, as amended by the
9 National Association of Insurance Commissioners
10 in 2009, or legislation including substantially
11 similar terms and provisions, has been enacted by
12 at least forty-two of the following fifty-five
13 jurisdictions: the fifty states of the United
14 States, American Samoa, the American Virgin
15 Islands, the District of Columbia, Guam, and
16 Puerto Rico;

17 (3) Unless a change in the valuation manual specifies a
18 later effective date, changes to the valuation manual
19 shall be effective on January 1 following the date
20 when ~~[all of the following have occurred:~~

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1 ~~(A) The~~ the change to the valuation manual has been
2 adopted by the National Association of Insurance
3 Commissioners by an affirmative vote representing:

4 ~~[(i)]~~ (A) At least three-fourths of the members of
5 the National Association of Insurance
6 Commissioners voting, but not less than a
7 majority of the total membership; and

8 ~~[(ii)]~~ (B) Members of the National Association of
9 Insurance Commissioners representing
10 jurisdictions totaling greater than seventy-five
11 per cent of the direct premiums written as
12 reported in the following annual statements most
13 recently available prior to the vote in ~~[clause~~
14 ~~(i)]~~ subparagraph (A): life, accident and health
15 annual statements; health annual statements; or
16 fraternal annual statements; ~~[and~~

17 ~~(B) The valuation manual becomes effective pursuant~~
18 ~~to rules adopted by the commissioner;]~~

19 (4) The valuation manual shall specify all of the
20 following:

21 (A) Minimum valuation standards for and definitions
22 of the policies or contracts subject to

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1 subsection (b) (2). These minimum valuation
2 standards shall be:

3 (i) The commissioner's reserve valuation method
4 for life insurance contracts, other than
5 annuity contracts, subject to subsection
6 (b) (2);

7 (ii) The commissioner's annuity reserve valuation
8 method for annuity contracts subject to
9 subsection (b) (2); and

10 (iii) Minimum reserves for all other policies or
11 contracts subject to subsection (b) (2);

12 (B) Which policies or contracts or types of policies
13 or contracts that are subject to the requirements
14 of a principle-based valuation in subsection
15 (p) (1) and the minimum valuation standards
16 consistent with those requirements;

17 (C) For policies and contracts subject to a
18 principle-based valuation under subsection (p):

19 (i) Requirements for the format of reports to
20 the commissioner under subsection (p) (2) (C)
21 that shall include information necessary to

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- 1 determine if the valuation is appropriate
2 and in compliance with this section;
- 3 (ii) Assumptions shall be prescribed for risks
4 over which the company does not have
5 significant control or influence; and
- 6 (iii) Procedures for corporate governance and
7 oversight of the actuarial function, and a
8 process for appropriate waiver or
9 modification of such procedures;
- 10 (D) For policies not subject to a principle-based
11 valuation under subsection (p), the minimum
12 valuation standard shall either:
- 13 (i) Be consistent with the minimum standard of
14 valuation prior to the operative date of the
15 valuation manual; or
- 16 (ii) Develop reserves that quantify the benefits
17 and guarantees, and the funding, associated
18 with the contracts and their risks at a
19 level of conservatism that reflects
20 conditions that include unfavorable events
21 that have a reasonable probability of
22 occurring;

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- 1 (E) Other requirements including, but not limited to,
2 those relating to reserve methods, models for
3 measuring risk, generation of economic scenarios,
4 assumptions, margins, use of company experience,
5 risk measurement, disclosure, certifications,
6 reports, actuarial opinions and memorandums,
7 transition rules, and internal controls; and
8 (F) The data and form of the data required under
9 subsection (q), with whom the data shall be
10 submitted, and may specify other requirements,
11 including data analyses and reporting of
12 analyses;
- 13 (5) [~~In the absence of~~] Absent a specific valuation
14 requirement, or if a specific valuation requirement in
15 the valuation manual is not, in the opinion of the
16 commissioner, in compliance with this section, then
17 the company shall, with respect to these requirements,
18 comply with minimum valuation standards prescribed by
19 the commissioner by rule;
- 20 (6) The commissioner may engage a qualified actuary, at
21 the expense of the company, to perform an actuarial
22 examination of the company and opine on the

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1 appropriateness of any reserve assumption or method
2 used by the company, or to review and opine on a
3 company's compliance with any requirement set forth in
4 this section. The commissioner may rely upon the
5 opinion[7] regarding provisions contained within this
6 section[7] of a qualified actuary engaged by the
7 commissioner of another state, district, or territory
8 of the United States. As used in this paragraph,
9 "engage" includes employment and contracting; and

10 (7) The commissioner may require a company to change any
11 assumption or method that, in the opinion of the
12 commissioner, is necessary to comply with the
13 requirements of the valuation manual or this section,
14 and the company shall adjust the reserves as required
15 by the commissioner. The commissioner may take other
16 disciplinary action as permitted pursuant to this
17 chapter."

18 SECTION 9. Section 431:6-101, Hawaii Revised Statutes, is
19 amended by amending the definition of "cash equivalents" to read
20 as follows:

21 "Cash equivalents" means highly-rated and highly-liquid
22 investments or securities with a remaining term of ninety days

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1 or less and rated in the highest short-term category by a
2 nationally recognized statistical rating organization recognized
3 by the SVO. Cash equivalents include government money market
4 mutual funds [~~and class one money market mutual funds~~] defined
5 by the Purposes and Procedures Manual of the SVO, or its
6 successor publication."

7 SECTION 10. Chapter 431, part VI, Hawaii Revised Statutes,
8 is amended by amending its title to read as follows:

9 "[+] PART VI. [+] [+]~~INVESTMENT POOLS~~ [+]."

10 SECTION 11. Section 431:6-601, Hawaii Revised Statutes, is
11 amended by amending subsections (a) and (b) to read as follows:

12 "(a) For purposes of this section:

13 "Business entity" means a corporation, limited liability
14 company, association, partnership, joint stock company, joint
15 venture, mutual fund trust, or other similar form of business
16 organization, whether organized for-profit or not-for-profit.

17 [~~"Class one money market mutual funds" means a mutual fund
18 that at all times qualifies for investment using the bond class
19 one reserve factor under the Purposes and Procedures of the SVO
20 or any successor publication.~~]

21 "Government money market mutual fund" means a money market
22 mutual fund that at all times:

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1 (1) Invests only in obligations issued, guaranteed, or
2 insured by the government of the United States or
3 collateralized repurchase agreements composed of these
4 obligations; and

5 (2) Qualifies for investment without a reserve under the
6 Purposes and Procedures of the SVO or any successor
7 publication.

8 "Money market mutual fund" means a mutual fund that meets
9 the conditions of 17 Code of Federal Regulations part 270.2a-7,
10 under the Investment Company Act of 1940 (15 United States Code
11 section 80a-1 et seq.), as amended, or renumbered.

12 "Obligation" means a bond, note, debenture, trust
13 certificate, including equipment certificate, production
14 payment, negotiable bank certificate of deposit, bankers'
15 acceptance, credit tenant loan, loan secured by financing net
16 leases and other evidence of indebtedness for the payment of
17 money (or participation, certificates, or other evidence of an
18 interest in any of the foregoing), whether constituting a
19 general obligation of the issuer or payable only out of certain
20 revenues or certain funds pledged or otherwise dedicated for
21 payment.

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1 "Qualified bank" means a national bank, state bank, or
2 trust company that at all times is no less than adequately
3 capitalized as determined by the standards adopted by the United
4 States banking regulators and that is either regulated by state
5 banking laws or is a member of the Federal Reserve System.

6 "Repurchase transaction" means a transaction in which an
7 insurer purchases securities from a business entity that is
8 obligated to repurchase the purchased securities or equivalent
9 securities from the insurer at a specified price, either within
10 a specified period of time or upon demand.

11 "Reverse repurchase transaction" means a transaction in
12 which an insurer sells securities to a business entity and is
13 obligated to repurchase the sold securities or equivalent
14 securities from the business entity at a specified price, either
15 within a specified period of time or upon demand.

16 "Securities lending transaction" means a transaction in
17 which securities are loaned by an insurer to a business entity
18 that is obligated to return the loans, securities, or equivalent
19 securities to the insurer, either within a specified period of
20 time or upon demand.

21 (b) An insurer may acquire investments in investment pools
22 that:

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- 1 (1) Invest only in:
- 2 (A) Obligations that are rated 1 or 2 by the SVO or
- 3 have an equivalent of an SVO 1 or 2 rating (or,
- 4 in the absence of a 1 or 2 rating or equivalent
- 5 rating, the issuer has outstanding obligations
- 6 with an SVO 1 or 2 or equivalent rating) by a
- 7 nationally-recognized statistical rating
- 8 organization recognized by the SVO and have:
- 9 (i) A remaining maturity of three hundred
- 10 ninety-seven days or less or a put that
- 11 entitles the holder to receive the principal
- 12 amount of the obligation which put may be
- 13 exercised through maturity at specified
- 14 intervals not exceeding three hundred
- 15 ninety-seven days; or
- 16 (ii) A remaining maturity of three years or less
- 17 and a floating interest rate that resets no
- 18 less frequently than quarterly on the basis
- 19 of a current short-term index (federal
- 20 funds, prime rate, treasury bills, London
- 21 InterBank Offered Rate or commercial paper)
- 22 and is subject to no maximum limit, if the

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1 obligations do not have an interest rate
2 that varies inversely to market interest
3 rate changes;

4 (B) Government money market mutual funds [~~or class~~
5 ~~one money market mutual funds~~]; or

6 (C) Securities lending, repurchase, and reverse
7 repurchase transactions that meet all the
8 requirements of section 431:6-318; or

9 (2) Invest only in investments which an insurer may
10 acquire under this article, if the insurer's
11 proportionate interest in the amount invested in these
12 investments does not exceed the applicable limits of
13 this article."

14 SECTION 12. Section 431:9-203, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§431:9-203 General qualifications for license.** (a) For
17 the protection of the public, the commissioner shall not issue
18 or extend any license for an adjuster or independent bill
19 reviewer:

20 (1) Except as provided by this article; or

21 (2) To any individual less than eighteen years of age.

