A BILL FOR AN ACT

RELATING TO 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 article to be appropriately designated and to read as follows:

"ARTICLE

CORPORATE GOVERNANCE ANNUAL DISCLOSURE

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

(1) Provide the insurance commissioner a summary of an insurer or insurance group's corporate governance structure, policies, and practices to permit the commissioner to gain and maintain an understanding of the insurer's corporate governance framework.

(2) Outline the requirements for completing a corporate governance annual disclosure with the commissioner.

(3) Provide for the confidential treatment of the corporate governance annual disclosure and related information that will contain confidential and sensitive information related to an insurer or

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insurance group's internal operations and proprietary
and trade secret information which, if made public,
could potentially cause the insurer or insurance group
competitive harm or disadvantage.

(b) Nothing in this article shall be construed to
prescribe or impose corporate governance standards and internal
procedures beyond that which is required under applicable state
corporate law. Notwithstanding the foregoing, nothing in this
article shall be construed to limit the commissioner's
authority, or the rights or obligations of third parties, under

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

§431: -B Definitions. As used in this article, the
following definitions apply:

"Commissioner" means the insurance commissioner of this
State.

"Corporate governance annual disclosure" means a
confidential report filed by the insurer or insurance group made
in accordance with the requirements of this article.
"Insurance group", for the purpose of this article, means those insurers and affiliates included within an insurance holding company system as defined in article 11. "Insurer" shall have the same meaning as set forth in article 1, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

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

§431: -C Disclosure requirement. (a) An insurer or the insurance group of which the insurer is a member shall, no later than June 1 of each calendar year, submit to the commissioner a corporate governance annual disclosure that contains the information described in section 431: -E(b). Notwithstanding any request from the commissioner made pursuant to subsection (c), if the insurer is a member of an insurance group, the insurer shall submit the report required by this section to the commissioner of the lead state for the insurance group, in accordance with the laws of the lead state, as determined by the procedures outlined in the most recent Financial Analysis CCA-06(18)
Handbook adopted by the National Association of Insurance Commissioners.

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

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

(d) For purposes of completing the corporate governance annual disclosure, the insurer or insurance group may provide information regarding corporate governance at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the corporate governance annual disclosure disclosures at the level at which the insurer's or insurance group's risk appetite is determined, or at the level at which
the earnings, capital, liquidity, operations, and reputation of
the insurer are overseen collectively and at which the
supervision of those factors are coordinated and exercised, or
at the level at which legal liability for failure of general
corporate governance duties would be placed. If the insurer or
insurance group determines the level of reporting based on these
criteria, it shall indicate which of the three criteria was used
to determine the level of reporting and explain any subsequent
changes in level of reporting.

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

(f) Insurers providing information substantially similar
to the information required by this article in other documents
provided to the commissioner, including proxy statements filed
in conjunction with Form B requirements, or other state or
federal filings provided to the insurance division shall not be
required to duplicate that information in the corporate
governance annual disclosure, but shall only be required to
cross reference the document in which the information is included.

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

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

(b) Notwithstanding subsection (a), the corporate governance annual disclosure shall be prepared consistent with the National Association of Insurance Commissioners' Corporate Governance Annual Disclosure Model Regulation. Documentation and supporting information shall be maintained and made available upon examination or upon request of the commissioner.
§431: -F Confidentiality. (a) Documents, materials, or other information including the corporate governance annual disclosure, in the possession or control of the insurance division that are obtained by, created by, or disclosed to the commissioner or any other person under this article, are recognized by this State as being proprietary and to contain trade secrets. All such documents, materials, or other information shall be confidential by law and privileged, shall not be subject to chapter 92F, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer. Nothing in this section shall be construed to require written consent of the insurer before the commissioner may share or receive confidential documents, materials, or other information related to the corporate governance annual disclosure pursuant to subsection (c) below to assist in the performance of the commissioner's regular duties.
(b) Neither the commissioner nor any person who received documents, materials, or other information related to the corporate governance annual disclosure through examination or otherwise, while acting under the authority of the commissioner, or with whom such documents, materials, or other information are shared pursuant to this article shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a).

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

(1) May, upon request, share documents, materials, or other information related to the corporate governance annual disclosure, including the confidential and privileged documents, materials, or information subject to subsection (a), including proprietary and trade secret documents and materials with other state, federal, and international financial regulatory agencies, including members of any supervisory college as defined in section 431:11-107.5, with the National Association of Insurance Commissioners, and with third party consultants pursuant to section 431: -G,

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provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, material, or other information and has verified in writing the legal authority to maintain confidentiality; and

(2) May receive documents, materials, or other information related to the corporate governance annual disclosure, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade-secret information or documents, from regulatory officials of other state, federal, and international financial regulatory agencies, including members of any supervisory college as defined in the section 431:11-107.5, and from the National Association of Insurance Commissioners, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

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

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

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

(b) Any persons retained under subsection (a) shall be
under the direction and control of the commissioner and shall
act in a purely advisory capacity.
(c) The National Association of Insurance Commissioners and third-party consultants shall be subject to the same confidentiality standards and requirements as the commissioner.

