

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 that which is 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. As used in this article, the
16 following definitions shall apply:

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

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



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

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

9 "Own risk and solvency assessment summary report" shall
10 mean the 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. Notwithstanding any
16 request from the commissioner made pursuant to subsection (c),
17 if the insurer is a member of an insurance group, the insurer
18 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



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

3 (b) The corporate governance annual disclosure shall
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 at
21 the level at which:



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 are
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 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



1 in conjunction with Form B requirements, or other state or
2 federal filings provided to the insurance division, shall not be
3 required to duplicate that information in the corporate
4 governance annual disclosure, but shall only be required to
5 cross reference the document in which the information is
6 included.

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

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



1 (b) Notwithstanding subsection (a), the corporate
2 governance annual disclosure shall be prepared to be consistent
3 with the National Association of Insurance Commissioners'
4 Corporate Governance Annual Disclosure Model Regulation.
5 Documentation and supporting information shall be maintained and
6 made available upon examination or request of the commissioner.

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



1 information not specifically made confidential by this section.
2 However, the commissioner may use the documents, materials, or
3 other information in the furtherance of any regulatory or legal
4 action brought as a part of the commissioner's official duties.
5 The commissioner shall not otherwise make the documents,
6 materials, or other information public without the prior written
7 consent of the insurer. Nothing in this section shall be
8 construed to require written consent of the insurer before the
9 commissioner may share or receive confidential documents,
10 materials, or other information related to the corporate
11 governance annual disclosure pursuant to subsection (c) to
12 assist in the performance of the commissioner's regular duties.

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



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

- 3 (1) Upon request, share documents, materials, or other
4 information related to the corporate governance annual
5 disclosure, including the confidential and privileged
6 documents, materials, or information subject to
7 subsection (a), including proprietary and trade secret
8 documents and materials with other state, federal, and
9 international financial regulatory agencies, including
10 members of any supervisory college as described in
11 section 431:11-107.5, the National Association of
12 Insurance Commissioners, and third party consultants
13 pursuant to section 431: -G, provided that the
14 recipient agrees in writing to maintain the
15 confidentiality and privileged status of the
16 documents, material, or other information and has
17 verified in writing the legal authority to maintain
18 confidentiality; and
- 19 (2) Receive documents, materials, or other information
20 related to the corporate governance annual disclosure,
21 including otherwise confidential and privileged



1 documents, materials, or information, including
2 proprietary and trade-secret information or documents,
3 from regulatory officials of other state, federal, and
4 international financial regulatory agencies, including
5 members of any supervisory college as described in
6 section 431:11-107.5, and from the National
7 Association of Insurance Commissioners, and shall
8 maintain as confidential or privileged any documents,
9 materials, or information received with notice or the
10 understanding that it is confidential or privileged
11 under the laws of the jurisdiction that is the source
12 of the document, material, or information.

13 (d) The sharing of information and documents by the
14 commissioner pursuant to this article shall not constitute a
15 delegation of regulatory authority or rulemaking, and the
16 commissioner shall be solely responsible for the administration,
17 execution, and enforcement of this article.

18 (e) No waiver of any applicable privilege or claim of
19 confidentiality in the documents, proprietary and trade-secret
20 materials, or other information related to the corporate
21 governance annual disclosure shall occur as a result of



1 disclosure of any information related to the corporate
2 governance annual disclosure or documents to the commissioner
3 under this section or as a result of sharing as authorized in
4 this article.

5 §431: -G National Association of Insurance Commissioners
6 and third-party consultants. (a) The commissioner may retain,
7 at the insurer's expense, third-party consultants, including
8 attorneys, actuaries, accountants, and other experts not
9 otherwise a part of the commissioner's staff, as may be
10 reasonably necessary to assist the commissioner in reviewing the
11 corporate governance annual disclosure and related information
12 or the insurer's compliance with this article.

13 (b) Any persons retained under subsection (a) shall be
14 under the direction and control of the commissioner and shall
15 act in a purely advisory capacity.

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

19 (d) As part of the retention process, a third-party
20 consultant shall verify to the commissioner, with notice to the
21 insurer, that it is free from any conflict of interest and that



1 it has internal procedures in place to monitor compliance with a
2 conflict and to comply with the confidentiality standards and
3 requirements of this article.

4 (e) A written agreement with the National Association of
5 Insurance Commissioners or a third-party consultant governing
6 sharing and use of information provided pursuant to this article
7 shall contain the following provisions and expressly require the
8 written consent of the insurer prior to making public
9 information provided under this article:

10 (1) Specific procedures and protocols for maintaining the
11 confidentiality and security of the corporate
12 governance annual disclosure and related information
13 shared with the National Association of Insurance
14 Commissioners or a third-party consultant pursuant to
15 this article;

16 (2) Procedures and protocols for sharing by the National
17 Association of Insurance Commissioners only with other
18 state regulators from states in which the insurance
19 group has domiciled insurers. The agreement shall
20 provide that the recipient agrees in writing to
21 maintain the confidentiality and privileged status of



1 the corporate governance annual disclosure and related
2 documents, materials, or other information and has
3 verified in writing the legal authority to maintain
4 confidentiality;

5 (3) A provision specifying that ownership of the corporate
6 governance annual disclosure and related information
7 shared with the National Association of Insurance
8 Commissioners or a third-party consultant remains with
9 the insurance division and that the National
10 Association of Insurance Commissioners' or third-party
11 consultant's use of the information is subject to the
12 direction of the commissioner;

13 (4) A provision that prohibits the National Association of
14 Insurance Commissioners or a third-party consultant
15 from storing the information shared pursuant to this
16 article in a permanent database after the underlying
17 analysis is completed;

18 (5) A provision requiring the National Association of
19 Insurance Commissioners or third-party consultant to
20 provide prompt notice to the commissioner and the
21 insurer or insurance group regarding any subpoena,



1 request for disclosure, or request for production of
2 the insurer's corporate governance annual disclosure
3 or related information; and

- 4 (6) A requirement that the National Association of
5 Insurance Commissioners or a third-party consultant
6 consent to intervention by an insurer in any judicial
7 or administrative action in which the National
8 Association of Insurance Commissioners or a third-
9 party consultant may be required to disclose
10 confidential information about the insurer shared with
11 the National Association of Insurance Commissioners or
12 a third-party consultant pursuant to this article.