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1 (b) An applicant for a license under this article shall
2 notify the commissioner of the applicant's legal name [~~and trade~~
3 ~~name, if applicable. An applicant doing business under any name~~
4 ~~other than [the] applicant's legal name shall notify the~~
5 ~~commissioner prior to using the assumed name~~].

6 (c) An applicant shall apply to the department of commerce
7 and consumer affairs and the commissioner for approval of the
8 use of a trade name pursuant to section 431:2- .

9 [~~e~~] (d) A licensee shall:

10 (1) Inform the commissioner by any means acceptable to the
11 commissioner of any change of status within thirty
12 days of the change; [~~and~~

13 (2) Report any change of status to the business
14 registration division if the licensee is a business
15 entity registered with the department of commerce and
16 consumer affairs pursuant to title 23 or title 23A, or
17 if the licensee has registered a trade name pursuant
18 to part II of chapter 482[-]; and

19 (3) Apply to the department of commerce and consumer
20 affairs and the commissioner for approval to change
21 the status of a trade name pursuant to section 431:2-

22 .

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1 Failure to timely inform the commissioner or business
2 registration division of a change of status shall result in a
3 penalty pursuant to section 431:2-203.

4 [~~d~~] (e) As used in this section, "change of status"
5 includes, but shall not be limited to, change of legal name,
6 assumed name, trade name, business address, home address,
7 mailing address, business phone number, business fax number,
8 business electronic mail address, business website address, or
9 home phone number. A licensee shall apply to the department of
10 commerce and consumer affairs and the commissioner for approval
11 to change the status of a trade name pursuant to section 431:2-
12 ."

13 SECTION 13. Section 431:9A-102, Hawaii Revised Statutes,
14 is amended by adding two new definitions to be appropriately
15 inserted and to read as follows:

16 "Assumed name" means any fictitious, alias, maiden, or
17 trade name used in the past.

18 "Trade name" means any name used by an insurance producer
19 to solicit insurance business in this State if the applicant's
20 or licensee's true legal name of an individual or a business
21 entity cannot be used."

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1 SECTION 14. Section 431:9A-110, Hawaii Revised Statutes,
2 is amended to read as follows:

3 "§431:9A-110 Legal, trade, and assumed names. (a) Every
4 insurance producer doing business in this State shall notify the
5 commissioner in writing of the insurance producer's legal name
6 ~~[and trade name, if applicable]~~.

7 (b) ~~[An insurance producer doing business under any name
8 other than the producer's legal name shall notify the
9 commissioner in writing prior to using the assumed name.]~~ An
10 insurance producer shall apply to the department of commerce and
11 consumer affairs and the commissioner for approval of the use or
12 change of a trade name pursuant to section 431:2- .

13 (c) An insurance producer doing business under any assumed
14 name in the past, other than the producer's legal name, shall
15 notify the commissioner in a form prescribed by the
16 commissioner."

17 SECTION 15. Section 431:9N-102, Hawaii Revised Statutes,
18 is amended to read as follows:

19 "§431:9N-102 License denial, nonrenewal, suspension, or
20 revocation[-]; trade name bar. In addition to the authority
21 granted by section 431:9A-112, the commissioner may deny, place
22 on probation, suspend, revoke, or refuse to issue or renew a

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1 bail agent's license, may permanently retire or bar subsequent
2 use of a trade name, and may levy a civil fine or penalty in
3 accordance with articles 2 and 9A, or take any combination of
4 these actions, for any of the following causes:

- 5 (1) Failure to satisfy, pay, or otherwise discharge a bail
6 forfeiture judgment after the bail agent's name is on
7 the board for more than forty-five consecutive days
8 for the same forfeiture;
- 9 (2) Failure to satisfy, pay, or otherwise discharge a
10 final, nonappealable bail forfeiture judgment within
11 sixty days following notice of entry of judgment;
- 12 (3) Failure to report, to preserve without use and retain
13 separately, or to return collateral received as
14 security on any bond to the principal or depositor of
15 the collateral;
- 16 (4) Failure to pay a final, nonappealable judgment award
17 for failure to return or repay collateral received to
18 secure a bond;
- 19 (5) Continuing execution of bail bonds in any court in
20 this State while on the board, where the bail
21 forfeiture judgment that resulted in placement on the

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1 board has not been paid, stayed, vacated, exonerated,
2 or otherwise discharged; or

3 (6) Payment, directly or indirectly, of any commission,
4 service fee, brokerage, or other valuable
5 consideration to any person selling, soliciting, or
6 negotiating bail within this State unless, at the time
7 the services were performed, the person was duly
8 licensed for the performance of the services."

9 SECTION 16. Section 431:10-104, Hawaii Revised Statutes,
10 is amended to read as follows:

11 "**§431:10-104 General readability requirements.** In
12 addition to any other requirements of law, no contract shall be
13 delivered or issued for delivery in this State unless:

14 (1) The text is in plain language [~~achieving~~] and
15 achieves a minimum score of forty on the Flesch
16 reading ease test or an equivalent score on any other
17 comparable test prescribed by the commissioner under
18 section 431:10-105(a);

19 (2) The contract is printed, except for specification
20 pages, schedules, and tables, in not less than ten-
21 point type [~~one point leaded~~];

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1 (3) The style, arrangement, and general appearance of the
2 contract give no undue prominence to any endorsements,
3 riders, or other portions of the text; and

4 (4) A table of contents or an index of principal sections
5 is provided with the contract when the text consists
6 of more than three thousand words printed on three or
7 less pages or when the text has more than three pages,
8 regardless of the total number of printed words [~~and~~

9 ~~(5) For any short term health insurance policies that~~
10 ~~impose preexisting conditions provisions, any policy,~~
11 ~~application, or sales brochure shall disclose in a~~
12 ~~conspicuous manner in not less than fourteen point~~
13 ~~bold face type the following statement:~~

14 ~~"THIS POLICY EXCLUDES COVERAGE FOR CONDITIONS FOR~~
15 ~~WHICH MEDICAL ADVICE, DIAGNOSIS, CARE, OR TREATMENT~~
16 ~~WAS RECOMMENDED OR RECEIVED DURING THE [insert~~
17 ~~exclusion period] IMMEDIATELY PRECEDING THE EFFECTIVE~~
18 ~~DATE OF COVERAGE."] ."~~

19 SECTION 17. Section 431:10A-116, Hawaii Revised Statutes,
20 is amended to read as follows:

21 "§431:10A-116 Coverage for specific services. Every
22 person insured under a policy of accident and health or sickness

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1 insurance delivered or issued for delivery in this State shall
2 be entitled to the reimbursements and coverages specified below:

3 (1) Notwithstanding any provision to the contrary,
4 whenever a policy, contract, plan, or agreement
5 provides for reimbursement for any visual or
6 optometric service, which is within the lawful scope
7 of practice of a duly licensed optometrist, the person
8 entitled to benefits or the person performing the
9 services shall be entitled to reimbursement whether
10 the service is performed by a licensed physician or by
11 a licensed optometrist. Visual or optometric services
12 shall include eye or visual examination, or both, or a
13 correction of any visual or muscular anomaly, and the
14 supplying of ophthalmic materials, lenses, contact
15 lenses, spectacles, eyeglasses, and appurtenances
16 thereto;

17 (2) Notwithstanding any provision to the contrary, for all
18 policies, contracts, plans, or agreements issued on or
19 after May 30, 1974, whenever provision is made for
20 reimbursement or indemnity for any service related to
21 surgical or emergency procedures, which is within the
22 lawful scope of practice of any practitioner licensed

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1 to practice medicine in this State, reimbursement or
2 indemnification under the policy, contract, plan, or
3 agreement shall not be denied when the services are
4 performed by a dentist acting within the lawful scope
5 of the dentist's license;

6 (3) Notwithstanding any provision to the contrary,
7 whenever the policy provides reimbursement or payment
8 for any service, which is within the lawful scope of
9 practice of a psychologist licensed in this State, the
10 person entitled to benefits or performing the service
11 shall be entitled to reimbursement or payment, whether
12 the service is performed by a licensed physician or
13 licensed psychologist;

14 (4) Notwithstanding any provision to the contrary, each
15 policy, contract, plan, or agreement issued on or
16 after February 1, 1991, except for policies that only
17 provide coverage for specified diseases or other
18 limited benefit coverage, but including policies
19 issued by companies subject to chapter 431, article
20 10A, part II and chapter 432, article 1 shall provide
21 coverage for screening by low-dose mammography for
22 occult breast cancer as follows:

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1 (A) For women forty years of age and older, an annual
2 mammogram; and

3 (B) For a woman of any age with a history of breast
4 cancer or whose mother or sister has had a
5 history of breast cancer, a mammogram upon the
6 recommendation of the woman's physician.

7 The services provided in this paragraph are
8 subject to any coinsurance provisions that may be in
9 force in these policies, contracts, plans, or
10 agreements.