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

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

(1) Specific procedures and protocols for maintaining the confidentiality and security of the corporate governance annual disclosure and related information shared with the National Association of Insurance Commissioners or a third-party consultant pursuant to this article.
(2) Procedures and protocols for sharing by the National Association of Insurance Commissioners only with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the corporate governance annual disclosure and related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality.

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

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

(5) A provision requiring the National Association of Insurance Commissioners or third-party consultant to provide prompt notice to the commissioner and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of the insurer's corporate governance annual disclosure or related information; and

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

§431: —H Sanctions. Any insurer failing, without just cause, to timely file the corporate governance annual disclosure as required in this article shall be required, after notice and an opportunity for hearing, to pay a penalty of not less than

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$100 and not more than $500 for each day's delay, to be
recovered by the commissioner and paid into the compliance
resolution fund. The maximum penalty under this section is
$50,000. The commissioner may reduce the penalty if the insurer
demonstrates to the commissioner that the imposition of the
penalty would constitute a financial hardship to the insurer.

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

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

"§431:2- Trade and assumed names. (a) Every person
shall file an application with the department of commerce and
consumer affairs and the commissioner, on a form approved by the
department of commerce and consumer affairs and the
commissioner, for the use or change of a trade name or an
assumed name.
(b) If the department of commerce and consumer affairs or the commissioner finds the application for use or change of a trade name or an assumed name does not meet the requirements of the provisions of this code, the corporation laws of this State, or is substantially identical to another trade name or assumed name, the department of commerce and consumer affairs or the commissioner shall send to the applicant written notice of disapproval of the application specifying the reasons for disapproval and stating that the trade name or assumed name shall not become effective."

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

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

"THIS IS NOT QUALIFYING HEALTH COVERAGE ("MINIMUM ESSENTIAL COVERAGE") THAT SATISFIES THE HEALTH COVERAGE REQUIREMENT OF THE CCA-06(18)
AFFORDABLE CARE ACT. IF YOU DON'T HAVE MINIMUM ESSENTIAL
COVERAGE, YOU MAY OWE AN ADDITIONAL PAYMENT WITH YOUR TAXES."
§ 431:10A-B Reimbursement to providers. (a) Coverage for
services required by this part shall include reimbursement to
health care providers who perform services required by this
part.
(b) Notwithstanding any law to the contrary, whenever an
individual or group policy, contract, plan, or agreement
provides for reimbursement for any service, a health care
provider who performs such a service shall be eligible for
reimbursement for the performed service.
(c) For the purposes of this section, "health care
provider" means a provider of services, as defined in title 42
United States Code section 1395x(u); a provider of medical and
other health services, as defined in title 42 United States Code
section 1395x(s); and other practitioners licensed by the State
and working within their scope of practice."
SECTION 4. Chapter 431, Hawaii Revised Statutes, is
amended by adding a new section to article 11 to be
appropriately designated and to read as follows:
"§ 431:11- Group-wide supervision of internationally
active insurance groups. (a) The commissioner is authorized to
act as the group-wide supervisor for any internationally active insurance group in accordance with the provisions of this section. However, the commissioner may otherwise acknowledge another regulatory official as the group-wide supervisor where the internationally active insurance group:

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

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

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

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

(b) In cooperation with other state, federal, and international regulatory agencies, the commissioner will identify a single group-wide supervisor for an internationally
active insurance group. The commissioner may determine that the
commissioner is the appropriate group-wide supervisor for an
internationally active insurance group that conducts substantial
insurance operations concentrated in this State. However, the
commissioner may acknowledge that a regulatory official from
another jurisdiction is the appropriate group-wide supervisor
for the internationally active insurance group. The
commissioner shall consider the following factors when making a
determination or acknowledgment under this subsection:

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

(2) The place of domicile of the top-tiered insurer(s) in
the insurance holding company system of the
internationally active insurance group;

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

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

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

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

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

However, a commissioner identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgment of the group-wide supervisor shall be made after consideration of the factors listed in paragraphs (1) through (5), and shall be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group, and in consultation with the internationally active insurance group.
(c) Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the commissioner shall acknowledge that regulatory official as the group-wide supervisor. However, in the event of a material change in the internationally active insurance group that results in:

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

(2) This State being the place of domicile of the top-tiered insurer(s) in the insurance holding company system of the internationally active insurance group, the commissioner shall make a determination or acknowledgment as to the appropriate group-wide supervisor for such an internationally active insurance group pursuant to subsection (b).