13 **§431: -H Sanctions.** Any insurer failing, without just
14 cause, to timely file the corporate governance annual disclosure
15 as required in this article shall be required, after notice and
16 an opportunity for hearing, to pay a penalty of no less than
17 \$100 and no more than \$500 for each day's delay, to be recovered
18 by the commissioner and paid into the compliance resolution
19 fund. The maximum penalty under this section shall be \$50,000.
20 The commissioner may reduce the penalty if the insurer



1 demonstrates to the commissioner that the imposition of the
2 penalty would constitute a financial hardship to the insurer.

3 §431: -I Severability. If any provision of this article
4 other than section 431: -F, or the application thereof to any
5 person or circumstance, is held invalid, such determination
6 shall not affect the provisions or applications of this article
7 which can be given effect without the invalid provision or
8 application, and to that end the provisions of this article,
9 with the exception of section 431: -F, are severable."

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

13 "§431:2- Trade and assumed names. (a) Every person
14 shall file an application with the department of commerce and
15 consumer affairs and the commissioner, on a form approved by the
16 department of commerce and consumer affairs and the
17 commissioner, for the use or change of a trade name or an
18 assumed name.

19 (b) If the department of commerce and consumer affairs or
20 the commissioner finds the application for use or change of a
21 trade name or an assumed name does not meet the requirements of



1 this chapter or the corporation laws of this State, or is
2 substantially identical to another trade name or assumed name,
3 the department of commerce and consumer affairs or the
4 commissioner shall send to the applicant written notice of
5 disapproval of the application specifying the reasons for
6 disapproval and stating that the trade name or assumed name
7 shall not become effective."

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

11 "§431:10A-A Required disclaimer. Any limited benefit
12 policy, certificate, application, or sales brochure that
13 provides coverage for accident and sickness, excluding specified
14 disease, long-term care, disability income, medicare supplement,
15 dental, or vision, shall disclose in a conspicuous manner and in
16 no less than fourteen-point boldface type the following, or
17 substantially similar, statement:

18 "THIS IS NOT QUALIFYING HEALTH COVERAGE ("MINIMUM
19 ESSENTIAL COVERAGE") THAT SATISFIES THE HEALTH COVERAGE
20 REQUIREMENT OF THE AFFORDABLE CARE ACT."



1 §431:10A-B Reimbursement to providers. (a) Coverage for
2 services required by this part shall include reimbursement to
3 health care providers who perform services required by this
4 part, or to the insured member, as appropriate.

5 (b) Notwithstanding any law to the contrary, whenever an
6 individual or group policy of accident and health or sickness
7 insurance provides for reimbursement for any service, a health
8 care provider who performs such a service shall be eligible for
9 reimbursement for the performed service.

10 (c) For the purposes of this section, "health care
11 provider" means a provider of services, as defined in title 42
12 United States Code section 1395x(u); a provider of medical and
13 other health services, as defined in title 42 United States Code
14 section 1395x(s); and other practitioners licensed by the State
15 and working within their scope of practice."

16 SECTION 4. Chapter 431, Hawaii Revised Statutes, is
17 amended by adding a new section to article 11 to be
18 appropriately designated and to read as follows:

19 "§431:11- Group-wide supervision of internationally
20 active insurance groups. (a) The commissioner is authorized to
21 act as the group-wide supervisor for any internationally active



1 insurance group in accordance with this section; provided that
2 the commissioner may otherwise acknowledge another regulatory
3 official as the group-wide supervisor where the internationally
4 active insurance group:

5 (1) Does not have substantial insurance operations in the
6 United States;

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

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

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

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



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

- 9 (1) The place of domicile of the insurers within the
10 internationally active insurance group that hold the
11 largest share of the group's written premiums, assets,
12 or liabilities;
- 13 (2) The place of domicile of the top-tiered insurer or
14 insurers in the insurance holding company system of
15 the internationally active insurance group;
- 16 (3) The location of the executive offices or largest
17 operational offices of the internationally active
18 insurance group;
- 19 (4) Whether another regulatory official is acting or is
20 seeking to act as the group-wide supervisor under a



1 regulatory system that the commissioner determines to
2 be:

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

5 (B) Otherwise sufficient in terms of providing for
6 group-wide supervision, enterprise risk analysis,
7 and cooperation with other regulatory officials;
8 and

9 (5) Whether another regulatory official acting or seeking
10 to act as the group-wide supervisor provides the
11 commissioner with reasonably reciprocal recognition
12 and cooperation.

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



1 internationally active insurance group and in consultation with
2 the internationally active insurance group.

3 (c) Notwithstanding any other provision of law to the
4 contrary, when another regulatory official is acting as the
5 group-wide supervisor of an internationally active insurance
6 group, the commissioner shall acknowledge that regulatory
7 official as the group-wide supervisor; provided that in the
8 event of a material change in the internationally active
9 insurance group that results in:

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

13 (2) This State being the place of domicile of the top-
14 tiered insurer or insurers in the insurance holding
15 company system of the internationally active insurance
16 group,

17 the commissioner shall make a determination or acknowledgment as
18 to the appropriate group-wide supervisor for such an
19 internationally active insurance group pursuant to subsection

20 (b) .



1 (d) Pursuant to section 431:11-107, the commissioner is
2 authorized to collect from any insurer registered pursuant to
3 section 431:11-105 all information necessary to determine
4 whether the commissioner may act as the group-wide supervisor of
5 an internationally active insurance group or if the commissioner
6 may acknowledge another regulatory official to act as the group-
7 wide supervisor. Prior to issuing a determination that an
8 internationally active insurance group is subject to group-wide
9 supervision by the commissioner, the commissioner shall notify
10 the insurer registered pursuant to section 431:11-105 and the
11 ultimate controlling person within the internationally active
12 insurance group. The internationally active insurance group
13 shall have at least thirty days to provide the commissioner with
14 additional information pertinent to the pending determination.
15 The commissioner shall publish on the division's website the
16 identity of internationally active insurance groups that the
17 commissioner has determined are subject to group-wide
18 supervision by the commissioner.