11 For the purpose of this paragraph, the term "low-
12 dose mammography" means the x-ray examination of the
13 breast using equipment dedicated specifically for
14 mammography, including, but not limited to, the x-ray
15 tube, filter, compression device, screens, films, and
16 cassettes, with an average radiation exposure delivery
17 of less than one rad mid-breast, with two views for
18 each breast. An insurer may provide the services
19 required by this paragraph through contracts with
20 providers; provided that the contract is determined to
21 be a cost-effective means of delivering the services

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1 without sacrifice of quality and meets the approval of
2 the director of health; and

3 (5) (A) (i) Notwithstanding any provision to the
4 contrary, whenever a policy, contract, plan,
5 or agreement provides coverage for the
6 children of the insured, that coverage shall
7 also extend to the date of birth of any
8 newborn child to be adopted by the insured;
9 provided that the insured gives written
10 notice to the insurer of the insured's
11 intent to adopt the child prior to the
12 child's date of birth or within thirty days
13 after the child's birth or within the time
14 period required for enrollment of a natural
15 born child under the policy, contract, plan,
16 or agreement of the insured, whichever
17 period is longer; provided further that if
18 the adoption proceedings are not successful,
19 the insured shall reimburse the insurer for
20 any expenses paid for the child; and

21 (ii) Where notification has not been received by
22 the insurer prior to the child's birth or

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1 within the specified period following the
2 child's birth, insurance coverage shall be
3 effective from the first day following the
4 insurer's receipt of legal notification of
5 the insured's ability to consent for
6 treatment of the infant for whom coverage is
7 sought; and

8 (B) When the insured is a member of a health
9 maintenance organization [~~HMO~~], coverage of an
10 adopted newborn is effective:

11 (i) From the date of birth of the adopted
12 newborn when the newborn is treated from
13 birth pursuant to a provider contract with
14 the health maintenance organization, and
15 written notice of enrollment in accord with
16 the health maintenance organization's usual
17 enrollment process is provided within thirty
18 days of the date the insured notifies the
19 health maintenance organization of the
20 insured's intent to adopt the infant for
21 whom coverage is sought; or

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1 (ii) From the first day following receipt by the
2 health maintenance organization of written
3 notice of the insured's ability to consent
4 for treatment of the infant for whom
5 coverage is sought and enrollment of the
6 adopted newborn in accord with the health
7 maintenance organization's usual enrollment
8 process if the newborn has been treated from
9 birth by a provider not contracting or
10 affiliated with the health maintenance
11 organization[; and

12 ~~(6) Notwithstanding any provision to the contrary, any~~
13 ~~policy, contract, plan, or agreement issued or renewed~~
14 ~~in this State shall provide reimbursement for services~~
15 ~~provided by advanced practice registered nurses~~
16 ~~licensed pursuant to chapter 457. Services rendered by~~
17 ~~advanced practice registered nurses are subject to the~~
18 ~~same policy limitations generally applicable to health~~
19 ~~care providers within the policy, contract, plan, or~~
20 ~~agreement]."~~

21 SECTION 18. Section 431:10A-116.6, Hawaii Revised

22 Statutes, is amended to read as follows:

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1 "§431:10A-116.6 Contraceptive services. (a)
2 Notwithstanding any provision of law to the contrary, each
3 employer group accident and health or sickness policy, contract,
4 plan, or agreement issued or renewed in this State on or after
5 January 1, 2000, shall cease to exclude contraceptive services
6 or supplies for the subscriber or any dependent of the
7 subscriber who is covered by the policy, subject to the
8 exclusion under section 431:10A-116.7 and the exclusion under
9 section [~~431:10A-102.5.~~] 431:10A- .

10 (b) Except as provided in subsection (c), all policies,
11 contracts, plans, or agreements under subsection (a) [7] that
12 provide contraceptive services or supplies[7] or prescription
13 drug coverage[7] shall not exclude any prescription
14 contraceptive supplies or impose any unusual copayment, charge,
15 or waiting requirement for such supplies.

16 (c) Coverage for oral contraceptives shall include at
17 least one brand from the monophasic, multiphasic, and the
18 progestin-only categories. A member shall receive coverage for
19 any other oral contraceptive only if:

20 (1) Use of brands covered has resulted in an adverse drug
21 reaction; or

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1 (2) The member has not used the brands covered and, based
2 on the member's past medical history, the prescribing
3 health care provider believes that use of the brands
4 covered would result in an adverse reaction.

5 (d) Coverage required by this section shall include
6 reimbursement to a prescribing health care provider or
7 dispensing entity for prescription contraceptive supplies
8 intended to last for up to a twelve-month period for an insured.

9 ~~[(e) Coverage required by this section shall include~~
10 ~~reimbursement to a prescribing and dispensing pharmacist who~~
11 ~~prescribes and dispenses contraceptive supplies pursuant to~~
12 ~~section 461].~~

13 ~~(f)]~~ (e) For purposes of this section:

14 "Contraceptive services" means physician-delivered,
15 physician-supervised, physician assistant-delivered, advanced
16 practice registered nurse-delivered, nurse-delivered, or
17 pharmacist-delivered medical services intended to promote the
18 effective use of contraceptive supplies or devices to prevent
19 unwanted pregnancy.

20 "Contraceptive supplies" means all United States Food and
21 Drug Administration-approved contraceptive drugs or devices used
22 to prevent unwanted pregnancy.

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1 [~~g~~] (f) Nothing in this section shall be construed to
2 extend the practice or privileges of any health care provider
3 beyond that provided in the laws governing the provider's
4 practice and privileges."

5 SECTION 19. Section 431:10A-118.3, Hawaii Revised
6 Statutes, is amended by amending subsection (e) to read as
7 follows:

8 "(e) As used in this section unless the context requires
9 otherwise:

10 "Actual gender identity" means a person's internal sense of
11 being male, female, a gender different from the gender assigned
12 at birth, a transgender person, or neither male nor female.

13 "Gender transition" means the process of a person changing
14 the person's outward appearance or sex characteristics to accord
15 with the person's actual gender identity.

16 "Perceived gender identity" means an observer's impression
17 of another person's actual gender identity or the observer's own
18 impression that the person is male, female, a gender different
19 from the gender [~~designed~~] assigned at birth, a transgender
20 person, or neither male nor female.

21 "Transgender person" means a person who has gender identity
22 disorder or gender dysphoria, has received health care services

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1 related to gender transition, adopts the appearance or behavior
2 of the opposite sex, or otherwise identifies as a gender
3 different from the gender assigned to that person at birth."

4 SECTION 20. Section 431:11-102, Hawaii Revised Statutes,
5 is amended by adding two new definitions to be appropriately
6 inserted and to read as follows:

7 "Group-wide supervisor" means the regulatory official
8 authorized to engage in conducting and coordinating group-wide
9 supervision activities who is determined or acknowledged by the
10 commissioner under section 431:11- to have sufficient
11 significant contacts with the internationally active insurance
12 group.

13 "Internationally active insurance group" means an insurance
14 holding company system that:

15 (1) Includes an insurer registered under section 431:11-
16 105; and

17 (2) Meets the following criteria:

18 (A) Premiums written in at least three countries;

19 (B) The percentage of gross premiums written outside
20 the United States is at least ten percent of the
21 insurance holding company system's total gross
22 written premiums; and

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1 (C) Based on a three-year rolling average, the total
2 assets of the insurance holding company system
3 are at least \$50,000,000,000 or the total gross
4 written premiums of the insurance holding company
5 system are at least \$10,000,000,000."

6 SECTION 21. Section 431:11-108, Hawaii Revised Statutes,
7 is amended by amending subsection (a) to read as follows:

8 "(a) Documents, materials, or other information in the
9 possession or control of the insurance division that are
10 obtained by or disclosed to the commissioner or any other person
11 in the course of an examination or investigation made pursuant
12 to section 431:11-107 and all information reported or provided
13 to the insurance division pursuant to sections 431:11-104(b) (12)
14 and (13), 431:11-105, [~~and~~] 431:11-106, and 431:11- , shall be
15 confidential by law and privileged, shall not be disclosable
16 under chapter 92F, shall not be subject to subpoena, and shall
17 not be subject to discovery or admissible in evidence in any
18 private civil action. The commissioner may use the documents,
19 materials, or other information in the furtherance of any
20 regulatory or legal action brought as part of the commissioner's
21 official duties. The commissioner shall not otherwise make the
22 documents, materials, or other information public without prior

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1 written consent of the insurer to which it pertains unless the
2 commissioner, after giving the insurer and its affiliates who
3 would be affected thereby notice and opportunity to be heard,
4 determines that the interest of the policyholders, shareholders,
5 or the public will be served by the publication thereof, in
6 which event the commissioner may publish all or any part in such
7 manner as may be deemed appropriate."

8 SECTION 22. Section 431:14-104, Hawaii Revised Statutes,
9 is amended as follows:

10 (1) By amending subsections (a) and (b) to read as
11 follows:

12 "(a) Every insurer shall file with the commissioner every
13 manual of classifications, rules, and rates, every rating plan,
14 every other rating rule, and every modification of any of the
15 foregoing that it proposes to use; provided that filings with
16 regard to specific inland marine risks, which by general custom
17 of the business are not written according to manual rate or
18 rating plans, and bail bonds, subject to section 804-62, shall
19 not be required pursuant to this subsection.

20 Every filing shall:

21 (1) State its proposed effective date;

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1 (2) Indicate the character and extent of the coverage
2 contemplated;

3 (3) Include a report on investment income; and

4 (4) Be accompanied by a \$50 fee [~~payable to the~~
5 ~~commissioner,~~] to be deposited in the commissioner's
6 education and training fund.

7 (b) [~~For each~~] Each filing [~~an insurer~~] shall [~~submit~~] be
8 submitted to the commissioner[+]

9 (1) ~~An electronic copy of the filing, or~~

10 (2) ~~Two printed copies of the filing.~~

11 ~~The commissioner may also request a printed version of an~~
12 ~~electronic filing to be submitted pursuant to paragraph (1).~~
13 via the National Association of Insurance Commissioners' System
14 for Electronic Rates and Forms Filing or an equivalent service
15 approved by the commissioner."

16 (2) By amending subsection (k) to read as follows:

17 "(k) The following rates shall become effective when
18 filed:

19 (1) Specific inland marine [~~rates~~] rate filings on risks
20 specially rated by a rating organization or an
21 advisory organization;

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- 1 (2) Any special filing with respect to a surety or
2 guaranty bond required by law [~~or by~~], court or
3 executive order, or [~~by~~] order or rule of a public
4 body, not covered by a previous filing; and
- 5 (3) Any special filing with respect to any class of
6 insurance, subdivision, or combination thereof that is
7 subject to individual risk premium modification and
8 has been agreed to by an insured under a formal or an
9 informal bid process.

10 The filed rates shall be deemed [~~to meet the requirements of~~
11 ~~this article until the time the commissioner reviews the filing~~
12 ~~and~~] approved so long as the filing remains in effect."