(d) Pursuant to section 431:11-107, the commissioner is authorized to collect from any insurer registered pursuant to section 431:11-105 all information necessary to determine whether the commissioner may act as the group-wide supervisor of an internationally active insurance group or if the commissioner
may acknowledge another regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the commissioner, the commissioner shall notify the insurer registered pursuant to section 431:11-105 and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group shall have not less than thirty days to provide the commissioner with additional information pertinent to the pending determination. The commissioner shall publish on the division's internet website the identity of internationally active insurance groups that the commissioner has determined are subject to group-wide supervision by the commissioner.

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

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

(A) The material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in the
business of insurance are identified by
management; and
(B) Reasonable and effective mitigation measures are in
place;
(2) Request, from any member of an internationally active
insurance group subject to the commissioner's
supervision, information necessary and appropriate to
assess enterprise risk, including, but not limited to,
information about the members of the internationally
active insurance group regarding:
(A) Governance, risk assessment, and management;
(B) Capital adequacy; and
(C) Material intercompany transactions;
(3) Coordinate and, through the authority of the
regulatory officials of the jurisdictions where
members of the internationally active insurance group
are domiciled, compel development and implementation
of reasonable measures designed to ensure that the
internationally active insurance group is able to
timely recognize and mitigate enterprise risks to
members of such internationally active insurance group
that are engaged in the business of insurance;
(4) Communicate with other state, federal, and international regulatory agencies for members within the internationally active insurance group and share relevant information subject to the confidentiality provisions of section 431:11-108, through supervisory colleges as set forth in section 431:11-107.5 or otherwise;

(5) Enter into agreements with or obtain documentation from any insurer registered under section 431:11-105, any member of the internationally active insurance group, and any other state, federal, and international regulatory agencies for members of the internationally active insurance group, providing the basis for or otherwise clarifying the commissioner's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in this State is doing business in this State or is otherwise subject to jurisdiction in this State; and
(6) Other group-wide supervision activities, consistent with the authorities and purposes enumerated above, as considered necessary by the commissioner.

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

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

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

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

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

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

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

"§432:1- Reimbursement to providers. (a) Coverage for
services required by this part shall include reimbursement to
health care providers who perform services required by this
article.

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

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

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

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

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

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

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

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

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

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

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

(B) The Standard Valuation Law, as amended by the National Association of Insurance Commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five percent of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements; health annual statements; or fraternal annual statements; and

(C) The Standard Valuation Law, as amended by the National Association of Insurance Commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two of the following fifty-five jurisdictions: the fifty states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico;
(3) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when [all of the following have occurred:

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

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

[(ii)] (B) Members of the National Association of Insurance Commissioners representing jurisdictions totaling greater than seventy-five per cent of the direct premiums written as reported in the following annual statements most recently available prior to the vote in [clause (i)] subparagraph (A):

life, accident and health annual statements; health annual statements; or fraternal annual statements; [and
(B) The valuation manual becomes effective pursuant to rules adopted by the commissioner;

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

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

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

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

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

(B) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in subsection (p)(1) and the minimum valuation standards consistent with those requirements;
(C) For policies and contracts subject to a principle-based valuation under subsection (p):

(i) Requirements for the format of reports to the commissioner under subsection (p)(2)(C) that shall include information necessary to determine if the valuation is appropriate and in compliance with this section;

(ii) Assumptions shall be prescribed for risks over which the company does not have significant control or influence; and

(iii) Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures;

(D) For policies not subject to a principle-based valuation under subsection (p), the minimum valuation standard shall either:

(i) Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or

(ii) Develop reserves that quantify the benefits and guarantees, and the funding, associated
with the contracts and their risks at a
level of conservatism that reflects
conditions that include unfavorable events
that have a reasonable probability of
occurring;

(E) Other requirements including, but not limited to,
those relating to reserve methods, models for
measuring risk, generation of economic scenarios,
assumptions, margins, use of company experience,
risk measurement, disclosure, certifications,
reports, actuarial opinions and memorandums,
transition rules, and internal controls; and

(F) The data and form of the data required under
subsection (q), with whom the data shall be
submitted, and may specify other requirements,
including data analyses and reporting of
analyses;

(5) [In the absence of] Absent a specific valuation
requirement, or if a specific valuation requirement in
the valuation manual is not, in the opinion of the
commissioner, in compliance with this section, then
the company shall, with respect to these requirements,
comply with minimum valuation standards prescribed by
the commissioner by rule;

(6) The commissioner may engage a qualified actuary, at
the expense of the company, to perform an actuarial
examination of the company and opine on the
appropriateness of any reserve assumption or method
used by the company, or to review and opine on a
company's compliance with any requirement set forth in
this section. The commissioner may rely upon the
opinion[τ] regarding provisions contained within this
section[τ] of a qualified actuary engaged by the
commissioner of another state, district, or territory
of the United States. As used in this paragraph,
"engage" includes employment and contracting; and

(7) The commissioner may require a company to change any
assumption or method that, in the opinion of the
commissioner, is necessary to comply with the
requirements of the valuation manual or this section,
and the company shall adjust the reserves as required
by the commissioner. The commissioner may take other
disciplinary action as permitted pursuant to this
chapter."
SECTION 8. Section 431:9-203, Hawaii Revised Statutes, is amended to read as follows:

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

(1) Except as provided by this article; or

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

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

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

(d) A licensee shall:

(1) Inform the commissioner by any means acceptable to the commissioner of any change of status within thirty days of the change; and
(2) Report any change of status to the business registration division if the licensee is a business entity registered with the department of commerce and consumer affairs pursuant to title 23 or title 23A, or if the licensee has registered a trade name pursuant to part II of chapter 482.