19 (e) If the commissioner is the group-wide supervisor for
20 an internationally active insurance group, the commissioner may



1 engage in any of the following group-wide supervision
2 activities:

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

5 (A) The material financial condition and liquidity
6 risks to the members of the internationally
7 active insurance group that are engaged in the
8 business of insurance are identified by
9 management; and

10 (B) Reasonable and effective mitigation measures are
11 in place;

12 (2) Request, from any member of an internationally active
13 insurance group subject to the commissioner's
14 supervision, information necessary and appropriate to
15 assess enterprise risk, including but not limited to
16 information about the members of the internationally
17 active insurance group regarding:

18 (A) Governance, risk assessment, and management;

19 (B) Capital adequacy; and

20 (C) Material intercompany transactions;



- 1 (3) Coordinate and, through the authority of the
2 regulatory officials of the jurisdictions where
3 members of the internationally active insurance group
4 are domiciled, compel development and implementation
5 of reasonable measures designed to ensure that the
6 internationally active insurance group is able to
7 timely recognize and mitigate enterprise risks to
8 members of such internationally active insurance group
9 that are engaged in the business of insurance;
- 10 (4) Communicate with other state, federal, and
11 international regulatory agencies for members within
12 the internationally active insurance group and share
13 relevant information subject to the confidentiality
14 provisions of section 431:11-108, through supervisory
15 colleges as set forth in section 431:11-107.5 or
16 otherwise;
- 17 (5) Enter into agreements with or obtain documentation
18 from any insurer registered under section 431:11-105,
19 any member of the internationally active insurance
20 group, and any other state, federal, and international
21 regulatory agencies for members of the internationally



1 active insurance group, providing the basis for or
2 otherwise clarifying the commissioner's role as group-
3 wide supervisor, including provisions for resolving
4 disputes with other regulatory officials. Such
5 agreements or documentation shall not serve as
6 evidence in any proceeding that any insurer or person
7 within an insurance holding company system not
8 domiciled or incorporated in this State is doing
9 business in this State or is otherwise subject to
10 jurisdiction in this State; and

11 (6) Other group-wide supervision activities, consistent
12 with the authorities and purposes specified in this
13 subsection, as considered necessary by the
14 commissioner.

15 (f) If the commissioner acknowledges that another
16 regulatory official from a jurisdiction that is not accredited
17 by the National Association of Insurance Commissioners is the
18 group-wide supervisor, the commissioner may reasonably
19 cooperate, through supervisory colleges or otherwise, with
20 group-wide supervision undertaken by the group-wide supervisor;
21 provided that:



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

3 (2) The regulatory official acknowledged as the group-wide
4 supervisor also recognizes and cooperates with the
5 commissioner's activities as a group-wide supervisor
6 for other internationally active insurance groups
7 where applicable. Where such recognition and
8 cooperation is not reasonably reciprocal, the
9 commissioner may refuse recognition and cooperation.

10 (g) The commissioner may enter into agreements with or
11 obtain documentation from any insurer registered under section
12 431:11-105, any affiliate of the insurer, and other state,
13 federal, and international regulatory agencies for members of
14 the internationally active insurance group, that provide the
15 basis for or otherwise clarify a regulatory official's role as
16 group-wide supervisor.

17 (h) The commissioner may adopt rules necessary for the
18 administration of this section.

19 (i) A registered insurer subject to this section shall be
20 liable for and shall pay the reasonable expenses of the
21 commissioner's participation in the administration of this



1 section, including the engagement of attorneys, actuaries, and
2 any other professionals, and all reasonable travel expenses."

3 SECTION 5. Chapter 432, Hawaii Revised Statutes, is
4 amended by adding a new section to part VI of article 1 to be
5 appropriately designated and to read as follows:

6 "§432:1- Reimbursement to providers. (a) Coverage for
7 services required by this part shall include reimbursement to
8 health care providers who perform services required by this
9 article, or to the insured member, as appropriate.

10 (b) Notwithstanding any law to the contrary, whenever an
11 individual or group hospital or medical services plan contract
12 that provides health care coverage under this article provides
13 for reimbursement for any service, a health care provider who
14 performs such a service shall be eligible for reimbursement for
15 the performed service.

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

18 SECTION 6. Section 431:3-202, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§431:3-202 Insurer's name. (a) Every insurer shall
21 conduct its business in its own legal name.



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

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

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



1 SECTION 7. Section 431:5-307, Hawaii Revised Statutes, is
2 amended by amending subsection (o) to read as follows:

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

8 (2) The operative date of the valuation manual is January
9 1 of the first calendar year following the first July
10 1 as of which all of the following have occurred:

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

16 (B) The Standard Valuation Law, as amended by the
17 National Association of Insurance Commissioners
18 in 2009, or legislation including substantially
19 similar terms and provisions, has been enacted by
20 states representing greater than seventy-five per
21 cent of the direct premiums written as reported



1 in the following annual statements submitted for
2 2008: life, accident and health annual
3 statements; health annual statements; or
4 fraternal annual statements; and

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

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

18 ~~(A) The~~ the change to the valuation manual has been
19 adopted by the National Association of Insurance
20 Commissioners by an affirmative vote
21 representing:



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

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

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

16 (4) The valuation manual shall specify all of the
17 following:

18 (A) Minimum valuation standards for and definitions
19 of the policies or contracts subject to
20 subsection (b) (2). These minimum valuation
21 standards shall be:



- 1 (i) The commissioner's reserve valuation method
- 2 for life insurance contracts, other than
- 3 annuity contracts, subject to subsection
- 4 (b) (2);
- 5 (ii) The commissioner's annuity reserve valuation
- 6 method for annuity contracts subject to
- 7 subsection (b) (2); and
- 8 (iii) Minimum reserves for all other policies or
- 9 contracts subject to subsection (b) (2);
- 10 (B) Which policies or contracts or types of policies
- 11 or contracts that are subject to the requirements
- 12 of a principle-based valuation in subsection
- 13 (p) (1) and the minimum valuation standards
- 14 consistent with those requirements;
- 15 (C) For policies and contracts subject to a
- 16 principle-based valuation under subsection (p):
- 17 (i) Requirements for the format of reports to
- 18 the commissioner under subsection (p) (2) (C)
- 19 that shall include information necessary to
- 20 determine if the valuation is appropriate
- 21 and in compliance with this section;



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



- 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



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

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

19 SECTION 8. Section 431:9-203, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§431:9-203 General qualifications for license. (a) For
2 the protection of the public, the commissioner shall not issue
3 or extend any license for an adjuster or independent bill
4 reviewer:

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

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

7 (b) An applicant for a license under this article shall
8 notify the commissioner of the applicant's legal name [~~and trade~~
9 ~~name, if applicable. An applicant doing business under any name~~
10 ~~other than [the] applicant's legal name shall notify the~~
11 ~~commissioner prior to using the assumed name]~~.