13 SECTION 23. Section 431:14-104.5, Hawaii Revised Statutes,
14 is amended to read as follows:

15 "**§431:14-104.5 Loss cost filings.** When required by the
16 commissioner, the rating organization or advisory organization
17 shall file for approval all prospective loss costs, [~~and all~~]
18 supplementary rating information, and every change [~~or~~],
19 amendment, or modification [~~of any of the foregoing~~] thereto
20 proposed for use in this State. The filings shall be subject to
21 [~~section~~] sections 431:14-104 [~~and section~~], 431:14-105, and

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1 431:14-106 and other provisions of article 14 relating to
2 filings made by insurers."

3 SECTION 24. Section 431:14-105, Hawaii Revised Statutes,
4 is amended to read as follows:

5 "**§431:14-105 Policy revisions that alter coverage.**

6 (a) Any policy revisions that alter coverage in any manner
7 shall be filed with the commissioner and shall include an
8 analysis of the impact [of] each revision has on rates[-

9 ~~(b) A filing shall consist of either:~~

10 ~~(1) An electronic copy of the filing, or~~

11 ~~(2) Two printed copies of the filing.~~

12 ~~The commissioner may also request a printed version of an~~
13 ~~electronic filing to be submitted pursuant to paragraph (1).] or~~
14 loss costs.

15 [~~e~~] (b) After review by the commissioner, the
16 commissioner shall determine whether a rate filing for the
17 policy revision must be submitted in accordance with section
18 431:14-104."

19 SECTION 25. Section 431:14-108, Hawaii Revised Statutes,
20 is amended to read as follows:

21 "**§431:14-108 Deviations.** (a) Except for those lines of
22 insurance for which the commissioner determines [~~that~~]

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1 individual rate filings shall be made, every member of or
2 subscriber to a rating organization shall adhere to the filings
3 the organization made on its behalf [~~by the organization, except~~
4 ~~that~~]; provided that any insurer may [~~make written application~~]
5 submit a rate filing to the commissioner to file a deviation
6 from the class rates, schedules, rating plans, or rules
7 respecting any class of insurance, [~~or~~] class of risk within a
8 class of insurance, or combination thereof. The [~~application~~]
9 rate filing shall specify the basis for the deviation and shall
10 be accompanied by the data upon which the applicant relies. [A]
11 The filer shall simultaneously send a copy of the [~~application~~]
12 deviation and data [~~shall be sent simultaneously~~] to the rating
13 organization.

14 [~~(b) The commissioner shall set a time and place for a~~
15 ~~hearing at which the insurer and the rating organization may be~~
16 ~~heard, and shall give them not less than ten days' written~~
17 ~~notice thereof. In the event the commissioner is advised by the~~
18 ~~rating organization that it does not desire a hearing, the~~
19 ~~commissioner may, upon the consent of the applicant, waive the~~
20 ~~hearing.~~

21 ~~(e)~~ (b) In considering the [~~application to file a~~]
22 deviation, the commissioner shall [~~give consideration to~~]

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1 consider the available statistics and the principles for
2 ratemaking [~~as provided~~] in section 431:14-103. The
3 commissioner shall [~~issue an order permitting~~] approve the
4 filing of the deviation [~~to be filed~~] if the commissioner finds
5 that it [~~to be~~] is justified. The deviation shall become
6 effective upon [~~issuance of~~] the commissioner's [~~order.~~]
7 approval of the proposed effective date of the filing. The
8 commissioner shall [~~issue an order denying~~] disapprove the
9 [~~application~~] rate filing if the commissioner finds [~~that~~] the
10 deviation is not justified or [~~that~~] the resulting premiums
11 would be excessive, inadequate, or unfairly
12 discriminatory. Each deviation [~~permitted to be~~] filed shall be
13 effective for a period of one year from the date of [~~the order~~]
14 approval, unless terminated sooner with [~~the~~] approval [~~of~~] by
15 the commissioner."

16 SECTION 26. Section 431:14G-105, Hawaii Revised Statutes,
17 is amended by amending subsections (a) and (b) to read as
18 follows:

19 "(a) Every managed care plan shall file with the
20 commissioner every rate, charge, classification, schedule,
21 practice, or rule and every modification of any of the foregoing
22 that it proposes to use. Every filing shall:

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- 1 (1) State its proposed effective date;
- 2 (2) Indicate the character and extent of the coverage
- 3 contemplated;
- 4 (3) Include a report on investment income; and
- 5 (4) Be accompanied by a \$50 fee [~~payable to the~~
- 6 ~~commissioner which shall~~] to be deposited in the
- 7 commissioner's education and training fund.
- 8 (b) [~~For each~~] Each filing[~~, an insurer~~] shall [~~submit~~] be
- 9 submitted to the commissioner[+]
- 10 ~~(1) An electronic copy of the filing, or~~
- 11 ~~(2) Two printed copies of the filing,~~
- 12 ~~provided that the commissioner may request that an insurer that~~
- 13 ~~submits an electronic copy of the filing pursuant to paragraph~~
- 14 ~~(1) to also submit a printed copy of the electronic filing.] via~~
- 15 the National Association of Insurance Commissioners' System for
- 16 Electronic Rates and Forms Filing or an equivalent service
- 17 approved by the commissioner."

18 SECTION 27. Section 431:19-103, Hawaii Revised Statutes,

19 is amended to read as follows:

20 "§431:19-103 **Names of companies.** (a) No captive

21 insurance company shall adopt a name that is the same,

22 deceptively similar, or likely to be confused with or mistaken

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1 for any other existing business name registered in the State [7
2 ~~except that the commissioner may allow a branch captive~~
3 ~~insurance company to be licensed in this State under a different~~
4 ~~trade name if the normal name of the branch captive insurance~~
5 ~~company is not available for use in this State].~~

6 (b) A captive insurance company shall apply to the
7 department of commerce and consumer affairs and the commissioner
8 for approval of the use or change of a trade name pursuant to
9 section 431:2- ."

10 SECTION 28. Section 431:19-115, Hawaii Revised Statutes,
11 is amended by amending subsections (a), (b), and (c) to read as
12 follows:

13 "(a) No insurance laws of this State, other than those
14 [~~contained~~] in this article, article 15, or [~~contained in~~
15 ~~specific references contained~~] specifically referenced in this
16 section [~~or~~], article, or article 15, shall apply to captive
17 insurance companies.

18 (b) Sections 431:3-302 to 431:3-304.5, 431:3-307, 431:3-
19 401 to 431:3-409, 431:3-411, 431:3-412, and 431:3-414; articles
20 1, 2, 4A, 5, 6, 9A, 9B, 9C, 11, and 11A[~~and 15~~]; and chapter
21 431K shall apply to risk retention captive insurance companies.

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1 (c) Articles 1, 2, and 6 [~~7~~ and ~~15~~] shall apply to class 5
2 companies."

3 SECTION 29. Section 431:26-103, Hawaii Revised Statutes,
4 is amended by amending subsection (e) to read as follows:

5 "(e) A health carrier shall meet the following access plan
6 requirements:

7 (1) Beginning on July 1, 2017, a health carrier shall file
8 with the commissioner for approval, prior to or at the
9 time it files a newly offered network plan, in a manner
10 and form defined by rule or order of the commissioner,
11 an access plan that meets the requirements of this
12 article;

13 (2) The health carrier may request the commissioner to deem
14 sections of the access plan as proprietary,
15 competitive, or trade secret information that shall not
16 be made public. Information is proprietary,
17 competitive, or a trade secret if disclosure of the
18 information would cause the health carrier's
19 competitors to obtain valuable business
20 information. The health carrier shall make the access
21 plans, absent proprietary, competitive, or trade secret

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1 information, available online, at the health carrier's
2 business premises, and to any person upon request; and
3 (3) The health carrier shall prepare an access plan prior
4 to offering a new network plan and shall notify the
5 commissioner of any material change to any existing
6 network plan within fifteen business days after the
7 change occurs. The carrier shall include in the notice
8 to the commissioner a reasonable [~~time-frame~~] timeframe
9 within which the carrier will submit to the
10 commissioner for approval or file with the
11 commissioner, as appropriate, an update to an existing
12 access plan."

13 SECTION 30. Section 431:26-104, Hawaii Revised Statutes,
14 is amended by amending subsection (f) to read as follows:

15 "(f) Selection standards shall be developed pursuant to
16 the following:

17 (1) Health carrier selection standards for selecting and
18 tiering, as applicable, participating providers shall
19 be developed for providers and each health care
20 professional specialty;

21 (2) The standards shall be used in determining the
22 selection of participating providers by the health

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1 carrier and the intermediaries with which the health
2 carrier contracts. The standards shall meet
3 requirements relating to health care professional
4 credentialing verification developed by the
5 commissioner by order or through rules adopted pursuant
6 to chapter 91;

7 (3) Selection criteria shall not be established in a
8 manner:

9 (A) That would allow a health carrier to discriminate
10 against high risk populations by excluding
11 providers because the providers are located in
12 geographic areas that contain populations or
13 providers presenting a risk of higher than
14 average claims, losses, or health care services
15 utilization;

16 (B) That would exclude providers because the
17 providers treat or specialize in treating
18 populations presenting a risk of higher than
19 average claims, losses, or health care services
20 utilization; or

21 (C) That would discriminate with respect to
22 participation under the health benefit plan

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1 against any provider who is acting within the
2 scope of the provider's license or certification
3 under applicable state law or regulations;
4 provided that this subparagraph shall not be
5 construed to require a health carrier to contract
6 with any provider who is willing to abide by the
7 terms and conditions for participation
8 established by the carrier;

9 (4) Notwithstanding paragraph (3), a carrier shall not be
10 prohibited from declining to select a provider who
11 fails to meet the other legitimate selection criteria
12 of the carrier developed in compliance with this
13 article; and

14 (5) This article does not require a health carrier, its
15 intermediaries, or the provider networks with which the
16 carrier and its intermediaries contract, to employ
17 specific providers acting within the scope of the
18 providers' license or certification under applicable
19 state law that may meet the selection criteria of the
20 carrier, or to contract with or retain more providers
21 acting within the scope of the providers' license or

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1 certification under applicable state law than are
2 necessary to maintain a sufficient provider network."