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

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

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

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

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

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

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

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

(2) The contract is printed, except for specification pages, schedules, and tables, in not less than ten-point type[,] one-point leaded;"
(3) The style, arrangement, and general appearance of the contract give no undue prominence to any endorsements, riders, or other portions of the text; and

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

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

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

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

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

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

(2) Notwithstanding any provision to the contrary, for all policies, contracts, plans, or agreements issued on or after May 30, 1974, whenever provision is made for reimbursement or indemnity for any service related to surgical or emergency procedures, which is within the lawful scope of practice of any practitioner licensed
to practice medicine in this State, reimbursement or
indemnification under the policy, contract, plan, or
agreement shall not be denied when the services are
performed by a dentist acting within the lawful scope
of the dentist's license;

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

(4) Notwithstanding any provision to the contrary, each
policy, contract, plan, or agreement issued on or
after February 1, 1991, except for policies that only
provide coverage for specified diseases or other
limited benefit coverage, but including policies
issued by companies subject to chapter 431, article
10A, part II and chapter 432, article 1 shall provide
coverage for screening by low-dose mammography for
occult breast cancer as follows:
(A) For women forty years of age and older, an annual mammogram; and

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

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

For the purpose of this paragraph, the term "low-dose mammography" means the x-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the x-ray tube, filter, compression device, screens, films, and cassettes, with an average radiation exposure delivery of less than one rad mid-breast, with two views for each breast. An insurer may provide the services required by this paragraph through contracts with providers; provided that the contract is determined to be a cost-effective means of delivering the services.
without sacrifice of quality and meets the approval of
the director of health; and

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

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

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

(i) From the date of birth of the adopted newborn when the newborn is treated from birth pursuant to a provider contract with the health maintenance organization, and written notice of enrollment in accord with the health maintenance organization's usual enrollment process is provided within thirty days of the date the insured notifies the health maintenance organization of the insured's intent to adopt the infant for whom coverage is sought; or
(ii) From the first day following receipt by the health maintenance organization of written notice of the insured's ability to consent for treatment of the infant for whom coverage is sought and enrollment of the adopted newborn in accord with the health maintenance organization's usual enrollment process if the newborn has been treated from birth by a provider not contracting or affiliated with the health maintenance organization[; and

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

SECTION 12. Section 431:10A-116.6, Hawaii Revised Statutes, is amended to read as follows:
§431:10A-116.6 Contraceptive services. (a) Notwithstanding any provision of law to the contrary, each employer group accident and health or sickness policy, contract, plan, or agreement issued or renewed in this State on or after January 1, 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-116.7 and the exclusion under section 431:10A-102.5. (b) 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 prescription contraceptive supplies or impose any unusual copayment, charge, or waiting requirement for such 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.

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

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

[(f)] (e) For purposes of this section:

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

"Contraceptive supplies" means all United States Food and Drug Administration-approved contraceptive drugs or devices used to prevent unwanted pregnancy.
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 13. Section 431:10A-118.3, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

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

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

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

"Perceived gender identity" means an observer's impression of another person's actual gender identity or the observer's own impression that the person is male, female, a gender different from the gender assigned at birth, a transgender person, or neither male nor female.

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

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

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

'Internationally active insurance group' means an insurance
holding company system that:

1. Includes an insurer registered under section 431:11-
   105; and

2. Meets the following criteria:
   (A) Premiums written in at least three countries;
   (B) The percentage of gross premiums written outside
       the United States is at least ten percent of the
       insurance holding company system's total gross
       written premiums; and
(C) Based on a three-year rolling average, the total assets of the insurance holding company system are at least $50,000,000,000 or the total gross written premiums of the insurance holding company system are at least $10,000,000,000."

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

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

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

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

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

Every filing shall:

(1) State its proposed effective date;
(2) Indicate the character and extent of the coverage contemplated;

(3) Include a report on investment income; and

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

(b) [For each] Each filing[—an insurer] shall [submit] be submitted to the commissioner[—]

(1) An electronic copy of the filing; or

(2) Two printed copies of the filing.

The commissioner may also request a printed version of an electronic filing to be submitted pursuant to paragraph (1).]

via the National Association of Insurance Commissioners' System for Electronic Rates and Forms Filing or an equivalent service approved by the commissioner."