12 (c) An applicant shall apply to the department of commerce
13 and consumer affairs and the commissioner for approval of the
14 use of a trade name or an assumed name pursuant to section
15 431:2- .

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

17 (1) Inform the commissioner by any means acceptable to the
18 commissioner of any change of status within thirty
19 days of the change; and

20 (2) Report any change of status to the business
21 registration division if the licensee is a business



1 entity registered with the department of commerce and
2 consumer affairs pursuant to title 23 or title 23A, or
3 if the licensee has registered a trade name pursuant
4 to part II of chapter 482.

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

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

17 SECTION 9. Section 431:9A-110, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§431:9A-110 Legal, trade, and assumed names.** (a) Every
20 insurance producer doing business in this State shall notify the



1 commissioner in writing of the insurance producer's legal name
2 [~~and trade name, if applicable~~].

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

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

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

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



- 1 (2) The contract is printed, except for specification
- 2 pages, schedules, and tables, in not less than ten-
- 3 point type [~~one point leaded~~];
- 4 (3) The style, arrangement, and general appearance of the
- 5 contract give no undue prominence to any endorsements,
- 6 riders, or other portions of the text; and
- 7 (4) A table of contents or an index of principal sections
- 8 is provided with the contract when the text consists
- 9 of more than three thousand words printed on three or
- 10 less pages or when the text has more than three pages,
- 11 regardless of the total number of printed words [~~and~~
- 12 ~~(5) For any short term health insurance policies that~~
- 13 ~~impose preexisting conditions provisions, any policy,~~
- 14 ~~application, or sales brochure shall disclose in a~~
- 15 ~~conspicuous manner in not less than fourteen point~~
- 16 ~~bold face type the following statement:~~
- 17 ~~"THIS POLICY EXCLUDES COVERAGE FOR CONDITIONS FOR~~
- 18 ~~WHICH MEDICAL ADVICE, DIAGNOSIS, CARE, OR TREATMENT~~
- 19 ~~WAS RECOMMENDED OR RECEIVED DURING THE [insert~~
- 20 ~~exclusion period] IMMEDIATELY PRECEDING THE EFFECTIVE~~
- 21 ~~DATE OF COVERAGE."] . "~~



1 SECTION 11. Section 431:10A-116, Hawaii Revised Statutes,
2 is amended to read as follows:

3 "§431:10A-116 Coverage for specific services. Every
4 person insured under a policy of accident and health or sickness
5 insurance delivered or issued for delivery in this State shall
6 be entitled to the reimbursements and coverages specified below:

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



- 1 (2) Notwithstanding any provision to the contrary, for all
2 policies [~~contracts, plans, or agreements~~] issued on
3 or after May 30, 1974, whenever provision is made for
4 reimbursement or indemnity for any service related to
5 surgical or emergency procedures, which is within the
6 lawful scope of practice of any practitioner licensed
7 to practice medicine in this State, reimbursement or
8 indemnification under the policy, contract, plan, or
9 agreement shall not be denied when the services are
10 performed by a dentist acting within the lawful scope
11 of the dentist's license;
- 12 (3) Notwithstanding any provision to the contrary,
13 whenever the policy provides reimbursement or payment
14 for any service, which is within the lawful scope of
15 practice of a psychologist licensed in this State, the
16 person entitled to benefits or performing the service
17 shall be entitled to reimbursement or payment, whether
18 the service is performed by a licensed physician or
19 licensed psychologist;
- 20 (4) Notwithstanding any provision to the contrary, each
21 policy [~~contract, plan, or agreement~~] issued on or



1 after February 1, 1991, except for policies that only
2 provide coverage for specified diseases or other
3 limited benefit coverage, but including policies
4 issued by companies subject to chapter 431, article
5 10A, part II and chapter 432, article 1 shall provide
6 coverage for screening by low-dose mammography for
7 occult breast cancer as follows:

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

10 (B) For a woman of any age with a history of breast
11 cancer or whose mother or sister has had a
12 history of breast cancer, a mammogram upon the
13 recommendation of the woman's physician.

14 The services provided in this paragraph are
15 subject to any coinsurance provisions that may be in
16 force in these policies, contracts, plans, or
17 agreements.

18 For the purpose of this paragraph, the term "low-
19 dose mammography" means the x-ray examination of the
20 breast using equipment dedicated specifically for
21 mammography, including but not limited to the x-ray



1 tube, filter, compression device, screens, films, and
2 cassettes, with an average radiation exposure delivery
3 of less than one rad mid-breast, with two views for
4 each breast. An insurer may provide the services
5 required by this paragraph through contracts with
6 providers; provided that the contract is determined to
7 be a cost-effective means of delivering the services
8 without sacrifice of quality and meets the approval of
9 the director of health; and

10 (5) (A) (i) Notwithstanding any provision to the
11 contrary, whenever a policy, contract, plan,
12 or agreement provides coverage for the
13 children of the insured, that coverage shall
14 also extend to the date of birth of any
15 newborn child to be adopted by the insured;
16 provided that the insured gives written
17 notice to the insurer of the insured's
18 intent to adopt the child prior to the
19 child's date of birth or within thirty days
20 after the child's birth or within the time
21 period required for enrollment of a natural



1 born child under the policy, contract, plan,
2 or agreement of the insured, whichever
3 period is longer; provided further that if
4 the adoption proceedings are not successful,
5 the insured shall reimburse the insurer for
6 any expenses paid for the child; and

7 (ii) Where notification has not been received by
8 the insurer prior to the child's birth or
9 within the specified period following the
10 child's birth, insurance coverage shall be
11 effective from the first day following the
12 insurer's receipt of legal notification of
13 the insured's ability to consent for
14 treatment of the infant for whom coverage is
15 sought; and

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

19 (i) From the date of birth of the adopted
20 newborn when the newborn is treated from
21 birth pursuant to a provider contract with



1 the health maintenance organization, and
2 written notice of enrollment in accord with
3 the health maintenance organization's usual
4 enrollment process is provided within thirty
5 days of the date the insured notifies the
6 health maintenance organization of the
7 insured's intent to adopt the infant for
8 whom coverage is sought; or