3 SECTION 31. Section 431:30-112, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) A compacting state may opt out of a uniform standard,
6 either by legislation or by rule adopted by the insurance
7 commissioner. If a compacting state elects to opt out of a
8 uniform standard by rule, it shall:

9 (1) Give written notice to the commission no later than
10 ten business days after the later of the adoption of
11 the uniform standard or the state becoming a
12 compacting state; and

13 (2) Find that the uniform standard does not provide
14 reasonable protections to the citizens of the state,
15 given the conditions in the state. The commissioner
16 shall make specific findings of fact and conclusions
17 of law, based on a preponderance of the evidence,
18 detailing the conditions in the state that warrant a
19 departure from the uniform standard and determining
20 that the uniform standard would not reasonably protect
21 the citizens of the state. The commissioner shall
22 consider and balance the following factors and find

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1 that the conditions in the state and needs of the
2 citizens of the state outweigh:

3 (A) The intent of the legislature to participate in,
4 and reap the benefits of, an interstate agreement
5 to establish national uniform consumer
6 protections for the products subject to this
7 article; and

8 (B) The presumption that a uniform standard adopted
9 by the commission provides reasonable protections
10 to consumers of the relevant product.

11 Notwithstanding the foregoing, a compacting state may, at the
12 time of its enactment of this compact, prospectively opt out of
13 all uniform standards involving long-term care insurance
14 products by expressly providing for such opt out in the enacted
15 compact, and such an opt out shall not be treated as a material
16 variance in the offer or acceptance of any state to participate
17 in this compact. An opt out pursuant to this section shall be
18 effective at the time of enactment of this compact by the
19 compacting state and shall apply to all existing uniform
20 standards involving long-term care insurance products and those
21 subsequently adopted [~~and~~

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1 ~~(3) In accordance with the provisions of paragraph (2),~~
2 ~~this State does prospectively opt out of all uniform~~
3 ~~standards involving long term care insurance products~~
4 ~~promulgated by the commission, as this State has~~
5 ~~previously enacted article 10H providing additional~~
6 ~~standards for federal conformity and universal~~
7 ~~availability for reciprocal beneficiary and multi-~~
8 ~~generation populace which facilitates flexibility and~~
9 ~~innovation in the development of long term care~~
10 ~~insurance coverage]."~~

11 SECTION 32. Section 432:1-604.5, Hawaii Revised Statutes,
12 is amended to read as follows:

13 "**§432:1-604.5 Contraceptive services.** (a)
14 Notwithstanding any provision of law to the contrary, each
15 employer group health policy, contract, plan, or agreement
16 issued or renewed in this State on or after January 1, 2000,
17 shall cease to exclude contraceptive services or supplies, and
18 contraceptive prescription drug coverage for the subscriber or
19 any dependent of the subscriber who is covered by the policy,
20 subject to the exclusion under section 431:10A-116.7.

21 (b) Except as provided in subsection (c), all policies,
22 contracts, plans, or agreements under subsection (a), that

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1 provide contraceptive services or supplies, or prescription drug
2 coverage, shall not exclude any prescription contraceptive
3 supplies or impose any unusual copayment, charge, or waiting
4 requirement for such drug or device.

5 (c) Coverage for contraceptives shall include at least one
6 brand from the monophasic, multiphasic, and the progestin-only
7 categories. A member shall receive coverage for any other oral
8 contraceptive only if:

9 (1) Use of brands covered has resulted in an adverse drug
10 reaction; or

11 (2) The member has not used the brands covered and, based
12 on the member's past medical history, the prescribing
13 health care provider believes that use of the brands
14 covered would result in an adverse reaction.

15 (d) Coverage required by this section shall include
16 reimbursement to a prescribing health care provider or
17 dispensing entity for prescription contraceptive supplies
18 intended to last for up to a twelve-month period for a member.

19 ~~[(e) Coverage required by this section shall include~~
20 ~~reimbursement to a prescribing and dispensing pharmacist who~~
21 ~~prescribes and dispenses contraceptive supplies pursuant to~~
22 ~~section 461-11.6.~~

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1 ~~(f)~~ (e) For purposes of this section:

2 "Contraceptive services" means physician-delivered,
3 physician-supervised, physician assistant-delivered, advanced
4 practice registered nurse-delivered, nurse-delivered, or
5 pharmacist-delivered medical services intended to promote the
6 effective use of contraceptive supplies or devices to prevent
7 unwanted pregnancy.

8 "Contraceptive supplies" means all Food and Drug
9 Administration-approved contraceptive drugs or devices used to
10 prevent unwanted pregnancy.

11 ~~(g)~~ (f) Nothing in this section shall be construed to
12 extend the practice or privileges of any health care provider
13 beyond that provided in the laws governing the provider's
14 practice and privileges."

15 SECTION 33. Section 432:1-607.3, Hawaii Revised Statutes,
16 is amended by amending subsection (e) to read as follows:

17 "(e) As used in this section unless the context requires
18 otherwise:

19 "Actual gender identity" means a person's internal sense of
20 being male, female, a gender different from the gender assigned
21 at birth, a transgender person, or neither male nor female.

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1 "Gender transition" means the process of a person changing
2 the person's outward appearance or sex characteristics to accord
3 with the person's actual gender identity.

4 "Perceived gender identity" means an observer's impression
5 of another person's actual gender identity or the observer's own
6 impression that the person is male, female, a gender different
7 from the gender [~~designed~~] assigned at birth, a transgender
8 person, or neither male nor female.

9 "Transgender person" means a person who has gender identity
10 disorder or gender dysphoria, has received health care services
11 related to gender transition, adopts the appearance or behavior
12 of the opposite sex, or otherwise identifies as a gender
13 different from the gender assigned to that person at birth."

14 SECTION 34. Section 432D-26.3, Hawaii Revised Statutes, is
15 amended by amending subsection (e) to read as follows:

16 "(e) As used in this section unless the context requires
17 otherwise:

18 "Actual gender identity" means a person's internal sense of
19 being male, female, a gender different from the gender assigned
20 at birth, a transgender person, or neither male nor female.

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1 "Gender transition" means the process of a person changing
2 the person's outward appearance or sex characteristics to accord
3 with the person's actual gender identity.

4 "Perceived gender identity" means an observer's impression
5 of another person's actual gender identity or the observer's own
6 impression that the person is male, female, a gender different
7 from the gender [~~designed~~] assigned at birth, a transgender
8 person, or neither male nor female.

9 "Transgender person" means a person who has gender identity
10 disorder or gender dysphoria, has received health care services
11 related to gender transition, adopts the appearance or behavior
12 of the opposite sex, or otherwise identifies as a gender
13 different from the gender assigned to that person at birth."

14 SECTION 35. Section 431:10A-102.5, Hawaii Revised
15 Statutes, is repealed.

16 [~~"§431:10A-102.5 Limited benefit health~~
17 insurance. ~~(a) Except as provided in subsection (b) or~~
18 ~~elsewhere in this article, when used in this article, the terms~~
19 ~~"accident insurance", "health insurance", or "sickness~~
20 ~~insurance" shall not include an accident only, specified~~
21 ~~disease, hospital indemnity, long term care, disability, dental,~~
22 ~~vision, medicare supplement, short term, limited duration health~~

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1 ~~insurance; or other limited benefit health insurance contract~~
2 ~~that pays benefits directly to the insured or the insured's~~
3 ~~assigns and in which the amount of the benefit paid is not based~~
4 ~~upon the actual costs incurred by the insured.~~

5 ~~(b) When used in sections 431:10A 104, 431:10A 105,~~
6 ~~431:10A 106, 431:10A 107, 431:10A 108, 431:10A 109, 431:10A 110,~~
7 ~~431:10A 111, 431:10A 112, 431:10A 113, 431:10A 114, 431:10A 117,~~
8 ~~431:10A 118, 431:10A 601, 431:10A 602, 431:10A 603, and~~
9 ~~431:10A 604, except as otherwise provided, the terms "accident~~
10 ~~insurance", "accident and health or sickness insurance", "health~~
11 ~~insurance", or "sickness insurance" shall include an accident-~~
12 ~~only; specified disease; hospital indemnity; long term care;~~
13 ~~disability; dental; vision; medicare supplement; short term~~
14 ~~limited duration health insurance; or other limited benefit~~
15 ~~health insurance contract regardless of the manner in which~~
16 ~~benefits are paid; provided that if any of the requirements set~~
17 ~~forth in the foregoing sections as applied to long term care~~
18 ~~insurance conflict with the provisions of article 10H, the~~
19 ~~provisions of article 10H shall govern and control."]~~

20 SECTION 36. Section 432:1-611, Hawaii Revised Statutes, is
21 repealed.

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1 ~~["§432:1-611 Reimbursement for services of advanced~~
2 ~~practice registered nurses. All individual and group hospital~~
3 ~~and medical service plan contracts and medical service~~
4 ~~corporation contracts under this article shall provide~~
5 ~~reimbursement for health plan covered services provided by~~
6 ~~advanced practice registered nurses licensed pursuant to chapter~~
7 ~~457."]~~

8 SECTION 37. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 38. Sections 431:10A-116.6, 431:10A-132, 431:10A-
11 134, 431:10A-140, 431:26-102, 431S-1, 432:1-613, and 432:1-620,
12 Hawaii Revised Statutes, are amended by substituting the section
13 number designated by the revisor of statutes for the section
14 established in section 4 of this Act, wherever section 431:10A-
15 102.5, Hawaii Revised Statutes, is referenced in those sections.

16 SECTION 39. In codifying the new sections added by
17 sections 1, 2, 3, 4, 5, and 6 of this Act, the revisor of
18 statutes shall substitute appropriate section numbers for the
19 letters used in designating and referring to the new sections in
20 this Act.

21 SECTION 40. This Act shall take effect upon its approval;
22 provided that sections 1, 5, 20, and 21 shall become effective

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1 on January 1, 2020, and the first filing of the corporate
2 governance annual disclosure shall be in 2020.

