

JAN 28 2015

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. The legislature finds that section 2706 of the
2 federal Public Health Service Act (section 2706), as added by
3 section 1201 of the federal Patient Protection and Affordable
4 Care Act of 2010 (Affordable Care Act), prohibits a group health
5 plan and a health insurance insurer offering group or individual
6 health insurance coverage from discriminating with respect to
7 participation under the plan or coverage against any health care
8 provider who is acting within the scope of that provider's
9 license or certification under applicable state law.

10 The legislature further finds that section 2706 has been
11 understood to prohibit plans from covering a given service when
12 offered by one type of licensed provider while denying coverage
13 when the same service is provided by another type of licensed
14 provider. The legislature additionally finds that
15 discrimination against any provider group, as a whole, is
16 harmful to patients and restricts their ability to select the
17 provider of their choice. Section 2706 is a vital component of



1 the Affordable Care Act and embodies the federal government's
2 goals of better access, increased cost efficiency, and enhanced
3 quality of health care. Furthermore, the ability for patients
4 to choose the licensed provider of their choice is integral to
5 the intended full implementation of the Affordable Care Act.

6 The legislature concludes that state law should be aligned
7 with the requirements of section 2706, thereby preserving
8 patient choice in providers and enhancing consumer access to
9 covered benefits under the Affordable Care Act.

10 Accordingly, the purpose of this Act is to prohibit
11 insurers from discriminating against any health care provider
12 who is acting within the scope of that provider's license or
13 certification.

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

17 **"§431:10A- Non-discrimination; participation. (a) No**
18 **individual and group accident and health or sickness policy,**
19 **contract, plan, or agreement that provides health care coverage**
20 **shall discriminate with respect to participation under the**
21 **policy, contract, plan, or agreement against any health care**



1 provider who is acting within the scope of that provider's
2 license or certification under applicable state law.

3 (b) Notwithstanding subsection (a), this section shall not
4 be construed to require that an insurer contract with any health
5 care provider willing to abide by the terms and conditions for
6 participation established by the insurer.

7 (c) Nothing in this section shall be construed as
8 preventing an insurer from establishing varying reimbursement
9 rates based on quality or performance measures.

10 (d) This section shall be implemented only to the extent
11 required by the provider nondiscrimination provisions
12 established in section 2706 of the Public Health Service Act,
13 title 42 United States Code section 300gg-5."

14 SECTION 3. Chapter 432:1, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 **"§432:1- Non-discrimination; participation.** (a) No
18 individual and group hospital or medical service plan, policy,
19 contract, or agreement that provides coverage shall discriminate
20 with respect to participation under the plan, policy, contract,
21 or agreement against any health care provider who is acting



1 within the scope of that provider's license or certification
2 under applicable state law.

3 (b) Notwithstanding subsection (a), this section shall not
4 be construed to require that a mutual benefit society contract
5 with any health care provider willing to abide by the terms and
6 conditions for participation established by the mutual benefit
7 society.

8 (c) Nothing in this section shall be construed as
9 preventing a mutual benefit society from establishing varying
10 reimbursement rates based on quality or performance measures.

11 (d) This section shall be implemented only to the extent
12 required by the provider nondiscrimination provisions
13 established in section 2706 of the Public Health Service Act,
14 title 42 United States Code section 300gg-5."

15 SECTION 4. Chapter 432D, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 **"§432D- Non-discrimination; participation. (a) No**
19 **health maintenance organization that provides coverage under an**
20 **individual contract or group contract shall discriminate with**
21 **respect to participation under the individual contract or group**



1 contract against any health care provider who is acting within
2 the scope of that provider's license or certification under
3 applicable state law.

4 (b) Notwithstanding subsection (a), this section shall not
5 be construed to require that a health maintenance organization
6 contract with any health care provider willing to abide by the
7 terms and conditions for participation established by the health
8 maintenance organization.

9 (c) Nothing in this section shall be construed as
10 preventing a health maintenance organization from establishing
11 varying reimbursement rates based on quality or performance
12 measures.

13 (d) This section shall be implemented only to the extent
14 required by the provider nondiscrimination provisions
15 established in section 2706 of the Public Health Service Act,
16 title 42 United States Code section 300gg-5."

17 SECTION 5. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2015.

19

INTRODUCED BY: *Randy H. Bahr*



S.B. NO. 1217

Report Title:

Insurance; Health Insurance; Health Care; Discrimination;
Providers; Insurers

Description:

Aligns state law with the requirements of section 2706 of the federal Public Health Service Act by prohibiting insurers from discriminating against any health care provider who is acting within the scope of that provider's license or certification.

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