9 (ii) From the first day following receipt by the
10 health maintenance organization of written
11 notice of the insured's ability to consent
12 for treatment of the infant for whom
13 coverage is sought and enrollment of the
14 adopted newborn in accord with the health
15 maintenance organization's usual enrollment
16 process if the newborn has been treated from
17 birth by a provider not contracting or
18 affiliated with the health maintenance
19 organization[, and

20 ~~(6) Notwithstanding any provision to the contrary, any~~
21 ~~policy, contract, plan, or agreement issued or renewed~~



1 ~~in this State shall provide reimbursement for services~~
2 ~~provided by advanced practice registered nurses~~
3 ~~licensed pursuant to chapter 457. Services rendered by~~
4 ~~advanced practice registered nurses are subject to the~~
5 ~~same policy limitations generally applicable to health~~
6 ~~care providers within the policy, contract, plan, or~~
7 ~~agreement]."~~

8 SECTION 12. Section 431:10A-116.6, Hawaii Revised
9 Statutes, is amended to read as follows:

10 "**§431:10A-116.6 Contraceptive services.** (a)

11 Notwithstanding any provision of law to the contrary, each
12 employer group policy of accident and health or sickness
13 [~~policy, contract, plan, or agreement~~] insurance issued or
14 renewed in this State on or after January 1, 2000, shall cease
15 to exclude contraceptive services or supplies for the subscriber
16 or any dependent of the subscriber who is covered by the policy,
17 subject to the exclusion under section 431:10A-116.7 and the
18 exclusion under section 431:10A-102.5.

19 (b) Except as provided in subsection (c), all policies[
20 ~~contracts, plans, or agreements~~] under subsection (a) [~~7~~] that
21 provide contraceptive services or supplies[~~7~~] or prescription



1 drug coverage [7] shall not exclude any prescription
2 contraceptive supplies or impose any unusual copayment, charge,
3 or waiting requirement for such supplies.

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

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

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

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

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



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 United States Food and
9 Drug Administration-approved contraceptive drugs or devices used
10 to 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 13. Section 431:10A-118.3, Hawaii Revised
16 Statutes, is amended by amending subsection (e) to read as
17 follows:

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



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

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

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

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

17 SECTION 14. Section 431:11-102, Hawaii Revised Statutes,
18 is amended by adding two new definitions to be appropriately
19 inserted and to read as follows:

20 "Group-wide supervisor" means the regulatory official
21 authorized to engage in conducting and coordinating group-wide



1 supervision activities who is determined or acknowledged by the
2 commissioner under section 431:11- to have sufficient
3 significant contacts with the internationally active insurance
4 group.

5 "Internationally active insurance group" means an insurance
6 holding company system that:

7 (1) Includes an insurer registered under section 431:11-
8 105; and

9 (2) Meets the following criteria:

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

11 (B) The percentage of gross premiums written outside
12 the United States is at least ten per cent of the
13 insurance holding company system's total gross
14 written premiums; and

15 (C) Based on a three-year rolling average, the total
16 assets of the insurance holding company system
17 are at least \$50,000,000,000 or the total gross
18 written premiums of the insurance holding company
19 system are at least \$10,000,000,000."

20 SECTION 15. Section 431:11-108, Hawaii Revised Statutes,
21 is amended by amending subsection (a) to read as follows:



1 "(a) Documents, materials, or other information in the
2 possession or control of the insurance division that are
3 obtained by or disclosed to the commissioner or any other person
4 in the course of an examination or investigation made pursuant
5 to section 431:11-107 and all information reported or provided
6 to the insurance division pursuant to sections 431:11-104(b)(12)
7 and (13), 431:11-105, [~~and~~] 431:11-106, and 431:11- , shall be
8 confidential by law and privileged, shall not be disclosable
9 under chapter 92F, shall not be subject to subpoena, and shall
10 not be subject to discovery or admissible in evidence in any
11 private civil action. The commissioner may use the documents,
12 materials, or other information in the furtherance of any
13 regulatory or legal action brought as part of the commissioner's
14 official duties. The commissioner shall not otherwise make the
15 documents, materials, or other information public without prior
16 written consent of the insurer to which it pertains unless the
17 commissioner, after giving the insurer and its affiliates who
18 would be affected thereby notice and opportunity to be heard,
19 determines that the interest of the policyholders, shareholders,
20 or the public will be served by the publication thereof, in



1 which event the commissioner may publish all or any part in such
2 manner as may be deemed appropriate."

3 SECTION 16. Section 431:14-104, Hawaii Revised Statutes,
4 is amended as follows:

5 1. By amending subsections (a) and (b) to read:

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

14 Every filing shall:

- 15 (1) State its proposed effective date;
- 16 (2) Indicate the character and extent of the coverage
17 contemplated;
- 18 (3) Include a report on investment income; and
- 19 (4) Be accompanied by a \$50 fee [~~payable to the~~
20 ~~commissioner,~~] to be deposited in the commissioner's
21 education and training fund.



1 (b) [~~For each~~] Each filing[, ~~an insurer~~] shall [~~submit~~] be
2 submitted to the commissioner[~~-~~

3 ~~(1) An electronic copy of the filing; or~~

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

5 ~~The commissioner may also request a printed version of an~~
6 ~~electronic filing to be submitted pursuant to paragraph (1).]~~
7 via the National Association of Insurance Commissioners' System
8 for Electronic Rates and Forms Filing or an equivalent service
9 approved by the commissioner."

10 2. By amending subsection (k) to read:

11 "(k) The following rates shall become effective when
12 filed:

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

16 (2) Any special filing with respect to a surety or
17 guaranty bond required by law [~~or by~~], court or
18 executive order, or [~~by~~] order or rule of a public
19 body, not covered by a previous filing; and

20 (3) Any special filing with respect to any class of
21 insurance, subdivision, or combination thereof that is



1 subject to individual risk premium modification and
2 has been agreed to by an insured under a formal or an
3 informal bid process.

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

7 SECTION 17. Section 431:14-104.5, Hawaii Revised Statutes,
8 is amended to read as follows:

9 "§431:14-104.5 **Loss cost filings.** When required by the
10 commissioner, the rating organization or advisory organization
11 shall file for approval all prospective loss costs, [~~and all~~]
12 supplementary rating information, and every change [e~~x~~],
13 amendment, or modification [~~of any of the foregoing~~] thereto
14 proposed for use in this State. The filings shall be subject to
15 [~~section]~~ sections 431:14-104 [~~and section~~], 431:14-105, and
16 431:14-106 and other provisions of article 14 relating to
17 filings made by insurers."