3

4

INTRODUCED BY: _____

Stam

5

BY REQUEST

JAN 22 2019

H.B. NO. 984

Report Title:

Insurance; Health Insurance; Corporate Governance; National Association of Insurance Commissioners; Corporate Governance Annual Disclosure Model Act; Trade Name; Assumed Name; Pre-Existing Disclosure; Provider Reimbursement; Reimbursement By Provider; Medical Service Provider; Pharmacist; Contraceptive; Advanced Practice Registered Nurses; Insurance Holding Company System Regulatory Act; Group-Wide Supervisor; Group-Wide Supervision; Internationally Active Insurance Group; Holding Company; Standard Valuation Model Law; Gender Identity; Captive; Network Adequacy; Network Adequacy Model Act; Health Carrier; Participating Provider; Health Insurance; Vehicle Protection Product Warrantor; Service Contract Provider; Chapter 431; Article 2; Article 3; Article 5; Article 6; Article 9; Article 9A; Article 9N; Article 10; Article 10A; Article 11; Article 14, Article 14G, Article 15; Article 19; Article 26; Article 30; Chapter 432

Description:

Amends various portions of the Hawaii Insurance Code under Hawaii Revised Statutes title 24 to update and improve existing Insurance Code provisions.

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

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO INSURANCE.

PURPOSE: To amend various portions of the Hawaii Insurance Code under title 24 (Code), Hawaii Revised Statutes (HRS), and to update and improve existing Code provisions, including:

- (1) Adopting new corporate governance and annual disclosure requirements in the National Association of Insurance Commissioners' (NAIC) Corporate Governance Annual Disclosure Model Act (section 1 of bill);
- (2) Requiring any person seeking to add or change a trade name or an assumed name to submit a written request to the Department of Commerce and Consumer Affairs (DCCA) and the Insurance Commissioner (Commissioner) to determine whether the proposal satisfies the Code or corporation laws, and providing notice of this new requirement to insurers, producers, adjusters, independent bill reviewers, licensees, and captives (sections 2, 7, 12, 13, 14, 15 and 27);
- (3) Moving the short-term health insurance pre-existing disclosure requirement from section 431:10-104(5) to a new section in chapter 431, article 10A, part I, and amending section 431:10-104(5) by removing the disclosure requirement (sections 3 and 16);
- (4) Requiring that coverage for services mandated by chapter 431, article 10A and chapter 432, article 1 includes reimbursement to providers who deliver those services, repealing reimbursement mandates to pharmacists who prescribe and dispense birth control medication

- under an expansion of the pharmacist practice act, and removing reimbursement mandates to advanced practice registered nurses that Act 222, Session Laws of Hawaii 1999, created (sections 3, 6, 17, 18, 32, and 36);
- (5) Moving the limited benefit health insurance provision from section 431:10A-102.5 to a new section in chapter 431, article 10A, part VI (sections 4 and 35);
 - (6) Adopting 2014 revisions to the NAIC's Insurance Holding Company System Regulatory Act (sections 5, 20, and 21);
 - (7) Removing optional language in the NAIC's Standard Valuation Model Law that requires the Commissioner to adopt a rule to make effective any changes to the valuation manual (section 8);
 - (8) Removing references to class 1 money market mutual funds (sections 9 and 11);
 - (9) Amending the title to part VI of article 6 by removing brackets to reflect amendments to this part (section 10);
 - (10) Amending the definition of "perceived gender identity" in sections 431:10A-118.3(e), 432:1-607.3(e), and 432D-26.3(e) (sections 19, 33, and 34);
 - (11) Removing obsolete language and clarifying existing language in sections 431:14-104, 431:14-104.5, 431:14-105, and 431:14-108 (sections 22, 23, 24, and 25);

- (12) Removing obsolete language and clarifying existing language in section 431:14G-105 (section 26);
- (13) Applying chapter 431, article 15 to all captives (section 28);
- (14) Amending network adequacy provisions based on the NAIC's Network Adequacy Model Act that currently require implementation by rule to instead be temporarily carried out by order of the Commissioner (sections 29 and 30);
- (15) Removing the opt-out provision for long-term care insurance under the Interstate Insurance Product Regulation Commission (IIPRC) (section 31); and
- (16) Making technical, nonsubstantive amendments for clarity and consistency.

MEANS:

Add a new article to chapter 431; add a new section to chapter 431, article 2; add two new sections to chapter 431, article 10A, part I; add a new section to chapter 431, article 10A, part VI; add a new section to chapter 431, article 11; and add a new section to chapter 432, article 1, part VI, HRS.

Amend sections 431:3-202, 431:5-307(o), 431:6-101, 431:6-601(a) and (b), 431:9-203, 431:9A-102, 431:9A-110, 431:9N-102, 431:10-104, 431:10A-116, 431:10A-116.6, 431:10A-118.3(e), 431:11-102, 431:11-108(a), 431:14-104(a), (b), and (k), 431:14-104.5, 431:14-105, 431:14-108, 431:14G-105(a) and (b), 431:19-103, 431:19-115(a), (b), and (c), 431:26-103(e), 431:26-104(f), 431:30-112(d), 432:1-604.5, 432:1-607.3(e), and 432D-26.3(e), HRS.

Repeal sections 431:10A-102.5 and 432:1-611, HRS.

JUSTIFICATION:

- (1) This bill adopts the NAIC's Corporate Governance Annual Disclosure Model Act to maintain the State's accreditation with the NAIC. This bill provides more information on an annual basis to regulators regarding insurers' corporate governance practices. Currently, regulators obtain a significant amount of information on insurers' corporate governance practices during full-scope examinations, which typically occur once every three to five years. However, information on governance practices, including changes that can substantially impact current and prospective solvency, is not widely available to regulators in the period between onsite examination. Through the adoption of standards in this area, regulators can ensure that sufficient information on governance practices is available to assess insurer solvency on an annual basis.
(Section 1)
- (2) This bill allows DCCA and the Commissioner to determine whether an applicant's request to add or change a trade name or an assumed name satisfies both Code and corporation law requirements. This will ensure that both the DCCA and the Commissioner will receive notice of a proposed name change and that both have express authority to permanently retire or bar the use of a trade name or an assumed name associated with a revoked license.
(Sections 2, 7, 12, 13, 14, 15, and 27)
- (3) This bill moves the short-term health insurance pre-existing disclosure requirement from article 10 to article 10A, which is the more appropriate location for this requirement.
(Sections 3 and 16)

- (4) This bill clearly provides for reimbursement to providers who deliver coverage managed by chapter 431, article 10A and chapter 432, article 1 and deletes reimbursement mandates added to the Code in conjunction with medical service provider practice acts. These amendments will clarify that coverage for services mandated by chapter 431, article 10A and chapter 432, article 1 should include reimbursement to providers and will discourage the practice of creating reimbursement mandates in the Code to accompany expansions in provider practice acts.
(Sections 3, 6, 17, 18, 32, and 36)
- (5) This bill moves the limited benefit health insurance provision from part I to part VI of article 10A, which is the more appropriate location for this provision, and to clarify that this provision applies to both individual and group policies.
(Sections 4 and 35)
- (6) This bill adopts 2014 revisions to the NAIC's Insurance Holding Company System Regulatory Act to maintain the State's accreditation with the NAIC. This bill provides clear legal authority to a designated state to act as the group-wide supervisor for an internationally active insurance group.
(Sections 5, 20, and 21)
- (7) This bill streamlines the process of making changes to the valuation manual by eliminating optional language in the NAIC's Standard Valuation Model Law.
(Section 8)
- (8) This bill removes references to class 1 money market mutual funds to conform with the NAIC Securities Valuation Office Purposes and Procedures Manual

of the NAIC Investment Analysis Office.
(Sections 9 and 11)

- (9) This bill amends the title to part VI of article 6 to reflect amendments to this part.
(Section 10)
- (10) This bill replaces "designed" with "assigned" in the definition of "perceived gender identity" to correct a technical drafting error and to conform state law to federal guidance on gender identity.
(Sections 19, 33, and 34)
- (11) This bill removes obsolete language and clarifies existing language in chapter 431, article 14 to avoid ambiguity for insurers submitting rate filings.
(Sections 22, 23, 24, and 25)
- (12) This bill removes obsolete language and clarifies existing language in chapter 431, article 14G to avoid ambiguity for managed care plans submitting rate filings.
(Section 26)
- (13) This bill applies article 15 to all captives to give the Commissioner additional regulatory authority to supervise or liquidate a captive, rather than simply suspending or revoking its insurance license.
(Section 28)
- (14) This bill amends network adequacy provisions to temporarily allow DCCA's Insurance Division to create stopgap measures to implement the NAIC's Network Adequacy Model Act and promulgate rules.
(Sections 29 and 30)
- (15) This bill removes the opt-out provision for long-term care insurance under the

IIPRC to give states the option of using the IIPRC's proven stricter standards for substantive rate review or conducting their own review.
(Section 31)

Impact on the public: This bill enhances consumer protection by making title 24, HRS, provisions more understandable, technically correct, and consistent.

Impact on the department and other agencies:
None.

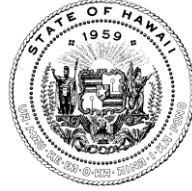
GENERAL FUNDS: None.

OTHER FUNDS: Compliance Resolution Fund.

PPBS PROGRAM
DESIGNATION: CCA-106.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval, provided that sections 1, 5, 20, and 21 shall become effective on January 1, 2020, and the first filing of the corporate governance annual disclosure shall be in 2020.



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Friday, February 1, 2019
2:00 p.m.
State Capitol, Conference Room 329**

**On the following measure:
H.B. 984, RELATING TO INSURANCE**

Chair Takumi and Members of the Committee:

My name is Colin Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department supports this administration bill.

