

A Bill for an Act Relating to Health Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

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

**“§431:10A- Contraceptive services; religious employers exemption.**

- (a) A “religious employer” is an entity for which each of the following is true:
  - (1) The inculcation of religious values is the purpose of the entity;
  - (2) The entity primarily employs persons who share the religious tenets of the entity;
  - (3) The entity is not staffed by public employees; and
  - (4) The entity is a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

For the purpose of this definition, any educational, health care, or other non-profit institution or organization owned or controlled by the religious employer is included in this exemption.

(b) Notwithstanding any other provision of this chapter, any religious employer may request a health insurance plan without coverage for contraceptive services and supplies that are contrary to the religious employer’s religious tenets. If so requested, the health insurer, mutual benefit society, or health maintenance organization shall provide a health insurance plan without coverage for contraceptive services and supplies. This subsection shall not be construed to deny an enrollee coverage of, and timely access to contraceptive services and supplies.

(c) Each religious employer that invokes the exemption provided under this section shall:

- (1) Provide written notice to enrollees upon enrollment with the plan, listing the contraceptive health care services the employer refuses to cover for religious reasons;
- (2) Provide written information describing how an enrollee may directly access contraceptive services and supplies in an expeditious manner; and
- (3) Ensure that enrollees who are refused contraceptive services and supplies coverage under this section have prompt access to the information developed under paragraph (2). Such notice shall appear, in not less than twelve point type, in the policy, application, and sales brochure for such policy.

(d) Nothing in this section shall be construed to exclude coverage for prescription contraceptive supplies ordered by a health care provider with prescriptive authority for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for prescription contraception that is necessary to preserve the life or health of an enrollee.

(e) Health insurers, mutual benefit societies, and health maintenance organizations shall allow enrollees in a health plan exempted under this section to directly purchase coverage of contraceptive supplies and outpatient contraceptive services. The enrollee’s cost of purchasing such coverage shall not exceed the enrollee’s pro rata share of the price the group purchaser would have paid for such coverage had the group plan not invoked a religious exemption.

(f) This section shall not be construed as to require a health insurer, mutual benefit society, health maintenance organization, health care facility, or health care

provider to provide any health care services without appropriate payment of premium or fee.

(g) For purposes of this section:

“Contraceptive services” means physician-delivered, physician-supervised, physician assistant-delivered, nurse practitioner-delivered, certified nurse midwife-delivered, or nurse-delivered medical services intended to promote the effective use of contraceptive supplies or devices to prevent unwanted pregnancy.

“Contraceptive supplies” means all Food and Drug Administration-approved contraceptive drugs or devices used to prevent unwanted pregnancy.”

SECTION 2. Section 431:10A-116.6, Hawaii Revised Statutes, is amended to read as follows:

“**[§431:10A-116.6] Contraceptive services[; options].** (a) Notwithstanding any provision of law to the contrary, each employer group health policy, contract, plan, or agreement issued or renewed in this State on or after January 1, [1994, that provides for payment of or reimbursement for pregnancy-related services, shall provide as an employer option,] 2000, shall cease to exclude contraceptive services or supplies for the subscriber or any dependent of the subscriber who is covered by the policy[.], subject to the exclusion under section 431:10A-

(b) [Any] Except as provided in subsection (c), all policies, contracts, plans, or agreements under subsection (a) [above], that provide contraceptive services or supplies, or prescription drug coverage, shall not exclude any [Food and Drug Administration-approved prescriptive contraceptive drug or device,] prescription contraceptive supplies or impose any unusual copayment, charge, or waiting requirement for such [drug or device.] supplies.

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

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

[(c)] (d) For [the purpose] purposes of this section[, “contraceptive services”]:

“Contraceptive services” means physician-delivered, physician-supervised, physician assistant-delivered, nurse practitioner-delivered, certified nurse midwife-delivered, or nurse-delivered medical services intended to promote the effective use of [prescription] contraceptive supplies or devices to prevent unwanted pregnancy.

“Contraceptive supplies” means all Food and Drug Administration-approved contraceptive drugs or devices used to prevent unwanted pregnancy.

[(d)] (e) Nothing in this section shall be construed to extend the practice or privileges of any health care provider beyond that provided in the laws governing the provider's practice and privileges.”

SECTION 3. Section 432:1-604.5, Hawaii Revised Statutes, is amended to read as follows:

“**[§432:1-604.5] Contraceptive services[; options].** (a) Notwithstanding any provision of law to the contrary, each employer group health policy, contract, plan, or agreement issued or renewed in this State on or after January 1, [1994, that provides for payment of or reimbursement for pregnancy-related services, shall provide as an employer option,] 2000, shall cease to exclude contrac-

tive services or supplies, and contraceptive prescription drug coverage for the subscriber or any dependent of the subscriber who is covered by the policy[.], subject to the exclusion under section 431:10A-

(b) [Any] Except as provided in subsection (c), all policies, contracts, plans, or agreements under subsection (a), that provide contraceptive services or supplies, or prescription drug coverage, shall not exclude any [Federal Drug Administration-approved prescriptive contraceptive drug or device,] prescription contraceptive supplies or impose any unusual copayment, charge, or waiting requirement for such drug or device.

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

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

[(c)] (d) For [the purpose] purposes of this section[, “contraceptive services”]:

“Contraceptive services” means physician-delivered, physician-supervised, physician assistant-delivered, nurse practitioner-delivered, certified nurse midwife-delivered, or nurse-delivered medical services intended to promote the effective use of [prescription] contraceptive supplies or devices to prevent unwanted pregnancy.

“Contraceptive supplies” means all Food and Drug Administration-approved contraceptive drugs or devices used to prevent unwanted pregnancy.

[(d)] (e) Nothing in this section shall be construed to extend the practice or privileges of any health care provider beyond that provided in the laws governing the provider’s practice and privileges.”

SECTION 4. The insurance commissioner shall review the experience of employers in providing coverage of contraceptive services and supplies as part of their health insurance coverage for employees after the effective date of this Act to determine whether the cost of health insurance has increased as a result of this Act. The review shall include an assessment of the impact of contraceptive coverage on reducing maternity costs, employee turnover, and absenteeism costs around maternity and family-related costs. The insurance providers and business organizations, including the Chamber of Commerce of Hawaii, are requested to assist the insurance commissioner in obtaining the necessary information from employers to effectuate the review.

The insurance commissioner shall submit a report of the insurance commissioner’s findings to the legislature no later than twenty days prior to the convening of the regular session of 2001.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved July 6, 1999.)

**Note**

1. Edited pursuant to HRS §23G-16.5.