18 SECTION 18. Section 431:14-105, Hawaii Revised Statutes,
19 is amended to read as follows:

20 "§431:14-105 **Policy revisions that alter coverage.** (a)
21 Any policy revisions that alter coverage in any manner shall be



1 filed with the commissioner and shall include an analysis of the
2 impact [of] each revision has on rates [-

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

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

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

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

9 ~~[-e)]~~ (b) After review by the commissioner, the
10 commissioner shall determine whether a rate filing for the
11 policy revision must be submitted in accordance with section
12 431:14-104."

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

15 "§431:14-108 Deviations. (a) Except for those lines of
16 insurance for which the commissioner determines [~~that~~]
17 individual rate filings shall be made, every member of or
18 subscriber to a rating organization shall adhere to the filings
19 the organization made on its behalf [~~by the organization, except~~
20 ~~that~~]; provided that any insurer may [~~make written application~~]
21 submit a rate filing to the commissioner to file a deviation



1 from the class rates, schedules, rating plans, or rules
2 respecting any class of insurance, [~~or~~] class of risk within a
3 class of insurance, or combination thereof. The [~~application~~]
4 rate filing shall specify the basis for the deviation and shall
5 be accompanied by the data upon which the applicant relies. [A]
6 The filer shall send simultaneously a copy of the [~~application~~
7 deviation and data [~~shall be sent simultaneously~~] to the rating
8 organization.

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

16 ~~(e)]~~ (b) In considering the [~~application to file a~~]
17 ~~deviation,~~ the commissioner shall [~~give consideration to~~]
18 consider the available statistics and the principles for
19 ratemaking [~~as provided~~] in section 431:14-103. The
20 commissioner shall [~~issue an order permitting~~] approve the
21 filing of the deviation [~~to be filed~~] if the commissioner finds



1 it [~~to be~~] justified. The deviation shall become effective upon
2 [~~issuance of~~] the commissioner's [~~order.~~] approval of the
3 proposed effective date of the filing. The commissioner shall
4 [~~issue an order denying~~] disapprove the [~~application~~] rate
5 filing if the commissioner finds [~~that~~] the deviation is not
6 justified or [~~that~~] the resulting premiums would be excessive,
7 inadequate, or unfairly discriminatory. Each deviation
8 [~~permitted to be~~] filed shall be effective for a period of one
9 year from the date of [~~the order~~] approval, unless terminated
10 sooner with [~~the~~] approval [~~of~~] by the commissioner."

11 SECTION 20. Section 431:14G-105, Hawaii Revised Statutes,
12 is amended by amending subsections (a) and (b) to read as
13 follows:

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

- 18 (1) State its proposed effective date;
- 19 (2) Indicate the character and extent of the coverage
20 contemplated;
- 21 (3) Include a report on investment income; and



1 (4) Be accompanied by a \$50 fee [~~payable to the~~
2 ~~commissioner which shall~~] to be deposited in the
3 commissioner's education and training fund.

4 (b) [~~For each~~] Each filing [~~, an insurer~~] shall [~~submit~~] be
5 submitted to the commissioner[+
6 ~~(1) An electronic copy of the filing, or~~
7 ~~(2) Two printed copies of the filing,~~
8 ~~provided that the commissioner may request that an insurer that~~
9 ~~submits an electronic copy of the filing pursuant to paragraph~~
10 ~~(1) to also submit a printed copy of the electronic filing.] via
11 the National Association of Insurance Commissioners' System for
12 Electronic Rates and Forms Filing or an equivalent service
13 approved by the commissioner."~~

14 SECTION 21. Section 431:19-103, Hawaii Revised Statutes,
15 is amended to read as follows:

16 "**§431:19-103 Names of companies.** (a) No captive
17 insurance company shall adopt a name that is the same,
18 deceptively similar, or likely to be confused with or mistaken
19 for any other existing business name registered in the State[~~,~~
20 ~~except that the commissioner may allow a branch captive~~
21 ~~insurance company to be licensed in this State under a different~~



1 ~~trade name if the normal name of the branch captive insurance~~
2 ~~company is not available for use in this State].~~

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

7 SECTION 22. Section 431:19-115, Hawaii Revised Statutes,
8 is amended by amending subsections (a), (b), and (c) to read as
9 follows:

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

15 (b) Sections 431:3-302 to 431:3-304.5, 431:3-307, 431:3-
16 401 to 431:3-409, 431:3-411, 431:3-412, and 431:3-414; articles
17 1, 2, 3D, 4A, 5, 6, 9A, 9B, 9C, 11, and 11A [~~, and 15~~]; and
18 chapter 431K shall apply to risk retention captive insurance
19 companies.

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



1 SECTION 23. Section 431:26-103, Hawaii Revised Statutes,
2 is amended by amending subsection (e) to read as follows:

3 "(e) A health carrier shall meet the following access plan
4 requirements:

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

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



1 (3) The health carrier shall prepare an access plan prior
2 to offering a new network plan and shall notify the
3 commissioner of any material change to any existing
4 network plan within fifteen business days after the
5 change occurs. The carrier shall include in the
6 notice to the commissioner a reasonable timeframe
7 within which the carrier will submit to the
8 commissioner for approval or file with the
9 commissioner, as appropriate, an update to an existing
10 access plan."

11 SECTION 24. Section 431:26-104, Hawaii Revised Statutes,
12 is amended by amending subsection (f) to read as follows:

13 "(f) Selection standards shall be developed pursuant to
14 the following:

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

19 (2) The standards shall be used in determining the
20 selection of participating providers by the health
21 carrier and the intermediaries with which the health



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

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

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

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

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



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
16 the 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



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

3 SECTION 25. Section 432:1-604.5, Hawaii Revised Statutes,
4 is amended to read as follows:

5 "§432:1-604.5 Contraceptive services. (a)

6 Notwithstanding any provision of law to the contrary, each
7 employer group [~~health policy, contract, plan, or agreement~~]
8 hospital or medical service plan contract issued or renewed in
9 this State on or after January 1, 2000, shall cease to exclude
10 contraceptive services or supplies, and contraceptive
11 prescription drug coverage for the subscriber or any dependent
12 of the subscriber who is covered by the [~~policy,~~] plan contract,
13 subject to the exclusion under section 431:10A-116.7.