Sections 1, 5, 20 and 21 of this bill are necessary for the State's continued accreditation with the National Association of Insurance Commissioners (NAIC), and the Department believes the remaining provisions proposed in this bill will update and improve Hawaii Revised Statutes title 24 (Insurance Code) in a number of areas. Specifically, this measure will do the following:

Section 1 of this bill adopts the NAIC's Corporate Governance Annual Disclosure Model Act to maintain the State's accreditation with the NAIC by adding a new article to chapter 431. This bill provides more information on an annual basis to regulators regarding insurers' corporate governance practices. Currently, regulators obtain a significant amount of information on insurers' corporate governance practices during

full-scope examinations, which typically occur once every three to five years. However, information on governance practices, including changes that can substantially impact current and prospective solvency, is not widely available to regulators in the period between onsite examinations. Through the adoption of standards in this area, regulators can ensure that sufficient information on governance practices is available to assess insurer solvency on an annual basis.

The Department respectfully proposes the following amendment to section 1 of this bill: On page 6, line 20 to page 7, line 1, subsection (b), the first sentence should read: "Notwithstanding subsection (a), the corporate governance annual disclosure shall be prepared consistent with rules promulgated by the Commissioner."

Sections 2, 7, 12, 13, 14, 15, and 27 of this bill allow the Department and the Insurance Commissioner to determine whether an applicant's request to add or change a trade name or an assumed name satisfies Insurance Code and corporation law requirements. This will ensure that both the Department and the Insurance Commissioner will receive notice of a proposed name change and that both have express authority to permanently retire or bar the use of a trade name or an assumed name associated with a revoked license.

Sections 3 and 16 of this bill move the newly enacted section 431:10-104(5) from article 10 to article 10A, which is the more appropriate section for the short-term health insurance pre-existing disclosure requirement. In addition, sections 3, 6, 17, 18, 32, and 36 of this bill clearly provide for reimbursement to providers who deliver coverage managed by chapter 431, article 10A and chapter 432, article 1 and delete reimbursement mandates added to the Insurance Code in conjunction with medical service provider practice acts. These amendments do not remove any existing mandates. Instead, these amendments will clarify that coverage for services mandated by chapter 431, article 10A should include reimbursement to providers and will discourage the practice of creating reimbursement mandates in the Insurance Code to accompany expansions in provider practice acts.

The Department respectfully proposes the following amendment to section 3 of this bill: On page 16, line 7, section 431:10A-A, insert "accident-only," after "income," to

be consistent with federal regulations governing accident-only exemptions to the disclaimer requirement.

Sections 4 and 35 of this bill move the limited benefit health insurance provision from part I to part VI of article 10A, which clarifies that this provision applies to both individual and group policies.

Sections 5, 20, and 21 of this bill adopt 2014 revisions to the NAIC's Insurance Holding Company System Regulatory Act to maintain the State's accreditation with the NAIC. This bill provides clear legal authority to a designated state to act as the group-wide supervisor for an internationally active insurance group.

Section 8 of this bill eliminates optional language in the NAIC's Standard Valuation Model Law to streamline how changes to the valuation manual become effective.

Sections 9 and 11 of this bill remove references to class 1 money market mutual funds to conform with the NAIC Securities Valuation Office Purposes and Procedures Manual of the NAIC Investment Analysis Office.

Section 10 of this bill amends the title to part VI of article 6 to reflect amendments to this part.

Sections 19, 33, and 34 of this bill correct a technical drafting error by replacing "designed" with "assigned" in the definition of "perceived gender identity" and accordingly conform State law to federal guidance on gender identity.

Sections 22, 23, 24, and 25 of this bill remove obsolete language and clarify existing language to avoid ambiguity for insurers submitting rate filings.

Section 26 of this bill amends section 431:14G-105 by removing obsolete language and clarifying existing language to avoid ambiguity for managed care plans submitting rate filings.

Section 28 of this bill amends section 431:19-115 to give the Insurance Commissioner additional regulatory authority to supervise or liquidate a captive, rather than simply suspending or revoking its insurance license.

Sections 29 and 30 of this bill temporarily allow the Insurance Division to create stopgap measures to implement the NAIC's Network Adequacy Model Act and to

promulgate administrative rules with the benefit of any future NAIC guidance and input from other jurisdictions.

Section 31 of this bill removes the opt-out provision for long-term care insurance under the Interstate Insurance Product Regulation Commission (IIPRC) to give states the option of using the IIPRC's proven stricter standards of substantive rate review or conducting their own review.

Finally, the Department respectfully requests minor technical amendments be made to this bill as follows:

1. Page 1, line 6: delete “purposes”, insert “purpose”
2. Page 1, line 7: delete “are”, insert “is”
3. Page 2, lines 16 – 17: delete definition of “Commissioner”, as this definition already appears in HRS section 431:2-102(b)
4. Page 3, line 4: delete “article 1”, insert “section 431:1-202”, which is a more specific citation than “article 1”
5. Page 9, line 7: delete “,” and insert “;”
6. Page 43, lines 6 – 9: correct Ramseyer formatting as follows:
[and trade name, if applicable.]

~~(b) An insurance producer doing business under any name other than the producer's legal name shall notify the commissioner in writing prior to using the assumed name.]~~

(b) An

The Department supports this administration bill and requests that it pass out of this committee with the requested amendments. Thank you for the opportunity to testify.

Testimony of the Board of Pharmacy

**Before the
House Committee on Consumer Protection and Commerce
Friday, February 1, 2019
2:00 p.m.
State Capitol, Conference Room 329**

**On the following measure:
H.B. 984, RELATING TO INSURANCE**

Chair Takumi and Members of the Committee:

My name is Lee Ann Teshima, and I am the Executive Officer of the Board of Pharmacy (Board). The Board appreciates the Insurance Commissioner's concerns for creating reimbursement mandates in Hawaii Revised Statutes (HRS) chapter 431 to accompany expansions in provider practice acts. Accordingly, the Board supports the following portions of this bill that pertain to reimbursement of pharmacists practicing within their scope:

- Page 17, lines 1-6;
- Page 28, lines 1-2;
- Page 54, lines 9-12; and
- Page 73, lines 19-22.

The Board takes no position regarding the other sections of the bill.

One of the purposes of this bill is to provide for reimbursement to providers who deliver coverage managed by HRS chapter 431, article 10A and chapter 432, article 1 and deletes reimbursement mandates added to HRS title 24 (Insurance Code) in conjunction with medical service provider practice acts. These amendments will clarify that coverage for services mandated by HRS chapter 431, article 10A and chapter 432, article 1 should include reimbursement to providers and will discourage the practice of creating reimbursement mandates in the Insurance Code to accompany expansions in provider practice acts.

Given the new definition of "health care provider" on page 17, lines 1-6 of this bill, pharmacists will continue to be reimbursed for services provided within their scope of practice.

Thank you for the opportunity to testify on this bill.

Testimony of the Board of Nursing

**Before the
House Committee on Consumer Protection and Commerce
Friday, February 1, 2019
2:00 p.m.
State Capitol, Conference Room 329**

**On the following measure:
H.B. 984, RELATING TO INSURANCE**

Chair Takumi and Members of the Committee:

My name is Lee Ann Teshima, and I am the Executive Officer of the Board of Nursing (Board). The Board appreciates the Insurance Commissioner's concerns for creating reimbursement mandates in Hawaii Revised Statutes (HRS) chapter 431 to accompany expansions in provider practice acts. Accordingly, the Board supports the following portions of this bill that pertain to reimbursement of advanced practice registered nurses:

- Page 17, lines 1-6;
- Page 28, lines 1-2; and
- Page 52, lines 12-20.

The Board takes no position regarding the other sections of the bill.

One of the purposes of this bill is to provide for reimbursement to providers who deliver coverage managed by HRS chapter 431, article 10A and chapter 432, article 1 and deletes reimbursement mandates added to HRS title 24 (Insurance Code) in conjunction with medical service provider practice acts. These amendments will clarify that coverage for services mandated by HRS chapter 431, article 10A and chapter 432, article 1 should include reimbursement to providers and will discourage the practice of creating reimbursement mandates in the Insurance Code to accompany expansions in provider practice acts.

In light of Act 169, Session Laws of Hawaii 2009, which recognizes advanced practice registered nurses as primary care providers who require reimbursement for practicing within their scope of practice, and the new definition of "health care provider" on page 17, lines 1-6 of this bill, advanced practice registered nurses will continue to be reimbursed for services provided within their scope of practice.

Testimony of the Board of Nursing
H.B. 984
Page 2 of 2

Thank you for the opportunity to testify on this bill.

**TESTIMONY ON HOUSE BILL NO. 984
RELATING TO INSURANCE**

HOUSE OF REPRESENTATIVES
COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Roy M. Takumi, Chair
Representative Linda Ichiyama, Vice Chair

Friday, February 1, 2019, 2:00 p.m.
Conference Room 329
State Capitol
415 South Beretania Street

To Representative Roy M. Takumi, Chair; Representative Linda Ichiyama, Vice Chair; and members of the House Committee on Consumer Protection & Commerce:

My name is Matthew Takamine, and I am submitting this testimony as a director and President of the Hawai'i Captive Insurance Council (HCIC). The HCIC is a nonprofit corporation that is committed to promoting, developing, and maintaining a quality captive insurance industry in the State of Hawai'i. In partnership with the State of Hawai'i Insurance Division, the HCIC provides information and education on issues affecting captives insurance companies, and assists the State of Hawai'i in promoting Hawai'i as a quality captive insurance domicile on the local, national, and international level.

The HCIC supports Sections 27 and 28 of House Bill No. 984 (HB984), which amend Sections 431:19-103 and 431:19-115 of Article 19 of the Hawaii Insurance Code.

Section 27 of HB984 requires captive insurance companies to apply to the Hawaii Department of Commerce and Consumer Affairs and the Hawaii Insurance Commissioner ("Commissioner") for approval of the use or change of a trade name or an assumed name.

Section 28 of HB984 adds Article 15 to the list of other articles or sections within the Hawaii Insurance Code that are applicable to all captive insurance companies licensed in Hawaii. Article 15, which does not currently apply to certain captive insurance companies, pertains to Insurers Supervision, Rehabilitation, and Liquidation, and provides the Commissioner with broad oversight powers in the event of certain adverse circumstances, such as financial difficulty or insolvency.