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

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

(1) Specific inland marine [rates] rate filings on risks specially rated by a rating organization or an advisory organization;
(2) Any special filing with respect to a surety or guaranty bond required by law [or by] court or executive order, or [by] order or rule of a public body, not covered by a previous filing; and

(3) Any special filing with respect to any class of insurance, subdivision, or combination thereof that is subject to individual risk premium modification and has been agreed to by an insured under a formal or an informal bid process.

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

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

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

CCA-06(18)
431:14-106 and other provisions of article 14 relating to filings made by insurers."

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

"§431:14-105 Policy revisions that alter coverage.
(a) Any policy revisions that alter coverage in any manner shall be filed with the commissioner and shall include an analysis of the impact [of] each revision has on rates[−[−−]
(b) A filing shall consist of either:
(1) An electronic copy of the filing; or
(2) Two printed copies of the filing.

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

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

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

"§431:14-108 Deviations. (a) Except for those lines of insurance for which the commissioner determines [that]
individual rate filings shall be made, every member of or
subscriber to a rating organization shall adhere to the filings
the organization made on its behalf [by the organization, except
that]. However, any insurer may [make written application]
submit a rate filing to the commissioner to file a deviation
from the class rates, schedules, rating plans, or rules
respecting any class of insurance, [or] class of risk within a
class of insurance, or combination thereof. The [application]
rate filing shall specify the basis for the deviation and shall
be accompanied by the data upon which the applicant relies. [A]
The filer shall send simultaneously a copy of the [application]
devention and data [shall be sent simultaneously] to the rating
organization.

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

[(e)] (b) In considering the [application to file a]
deviation, the commissioner shall [give consideration to]
consider the available statistics and the principles for
ratemaking [as provided] in section 431:14-103. The
commissioner shall [issue an order permitting] approve the
filing of the deviation [to be filed] if the commissioner finds
it [to be] justified. The deviation shall become effective upon
[issuance of] the commissioner's [order] approval of the
proposed effective date of the filing. The commissioner shall
[issue an order denying] disapprove the [application] rate
filing if the commissioner finds [that] the deviation is not
justified or [that] the resulting premiums would be excessive,
inadequate, or unfairly discriminatory. Each deviation
[permitted to be] filed shall be effective for a period of one
year from the date of [the order] approval, unless terminated
sooner with [the] approval [of] by the commissioner."

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

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

(1) State its proposed effective date;
(2) Indicate the character and extent of the coverage contemplated;

(3) Include a report on investment income; and

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

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

(1) An electronic copy of the filing; or

(2) Two printed copies of the filing;

provided that the commissioner may request that an insurer that submits an electronic copy of the filing pursuant to paragraph (1) to also submit a printed copy of the electronic filing.] via the National Association of Insurance Commissioners' System for Electronic Rates and Forms Filing or an equivalent service approved by the commissioner."

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

"§431:19-103 Names of companies. (a) No captive insurance company shall adopt a name that is the same, deceptively similar, or likely to be confused with or mistaken for any other existing business name registered in the State[7
except that the commissioner may allow a branch captive
insurance company to be licensed in this State under a different
trade name if the normal name of the branch captive insurance
company is not available for use in this State).

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

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

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

(b) Sections 431:3-302 to 431:3-304.5, 431:3-307, 431:3-
401 to 431:3-409, 431:3-411, 431:3-412, and 431:3-414; articles
1, 2, 4A, 5, 6, 9A, 9B, 9C, 11, and 11A[7 and 15]; and chapter
431K shall apply to risk retention captive insurance companies.

(c) Articles 1, 2, and 6[7 and 15] shall apply to class 5
companies."
SECTION 23. Section 431:26-103, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

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

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

(2) The health carrier may request the commissioner to deem sections of the access plan as proprietary, competitive, or trade secret information that shall not be made public. Information is proprietary, competitive, or a trade secret if disclosure of the information would cause the health carrier's competitors to obtain valuable business information. The health carrier shall make the access plans, absent proprietary, competitive, or trade secret information, available online, at the health carrier's business premises, and to any person upon request; and
(3) The health carrier shall prepare an access plan prior to offering a new network plan and shall notify the commissioner of any material change to any existing network plan within fifteen business days after the change occurs. The carrier shall include in the notice to the commissioner a reasonable timeframe within which the carrier will submit to the commissioner for approval or file with the commissioner, as appropriate, an update to an existing access plan."

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

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

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

(2) The standards shall be used in determining the selection of participating providers by the health carrier and the intermediaries with which the health carrier contracts. The standards shall meet requirements relating to health care professional
credentialing verification developed by the
commissioner by order or through rules adopted pursuant
to chapter 91;

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

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

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

(C) That would discriminate with respect to
participation under the health benefit plan against
any provider who is acting within the scope of the
provider's license or certification under
applicable state law or regulations; provided that
this subparagraph shall not be construed to require
a health carrier to contract with any provider who
is willing to abide by the terms and conditions for
participation established by the carrier;

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

(5) This article does not require a health carrier, its
intermediaries, or the provider networks with which the
carrier and its intermediaries contract, to employ
specific providers acting within the scope of the
providers' license or certification under applicable
state law that may meet the selection criteria of the
carrier, or to contract with or retain more providers
acting within the scope of the providers' license or
certification under applicable state law than are
necessary to maintain a sufficient provider network."