14 (b) Except as provided in subsection (c), all [~~policies,~~
15 ~~contracts, plans, or agreements~~] plan contracts under subsection
16 (a) [~~]~~ that provide contraceptive services or supplies [~~]~~ or
17 prescription drug coverage [~~]~~ shall not exclude any prescription
18 contraceptive supplies or impose any unusual copayment, charge,
19 or waiting requirement for such drug or device.

20 (c) Coverage for contraceptives shall include at least one
21 brand from the monophasic, multiphasic, and the progestin-only



1 categories. A member shall receive coverage for any other oral
2 contraceptive only if:

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

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

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

13 ~~[(e) Coverage required by this section shall include~~
14 ~~reimbursement to a prescribing and dispensing pharmacist who~~
15 ~~prescribes and dispenses contraceptive supplies pursuant to~~
16 ~~section 461-11.6.~~

17 ~~{f)}~~ (e) For purposes of this section:

18 "Contraceptive services" means physician-delivered,
19 physician-supervised, physician assistant-delivered, advanced
20 practice registered nurse-delivered, nurse-delivered, or
21 pharmacist-delivered medical services intended to promote the



1 effective use of contraceptive supplies or devices to prevent
2 unwanted pregnancy.

3 "Contraceptive supplies" means all Food and Drug
4 Administration-approved contraceptive drugs or devices used to
5 prevent unwanted pregnancy.

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

10 SECTION 26. Section 432:1-607.3, Hawaii Revised Statutes,
11 is amended by amending subsection (e) to read as follows:

12 "(e) As used in this section unless the context requires
13 otherwise:

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

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

20 "Perceived gender identity" means an observer's impression
21 of another person's actual gender identity or the observer's own



1 impression that the person is male, female, a gender different
2 from the gender [~~designed~~] assigned at birth, a transgender
3 person, or neither male nor female.

4 "Transgender person" means a person who has gender identity
5 disorder or gender dysphoria, has received health care services
6 related to gender transition, adopts the appearance or behavior
7 of the opposite sex, or otherwise identifies as a gender
8 different from the gender assigned to that person at birth."

9 SECTION 27. Section 432D-26.3, Hawaii Revised Statutes, is
10 amended by amending subsection (e) to read as follows:

11 "(e) As used in this section unless the context requires
12 otherwise:

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

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

19 "Perceived gender identity" means an observer's impression
20 of another person's actual gender identity or the observer's own
21 impression that the person is male, female, a gender different



1 from the gender [~~designed~~] assigned at birth, a transgender
2 person, or neither male nor female.

3 "Transgender person" means a person who has gender identity
4 disorder or gender dysphoria, has received health care services
5 related to gender transition, adopts the appearance or behavior
6 of the opposite sex, or otherwise identifies as a gender
7 different from the gender assigned to that person at birth."

8 SECTION 28. Section 481R-4, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§481R-4 Registration requirements; exemptions.** (a)
11 Before conducting business in this State or issuing any
12 warranty, a warrantor shall register with the commissioner, on a
13 form prescribed by the commissioner, and shall pay to the
14 commissioner a fee as [~~provided under~~] set forth in section
15 431:7-101. A person who sells or solicits a vehicle protection
16 product, but who is not a warrantor, shall not be required to
17 register with the commissioner as a warrantor.

18 (b) [~~Warrantor registration records shall be updated~~
19 ~~annually and shall contain the following information:]~~ A
20 warrantor shall inform the commissioner, by any means acceptable
21 to the commissioner, of any change of status within thirty days



1 of the change. As used in this subsection, "change of status"
2 includes but is not limited to:

3 (1) The address of the principal office of the warrantor;

4 (2) The name and address of the warrantor's agent for the
5 service of process in this State, if other than the
6 warrantor;

7 (3) The identities of the warrantor's executive officer or
8 officers directly responsible for the warrantor's
9 vehicle protection product business; and

10 (4) The name, address, and telephone number of any
11 administrators designated by the warrantor to be
12 responsible for the administration of vehicle
13 protection product warranties in this State[7].

14 [~~5~~] ~~A copy of each warranty form the warrantor proposes to~~
15 ~~use in this State; and~~

16 ~~(6)]~~ (c) A warrantor shall provide an annual statement
17 that the warrantor is in compliance with the financial security
18 requirements of section 481R-5 [and], that details how the
19 warrantor intends to meet the requirements[7] and that provides
20 proof of compliance with the requirements.



1 ~~[(e)]~~ (d) The marketing, selling, offering for sale,
2 issuing, making, proposing to make, and administering of vehicle
3 protection products shall be exempt from:

4 (1) Chapter 481X; and

5 (2) The insurance laws of this State.

6 ~~[(d)]~~ (e) The following contracts and agreements shall be
7 exempt from this chapter and shall only be subject to other
8 statutes and laws that specifically apply to them:

9 (1) Warranties or guarantees, other than those provided as
10 part of a vehicle protection product; and

11 (2) Service contracts regulated by chapter 481X.

12 ~~[(e)]~~ (f) A seller shall not be deemed to be a warrantor
13 unless, in addition to acting as a seller, the person is named
14 under the terms of a vehicle protection product warranty as the
15 contractual obligor to the consumer."

16 SECTION 29. Section 481R-8, Hawaii Revised Statutes, is
17 amended by amending its title and subsection (a) to read as
18 follows:

19 "~~[(f)] §481R-8 [(f)] Warrantor records.~~ Recordkeeping. (a)

20 ~~[Each]~~ The warrantor shall maintain accurate accounts, books,
21 warranty forms, and other records ~~[regarding]~~ of all



1 transactions regulated under this chapter. The warrantor's
2 records shall include:

3 (1) A copy of each warranty form the warrantor proposes to
4 use in this State;

5 ~~[(1)]~~ (2) A copy of the warranty for each unique form of
6 vehicle protection product sold;

7 ~~[(2)]~~ (3) The name and address of each ~~[consumer,]~~ warranty
8 holder;

9 ~~[(3)]~~ (4) A list of the locations where the warrantor's
10 vehicle protection products are marketed, sold, or
11 offered for sale; and

12 ~~[(4)]~~ (5) Files that contain at least the dates and
13 descriptions of payments to consumers related to the
14 vehicle protection product."

