

Honolulu, Hawaii

APR 28 , 2006

RE: S.B. No. 3072
S.D. 1
H.D. 2
C.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 3072, S.D. 1, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to streamline the process for adjusting fee charges for medical services provided under a motor vehicle insurance policy's personal injury protection provisions.

Specifically, this measure allows insurers to adjust fee charges to conform them to the applicable fee schedule without issuing formal denial notices. This measure also provides that fee adjustments constitute the acceptance of treatments and not the denials of benefits.

Your Committee on Conference finds that recent litigation over an insurer's practice of adjusting medical procedure codes provided



to an insured under a motor vehicle insurance policy, paying the provider the undisputed amount billed, then seeking to negotiate with the provider over the disputed portion of the bill has revealed ambiguities in the current law. Pursuant to Orthopedic Assoc. of Hawaii, Inc. v. Hawaiian Ins. & Guar. Co., Ltd., 109 Hawaii 185 (2005), the Supreme Court ruled that in situations where the insurer disputes billing codes or billing amounts, but not the treatment provided, and pays the undisputed portion of the bill, the insurer is still required to issue a formal denial notice pursuant to section 431:10C-304(3)(B), Hawaii Revised Statutes. Your Committee on Conference further finds that, as a result of the Court's ruling in Orthopedic Assoc. of Hawaii, insurers are required to issue denial notices in the thousands, in triplicate, each month for billing discrepancies, even though the amount disputed may be as little as one dollar. The issuance of these denial notices has not only significantly increased the amount of paperwork required of insurers, but has also created a great deal of stress and concern for the insureds who are confused as to whether and why their treatments have been denied.

Your Committee on Conference believes that changes to the law are necessary to streamline the onerous process required by the Supreme Court and to clarify the legislative intent that treatment denials and payment disputes should be treated differently. Your Committee on Conference further believes that an insured or claimant should not be denied the opportunity to contest an insurer's decision to dispute a provider's charges. In Wilson v. AIG Hawaii Ins. Co., 89 Hawaii 45 (1998), the Court held that the statutory scheme insulating claimants from personal liability for unpaid portions of medical bills reflected a legislative intent not to permit insureds to contest payment disputes, notwithstanding statutory language permitting any insured to contest such disputes. The law should provide a claimant with the ability to submit a dispute to the commission, arbitration, or a court, reflecting the legislative intent to allow claimants to contest fee disputes. Patients have a direct interest in proper payment to their doctors to maintain appropriate treatment and patient-doctor relationships. Your Committee on Conference finds that it is necessary to permit claimants to contest fee disputes to maintain the pool of doctors willing to treat accident patients, as many doctors have stopped accepting accident patients because of the Wilson case, making needed medical treatment unavailable to many patients. Accordingly, claimants, insurers, and providers should be statutorily afforded real party in interest status and standing to contest all fee disputes.



Your Committee on Conference has amended this measure by:

- (1) Allowing a provider, claimant, or insurer to submit any dispute involving the billed amount, correct fee, or procedure code to the Commissioner, arbitration, or a court of competent jurisdiction;
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style; and
- (3) Changing the effective date to become effective upon approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 3072, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3072, S.D. 1, H.D. 2, C.D. 1.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

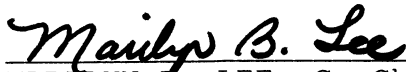
ON THE PART OF THE SENATE



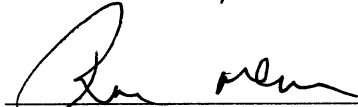
ROBERT N. HERKES, Co-Chair



BRIAN KANNO, Chair



MARILYN B. LEE, Co-Chair



RON MENOR, Co-Chair



Hawaii State Legislature
Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: SB 3072, SD 1, HD 2	Date/Time: 4/27/06 12:20 p.m.
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
KANNO, Brian, Chr.	X				HERKES, Robert N., Co-Chr.	X			
MENOR, Ron, Co-Chr.	X				LEE, Marilyn B., Co-Chr.	X			
SLOM, Sam	X				MARUMOTO, Barbara C.	X			
TOTAL	3	0	0	0	TOTAL	3	0	0	0

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature:
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