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

"§432:1-604.5 Contraceptive services. (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, 2000,
shall cease to exclude contraceptive 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-116.7.
(b) 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 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.
(d) Coverage required by this section shall include reimbursement to a prescribing health care provider or dispensing entity for prescription contraceptive supplies intended to last for up to a twelve-month period for a member.

[(e) Coverage required by this section shall include reimbursement to a prescribing and dispensing pharmacist who prescribes and dispenses contraceptive supplies pursuant to section 461—.

{f:+] (e) For purposes of this section:

"Contraceptive services" means physician-delivered, physician-supervised, physician assistant-delivered, advanced practice registered nurse-delivered, nurse-delivered, or pharmacist-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.

[(g:+] (f) 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 26. Section 432:1-607.3, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

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

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

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

"Perceived gender identity" means an observer's impression of another person's actual gender identity or the observer's own impression that the person is male, female, a gender different from the gender assigned at birth, a transgender person, or neither male nor female.

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

SECTION 27. Section 432D-26.3, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:
"(e) As used in this section unless the context requires otherwise:

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

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

"Perceived gender identity" means an observer's impression of another person's actual gender identity or the observer's own impression that the person is male, female, a gender different from the gender assigned at birth, a transgender person, or neither male nor female.

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

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

"(a) Before conducting business in this State or issuing any warranty, a warrantor shall register with the commissioner,
on a form prescribed by the commissioner, and shall pay to the
commissioner a fee as provided under set forth in section
431:7-101. A person who sells or solicits a vehicle protection
product, but who is not a warrantor, shall not be required to
register with the commissioner as a warrantor.

(b) Warrantor registration records shall be updated
annually and shall contain the following information: A
warrantor shall inform the commissioner, by any means acceptable
to the commissioner, of any change of status within thirty days
of the change. As used in this subsection, "change of status"
includes, but is not limited to:

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

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

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

(4) The name, address, and telephone number of any
administrators designated by the warrantor to be
responsible for the administration of vehicle
protection product warranties in this State. [+]
A copy of each warranty form the warrantor proposes to use in this State; and

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

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

(1) Chapter 481X; and

(2) The insurance laws of this State.

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

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

(2) Service contracts regulated by chapter 481X.

[(e)] (f) A seller shall not be deemed to be a warrantor unless, in addition to acting as a seller, the person is named under the terms of a vehicle protection product warranty as the contractual obligor to the consumer."
SECTION 29. Section 481R-8, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

(a) The warrantor shall maintain accurate accounts, books, warranty forms, and other records regarding of all transactions regulated under this chapter. The warrantor's records shall include:

(1) A copy of each warranty form the warrantor proposes to use in this State;
(2) A copy of the warranty for each unique form of vehicle protection product sold;
(3) The name and address of each warranty holder;
(4) A list of the locations where the warrantor's vehicle protection products are marketed, sold, or offered for sale; and
(5) Files that contain at least the dates and descriptions of payments to consumers related to the vehicle protection product."

SECTION 30. Section 481X-3, Hawaii Revised Statutes, is amended to read as follows:
Registration requirements. (a) Before conducting business in this State or issuing any service contracts, a provider shall register with the commissioner on a form prescribed by the commissioner, and shall pay to the commissioner a fee as set forth in section 431:7-101.

(b) A provider shall be updated annually and shall contain the following information: A provider shall inform the commissioner, by any means acceptable to the commissioner, of any change of status within thirty days of the change. As used in this subsection, "change of status" includes, but is not limited to:

1. The address of the principal office of the provider;
2. The name and address of the provider's agent for the service of process in this State, if other than the provider;
3. The identities of the provider's executive officer or officers directly responsible for the provider's service contract business; and
4. The name, address, and telephone number of any administrators designated by the provider to be
responsible for the administration of service contracts in this State.

[(5) A copy of each service contract form the provider proposes to use in this State; and

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

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

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

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

[(b) Accounts, books, and records maintained as required by this section shall include the following:]
(1) A copy of each service contract form the provider proposes to use in this State;

(2) A copy of each unique form of service contract sold;

(3) The name and address of each contract holder, to the extent that the name and address have been furnished by the contract holder;

(4) A list of the locations where the provider's service contracts are marketed, sold, or offered for sale; and

(5) Recorded claims files which at a minimum shall Files that contain at least the dates and descriptions of claims under the provider's service contracts.

(b) The provider for each service contract shall retain records required under this section for at least one year after coverage under the contract has expired. A provider discontinuing business in this State shall maintain records required under this section until it provides the commissioner with satisfactory proof that the provider has discharged all contractual obligations to contract holders in this State.