15 SECTION 30. Section 481X-3, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[~~+~~§481X-3~~+~~] Registration~~[-]~~ requirements. (a) Before
18 conducting business in this State~~[-]~~ or issuing any service
19 contracts, a provider shall register with the commissioner, on a
20 form prescribed by the commissioner, and shall pay to the



1 commissioner a fee as [~~provided under~~] set forth in section
2 431:7-101.

3 (b) [~~Provider registration shall be updated annually and~~
4 ~~shall contain the following information:]~~ A provider shall
5 inform the commissioner, by any means acceptable to the
6 commissioner, of any change of status within thirty days of the
7 change. As used in this subsection, "change of status" includes
8 but is not limited to:

- 9 (1) The address of the principal office of the provider;
10 (2) The name and address of the provider's agent for the
11 service of process in this State, if other than the
12 provider;
13 (3) The identities of the provider's executive officer or
14 officers directly responsible for the provider's
15 service contract business; and
16 (4) The name, address, and telephone number of any
17 administrators designated by the provider to be
18 responsible for the administration of service
19 contracts in this State[~~;~~
20 ~~(5) A copy of each service contract form the provider~~
21 ~~proposes to use in this State; and~~



1 ~~(6) A statement that the provider is in compliance with~~
2 ~~the financial responsibility requirements of section~~
3 ~~481X-4 and that details how the provider intends to~~
4 ~~meet the requirements, and proof of compliance with~~
5 ~~the requirements].~~

6 (c) A provider shall provide an annual statement that the
7 provider is in compliance with the financial responsibility
8 requirements of section 481X-4, that details how the provider
9 intends to meet the requirements, and that provides proof of
10 compliance with the requirements."

11 SECTION 31. Section 481X-5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~{}~~§481X-5~~{}~~ **Recordkeeping.** (a) The provider ~~[or~~
14 ~~provider's administrator]~~ shall ~~[keep]~~ maintain accurate
15 accounts, books, service contract forms, and other records of
16 all transactions regulated under this chapter~~[-]~~, including:

17 ~~[(b) Accounts, books, and records maintained as required~~
18 ~~by this section shall include the following:]~~

19 (1) A copy of each service contract form the provider
20 proposes to use in this State;



- 1 ~~[(1)]~~ (2) ~~[Copies]~~ A copy of each ~~[type]~~ unique form of
2 service contract sold;
- 3 ~~[(2)]~~ (3) The name and address of each contract holder~~[, to~~
4 ~~the extent that the name and address have been~~
5 ~~furnished by the contract holder]~~;
- 6 ~~[(3)]~~ (4) A list of the locations where the provider's
7 service contracts are marketed, sold, or offered for
8 sale; and
- 9 ~~[(4)]~~ (5) ~~[Recorded claims files which at a minimum shall]~~
10 Files that contain at least the ~~[date]~~ dates and
11 ~~[description]~~ descriptions of ~~[each claim]~~ claims
12 under the provider's service contracts.
- 13 ~~[(e)]~~ (b) The provider for each service contract shall
14 retain records required under this section for at least one year
15 after coverage under the contract has expired. A provider
16 discontinuing business in this State shall maintain records
17 required under this section until it provides the commissioner
18 with satisfactory proof that the provider has discharged all
19 contractual obligations to contract holders in this State.
- 20 ~~[(d)]~~ (c) The records required under this section may be~~[, to~~
21 ~~but are not required to be,]~~ maintained on a computer disk or



1 other recordkeeping technology. If records are maintained in a
2 form other than hard copy, the records shall be in a form
3 allowing duplication as legible hard ~~[copy]~~ copies at the
4 request of the commissioner.

5 ~~[-(e)]~~ (d) Upon request of the commissioner, the provider
6 shall make available to the commissioner all accounts, books,
7 service contract forms, and other records concerning service
8 contracts sold by the provider ~~[reasonably necessary]~~ to enable
9 the commissioner to determine compliance ~~[or noncompliance]~~ with
10 this chapter."

11 SECTION 32. Section 432:1-611, Hawaii Revised Statutes, is
12 repealed.

13 ~~["§432:1-611 Reimbursement for services of advanced~~
14 ~~practice registered nurses. All individual and group hospital~~
15 ~~and medical service plan contracts and medical service~~
16 ~~corporation contracts under this article shall provide~~
17 ~~reimbursement for health plan covered services provided by~~
18 ~~advanced practice registered nurses licensed pursuant to chapter~~
19 ~~457."]~~

20 SECTION 33. In codifying the new sections added by
21 sections 1 and 3 of this Act, the revisor of statutes shall



1 substitute appropriate section numbers for the letters used in
2 designating the new sections in this Act.

3 SECTION 34. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 35. This Act shall take effect upon its approval;
6 provided that:

7 (1) Sections 1, 4, 14, and 15 shall take effect on
8 January 1, 2020;

9 (2) The first filing of the corporate governance annual
10 disclosure, required by section 1 of this Act, shall
11 be in 2020; and

12 (3) Sections 23 and 24 of this Act shall be repealed on
13 December 31, 2020; provided that sections
14 431:26-103(e) and 431:26-104(f), Hawaii Revised
15 Statutes, shall be reenacted in the form in which they
16 read on the day prior to the effective date of this
17 Act.

18



Report Title:

Insurance; Health Insurance; National Association of Insurance Commissioners; Corporate Governance Annual Disclosure Model Act; Trade Name; Assumed Name; Provider Reimbursement; Insurance Holding Company System Regulatory Act; Captive Insurer; Network Adequacy Model Act; Vehicle Protection Product Warrantor; Service Contract Provider

Description:

Updates various areas of the State's insurance laws to: adopt the NAIC's Corporate Governance Annual Disclosure Model Act beginning on 1/1/2020; allow the department of commerce and consumer affairs and the insurance commissioner to determine whether a request to add or change a trade name or assumed name satisfies certain requirements; clarify certain provider reimbursement requirements; adopt revisions to the Insurance Holding Company System Regulatory Act beginning on 1/1/2020; provide the insurance commissioner with additional regulatory authority to supervise or liquidate a captive insurer; enable the insurance division to create stopgap measures, until 12/31/2020, to implement the Network Adequacy Model Act; change notice requirements and recordkeeping obligations for vehicle protection product warrantors and service contract providers; and make various housekeeping amendments to clarify existing language and avoid ambiguities. (SD1)

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