Thank you for this opportunity to submit comments.

Respectfully submitted:
Matthew Takamine
Director and President
Hawai'i Captive Insurance Council

McCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

FACSIMILE TRANSMITTAL

Account No.: 43758

FACSIMILE NO.: 808-586-6221

TO: Testimony – House CPC
Hearing on HB 984 – February 1, 2019, at 2:00 p.m.

FROM: Peter Hamasaki

DATE: January 31, 2019

TOTAL NUMBER OF PAGES SENT (including this page): 4

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE BELOW ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

Transmitted herewith is the following:

Testimony regarding: **H.B. NO. 984 RELATING TO INSURANCE**
House Committee on Consumer Protection and Commerce
Hearing Date: Friday, February 1, 2019
Hearing Time: 2:00 p.m.
Place: Conference Room 329

Please see the attached, which was submitted via web, but it appears that attachment may not have been transmitted.

OPERATOR: Faye Kusatsu

If you do not receive all of the pages, please call as soon as possible: (808) 529-7300.

Five Waterfront Plaza, 4th Floor, 500 Ala Moana Boulevard
Honolulu, Hawaii 96813, Telephone: (808) 529-7300
FAX: (808) 524-8293, Cable: "Attorneys Honolulu"

MCCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

January 31, 2019

Honorable Roy M. Takumi, Chair
 Honorable Linda Ichiyama, Vice Chair
 Committee on Consumer Protection and Commerce
 House of Representatives
 State Capitol
 415 South Beretania Street
 Honolulu, Hawai'i 96813

Re: H.B. NO. 984, RELATING TO INSURANCE

Dear Chair Takumi, Vice Chair Ichiyama and Committee Members:

On behalf of the American Family Life Assurance Company of Columbus (AFLAC), we respectfully submit the following written comments on House Bill No. 984, relating to insurance, which is to be heard by your Committee on Consumer Protection and Commerce on February 1, 2019.

Section 3:

Section 3 of House Bill No. 984, adds two new sections, one of which requires a disclaimer that the subject policy does not satisfy the health coverage requirement of the Affordable Care Act. As drafted, House Bill No. 984, exempts from the disclosure requirement "specified disease, long-term care, disability income, medicare supplement, dental, or vision" policies.

AFLAC respectfully submits that "accident-only" policies also should be included in the exemption. This would be consistent with 45 CFR §148.220, which also exempts the other policies excluded from the disclaimer requirement under Section 3 of House Bill No. 984.

Section 4:

Section 4 of House Bill No. 984, would renumber and amend existing section 431:10A-102.5, HRS which applies to limited benefit health insurance. Substantively, the change would be to make limited benefit health insurance policies subject to sections 431:10A-201, 431:10A-202, 431:10A-203, 431:10A-204, 431:10A-205 and 431:10A-208, HRS, which apply to blanket disability insurance policy and group insurance policies.

AFLAC's specific concern is that section 431:10A-202, HRS,¹ imposes a minimum of 500 subscriber and dependents for group disability issued to a corporation established for the

¹ **§431:10A-202 Health care groups.** A policy of group disability insurance may be issued to a corporation, as policyholder, existing primarily for the purpose of assisting individuals who are its subscribers in securing

Honorable Roy M. Takumi, Chair
 Honorable Linda Ichiyama, Vice Chair
 Committee on Consumer Protection and Commerce
 January 31, 2019
 Page 2

purpose of assisting individuals who are its subscribers in securing medical, hospital, dental, and other health care services for themselves and their dependents.

As some of AFLAC's group health care policies may serve groups with less than 500 members, AFLAC respectfully requests that section 431:10A-202, HRS, be deleted from subsection (b) of the recodification of section 431:10A-102.5, HRS, in Section 4 of House Bill No. 984, as follows:

SECTION 4. Chapter 431, Hawaii Revised Statutes, is amended by adding to part VI of article 10A a new section to be appropriately designated and to read as follows:

"§431:10A- Limited benefit health insurance. ***

(b) When used in sections 431:10A-104, 431:10A-105, 431:10A-106, 431:10A-107, 431:10A-108, 431:10A-109, 431:10A-110, 431:10A-111, 431:10A-112, 431:10A-113, 431:10A-114, 431:10A-117, 431:10A-118, 431:10A-201, [431:10A-202,] 431:10A-203, 431:10A-204, 431:10A-205, 431:10A-208, 431:10A-601, 431:10A-602, 431:10A-603, and 431:10A-604, except as otherwise provided, the terms "accident insurance", "accident and health or sickness insurance", "health insurance", or "sickness insurance" shall include an accident-only; specified disease; hospital indemnity; long-term care;

medical, hospital, dental, and other health care services for themselves and their dependents, covering all and not less than five hundred such subscribers and dependents, with respect only to medical, hospital, dental, and other health care services.

Honorable Roy M. Takumi, Chair
Honorable Linda Ichiyama, Vice Chair
Committee on Consumer Protection and Commerce
January 31, 2019
Page 3

disability; dental; vision; medicare supplement;
short-term, limited-duration health insurance; or
other limited benefit health insurance contract
regardless of the manner in which benefits are paid;
provided that if any of the requirements in the
foregoing sections as applied to long-term care
insurance conflict with article 10H, the provisions of
article 10H shall govern and control."

Thank you for your consideration of the foregoing.

Very truly yours,

MCCORRISTON MILLER MUKAI MACKINNON LLP



Peter J. Hamasaki

PJH:fk

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON HB 984, RELATING TO INSURANCE

February 1, 2019

Via e mail: capitol.hawaii.gov/submitttestimony.aspx

Honorable Representative Roy M. Takumi, Chair
Committee on Consumer Protection and Commerce
State House of Representatives
Hawaii State Capitol, Conference Room 329
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Takumi and Committee Members:

Thank you for the opportunity to testify on HB 984, relating to Insurance.

Our firm represents the American Council of Life Insurers (“ACLI”). ACLI advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers’ financial and retirement security. 90 million American families depend on our members for life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, dental and vision and other supplemental benefits. ACLI represents member companies in state, federal and international forums for public policy that supports the industry marketplace and the families that rely on life insurers’ products for peace of mind. ACLI members represent 95 percent of industry assets in the United States. Two hundred twenty-one (221) ACLI member companies currently do business in the State of Hawaii; and they represent 95% of the life insurance premiums and 99% of the annuity considerations in this State.

ACLI supports legislation which conform Hawaii’s insurance laws to the National Association of Insurance Commissioners (NAIC) Model Acts. Accordingly, ACLI supports the intent and purpose of the proposed bill.

HB 984, in part adopts the corporate governance and annual disclosure requirements of the NAIC’s Corporate Governance Annual Disclosure Model Act (section 1 of the bill), and amends Hawaii’s Insurance Holding Company System Act by adopting the 2014 revisions to the NAIC’S Holding Company System Regulatory Model Act (sections 5, 20 and 21 of the bill) to provide for group-wide supervision of internationally active insurance groups. These revisions are intended to conform Hawaii’s insurance laws to enable the State to maintain its accreditation with the NAIC.

ACLI notes, however that Section F of the proposed new Article to be added to Chapter 431, beginning on page 7 through and including page 10 of the bill, deviates from the provisions of the NAIC’s Corporate Governance Annual Disclosure Model Act. ACLI is currently reviewing the provisions of this Section and other provisions in the bill with its member companies.

Again, thank you for the opportunity to testify on HB 984, relating to Insurance.

LAW OFFICES OF
OREN T. CHIKAMOTO
A Limited Liability Law Company

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1001 Bishop Street, Suite 1750
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E mail: otc@chikamotolaw.com



February 1, 2019

The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Consumer Protection & Commerce

Re: HB 984 – Relating to Insurance

Dear Chair Takumi, Vice Chair Ichiyama, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 984, which amends various portions of the Hawaii Insurance Code under Hawaii Revised Statutes Title 24 to update and improve existing Insurance Code provisions. HMSA supports the intent of this bill and would like to offer comments.

HMSA understands that Sections 29 and 30 are being amended to temporarily allow the Insurance Division to carry out stopgap measures, by order or rule, to implement NAIC's Network Adequacy Model Act. We appreciate the Commissioner's intent to streamline the process and would like to request a sunset provision be applied to this section of the bill.

The bill also requires in Section 3 and Section 6 that health plans reimburse providers who deliver services within their scope of practice. We have concerns that this could create additional cost to the healthcare system every time there is a change to state licensure law. We are working with the Insurance Division on this issue.

Thank you for allowing us to testify on HB984. Your consideration of our comments is appreciated.

Sincerely,

Jennifer Diesman
Senior Vice-President, Government Relations

Testimony of
Jonathan Ching
Government Relations Specialist

Before:
House Committee on Consumer Protection & Commerce
The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair

February 1, 2019
2:00 p.m.
Conference Room 329

Re: HB984, Relating to Insurance

Chair Takumi, Vice-Chair Ichiyama, and committee members, thank you for this opportunity to provide testimony on HB984, which amends various portions of the Hawaii Insurance Code under Hawai'i Revised Statutes title 24 to updates existing Insurance Code provisions.

Kaiser Permanente supports the intent of the bill but offers the following COMMENTS

Specifically, we note that Section 29, Pages 66-67 and Section 30, Pages 67-68 seeks to temporarily allow the Insurance Division to create stopgap measures to implement the National Association of Insurance Commissioner's (NAIC) Health Benefit Plan Network Access and Adequacy Model Act, MDL-74 ("Model Act").

While we appreciate the Insurance Commissioner's intent to streamline the process to implement the Model Act, we prefer the manner and form for a health carrier to file its network plan via the public rule making process, pursuant to Hawai'i Revised Statutes Chapter 91, or via legislation to make amendments to Act 191, Session Laws of Hawai'i 2017.

We note that the justification for Section 29 and Section 30 (see Justification Sheet page 3) is to "be temporarily carried out by order of the Commissioner"; however, we do not see a sunset date.

Thank you for the opportunity to testify on HB984.