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The records required under this section may be maintained on a computer disk or other recordkeeping technology. If records are maintained in a form other than hard copy, they shall be in a form allowing duplication as legible hard copies at the request of the commissioner.

Upon request of the commissioner, the provider shall make available to the commissioner all accounts, books, service contract forms, and other records concerning service contracts sold by the provider to enable the commissioner to determine compliance with this chapter."

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

"§432:1-611—Reimbursement for services of advanced practice registered nurses. All individual and group hospital and medical service plan contracts and medical service corporation contracts under this article shall provide reimbursement for health plan-covered services provided by advanced practice registered nurses licensed pursuant to chapter 457."
SECTION 33. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 34. In codifying the new sections added by sections 1, 2, 3, 4, and 5 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 35. This Act shall take effect upon its approval; provided that sections 1, 4, 14, and 15 shall become effective on January 1, 2020, and the first filing of the corporate governance annual disclosure shall be in 2020, and sections 26 and 27 of this Act shall be repealed on December 31, 2020.

INTRODUCED BY: ____________________________

BY REQUEST

JAN 22 2018
Report Title:
Insurance; Health Insurance; Corporate Governance; National Association of Insurance Commissioners; Corporate Governance Annual Disclosure Model Act; Trade Name; Assumed Name; Pre-Existing Disclosure; Provider Reimbursement; Reimbursement By Provider; Medical Service Provider; Pharmacist; Contraceptive; Advanced Practice Registered Nurses; Insurance Holding Company System Regulatory Act; Group-Wide Supervisor; Group-Wide Supervision; Internationally Active Insurance Group; Holding Company; Standard Valuation Model Law; Gender Identity; Captive; Network Adequacy; Network Adequacy Model Act; Health Carrier; Participating Provider; Health Insurance; Vehicle Protection Product Warrantor; Service Contract Provider; Chapter 431; article 2; Article 10A; Article 11; Article 14, Article 14G, Article 15; Chapter 432

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

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

DEPARTMENT: Commerce and Consumer Affairs
TITLE: A BILL FOR AN ACT RELATING TO INSURANCE.
PURPOSE: This measure amends various portions of the Hawaii Insurance Code under Hawaii Revised Statutes (HRS) title 24 (Code) to update and improve existing Code provisions, including:

(1) Adopting new corporate governance and annual disclosure requirements in the National Association of Insurance Commissioners' (NAIC) Corporate Governance Annual Disclosure Model Act (section 1 of measure);

(2) Requiring any person seeking to add or change a trade name or an assumed name to submit a written request to the Department of Commerce and Consumer Affairs (DCCA) and the Insurance Commissioner (Commissioner) to determine whether the proposal satisfies the Code or corporation laws, and providing notice of this new requirement to insurers, producers, adjusters, independent bill reviewers, licensees, and captives (sections 2, 6, 8, 9, and 21);

(3) Moving the short-term health insurance pre-existing disclosure requirement currently in section 431:10-104(5) to a new section in chapter 431, article 10A, part I, as a more appropriate placement in the Code of this statute, and amending section 431:10-104(5) by removing the disclosure requirement (sections 3 and 10);

(4) Requiring that coverage for services mandated by chapter 431, article 10A and chapter 432, article 1 includes reimbursement to providers who deliver those services, repealing reimbursement...
mandates to pharmacists who prescribe and dispense birth control medication under an expansion of the pharmacist practice act, and removing reimbursement mandates to advanced practice registered nurses that Act 222, Session Laws of Hawaii 1999, created (sections 3, 5, 11, 12, 25, and 32);

(5) Adopting 2014 revisions to the National Association of Insurance Commissioners Insurance Holding Company System Regulatory Act (sections 4, 14, and 15);

(6) Removing optional language in the NAIC's Standard Valuation Model Law that requires the Commissioner to adopt a rule to make effective any changes to the valuation manual (section 7);

(7) Correcting a technical drafting error in the definition of "perceived gender identity" by amending sections 431:1OA-118.3(e), 432:1-607.3(e), and 432D-26.3(e) (sections 13, 26, and 27);

(8) Removing obsolete language and clarifying existing language in sections 431:14-104, 431:14-104.5, 431:14-105, and 431:14-108 (sections 16, 17, 18, and 19);

(9) Removing obsolete language and clarifying existing language in section 431:14G-105 (section 20);

(10) Applying chapter 431, article 15 to all captives (section 22);

(11) Amending network adequacy provisions based on the NAIC's Network Adequacy Model Act that currently require implementation by rule to instead be temporarily carried out by order of the Commissioner (sections 23 and 24);
(12) Amending change of status and recordkeeping requirements that apply to vehicle protection product warrantors and service contract providers to conform with those governing insurance licensees (sections 28, 29, 30, and 31); and

(13) Making technical, nonsubstantive amendments for clarity and consistency.

MEANS:

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

Amend sections 431:3—202, 431:5—307(o), 431:9—203, 431:9A—110, 431:10—104, 431:10A—116, 431:10A—116.6, 431:10A—118.3(e), 431:11—102, 431:11—108(a), 431:14—104(a), (b), and (k), 431:14—104.5, 431:14—105, 431:14—108, 431:14G—105(a) and (b), 431:19—103, 431:19—115(a), (b), and (c), 431:26—103, 431:26—104, 432:1—604.5, 432:1—607.3(e), 432D—26.3(e), 481R—4, 481R—8 title and subsection (a), 481X—3, and 481X—5, HRS.

Repeal section 432:1—611, HRS.

JUSTIFICATION:

(1) This bill adopts the NAIC's Corporate Governance Annual Disclosure Model Act to maintain the State's accreditation with the NAIC. This bill provides more information on an annual basis to regulators regarding insurers' corporate governance practices. Currently, regulators obtain a significant amount of information on insurers' corporate governance practices during full-scope examinations, which typically occur once every three to five years. However, information on governance practices, including changes that can
substantially impact current and prospective solvency, is not widely available to regulators in the period between onsite examination. Through the adoption of standards in this area, regulators can ensure that sufficient information on governance practices is available to assess insurer solvency on an annual basis. (section 1)

(2) This bill allows the DCCA and the Commissioner to determine whether an applicant's request to add or change a trade name or an assumed name satisfies Code and corporation law requirements. This will ensure that both the DCCA and the Commissioner will receive notice of a proposed name change and that both have express authority to permanently retire or bar the use of a trade name or an assumed name associated with a revoked license. (sections 2, 6, 8, 9, and 21)

(3) This bill moves the newly enacted section 431:10-104(5) to article 10A, which is the more appropriate section for the short-term health insurance pre-existing disclosure requirement. (sections 3 and 10)

(4) This bill clearly provides for reimbursement to providers who deliver coverage managed by chapter 431, article 10A and chapter 432, article 1 and deletes reimbursement mandates added to the Code in conjunction with medical service provider practice acts. These amendments will clarify that coverage for services mandated by chapter 431, article 10A and chapter 432, article 1 should include reimbursement to providers and discourage the practice of creating reimbursement mandates in the Code to accompany expansions in provider

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practice acts. (sections 3, 5, 11, 12, 25, and 32)

(5) This bill adopts 2014 revisions to the NAIC's Insurance Holding Company System Regulatory Act to maintain the State's accreditation with the NAIC. This bill provides clear legal authority to a designated state to act as the group-wide supervisor for an internationally active insurance group. (sections 4, 14, and 15)

(6) This bill streamlines the process of making changes to the valuation manual become effective, by eliminating optional language in the NAIC's Standard Valuation Model Law. (section 7)

(7) This bill corrects a technical drafting error by replacing "designed" with "assigned" in the definition of "perceived gender identity" and accordingly conforms State law to federal guidance on gender identity. (sections 13, 26, and 27)

(8) This bill removes obsolete language and clarifies existing language in chapter 431, article 14 to avoid ambiguity for insurers submitting rate filings. (sections 16, 17, 18, and 19)

(9) This bill removes obsolete language and clarifies existing language in chapter 431, article 14G to avoid ambiguity for managed care plans submitting rate filings. (section 20)

(10) This bill will give the Commissioner additional regulatory authority to supervise or liquidate a captive, rather than simply suspending or revoking its insurance license. (section 22)
(11) This bill will temporarily allow the Insurance Division to create stopgap measures to implement the NAIC's Network Adequacy Model Act and to promulgate administrative rules with the benefit of any future NAIC guidance and input from other jurisdictions. (Sections 23 and 24)

(12) This bill changes to timely notice the current requirement that a warrantor and service contract provider must submit an annual change of status filing whether or not its status has changed, an unduly burdensome requirement on the warrantor, service contract provider, Licensing Branch staff, and Insurance Division (Division) storage space. These amendments mirror section 431:9A-107, which requires producers to file timely notification only if their status has changed. In addition, the amendment to chapters 481R and 481X requiring warrantors and service contract providers to retain, and produce upon request of the Commissioner, a copy of each proposed warranty and service contract, tracks the recordkeeping obligation governing insurance licensees. This change will reduce the burden on warrantors, providers, and Division staff without limiting the Commissioner's regulatory authority to obtain necessary documentation as needed. (Sections 28, 29, 30, and 31)

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

Impact on the department and other agencies: The Department of Health and the Department of Labor and Industrial Relations.

GENERAL FUNDS: None.
OTHER FUNDS: Compliance Resolution Fund.

PPBS PROGRAM DESIGNATION: CCA-106.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval, provided that sections 1, 4, 14, and 15 shall become effective on January 1, 2020, and the first filing of the corporate governance annual disclosure shall be in 2020, and sections 26 and 27 shall be repealed on December 31, 2020.