

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

January 23, 2008

To: The Honorable Alex Sonson, Chair
and Members of the House Committee on Labor and Public Employment

Date: January 25, 2008

Time: 8:15 a.m.

Place: Conference Room 309, State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

**Testimony offering No Position (concerns)
Of
H.B. 2018 – Relating to Workers’ Compensation**

I. OVERVIEW OF CURRENT PROPOSED LEGISLATION

House Bill 2018 proposes to establish a workers’ compensation advisory council in the Department of Labor and Industrial Relations (“Department”). The advisory council is intended to review Hawaii’s workers’ compensation law and make recommendations on amendments or pending legislation.

The Director of the Department appoints the members of the advisory council, which consists of fourteen (14) members. The advisory council is structured as follows:

1. Director of the Department (or Designee) – Chairperson
2. Five (5) members representing employees
3. Five (5) members representing employers
4. The (3) non-voting members that represent workers’ compensation insurers

All appointment terms are for four (4) years.

II. CURRENT LAW

Currently, there are no official or legislatively mandated workers’ compensation advisory

councils.

III. HOUSE BILL

The Department takes no position in regard to H.B. 2018. However, the Department notes the following concerns:

1. H.B. 2018 contains language which implies that the advisory council will advise the Department in carrying out the purposes of the workers' compensation law. The Department seeks clarification as to the scope of the advisory council by this legislation.

Does H.B. 2018 intend to provide oversight of the operations of the DCD or just prospective legislation? If H.B. 2018 is intended to provide operational oversight, the Department would have serious concerns in what would establish a new layer bureaucracy.

2. If this bill moves forward, the Department recommends including medical providers as part of the advisory council. They play an integral part of the workers' compensation system and should be allowed representation.



Hawaii State Chiropractic Association

P.O. Box 22668 Honolulu, HI 96823-2668

ph: (808) 926-8883 fx: (808) 926-8884

HOUSE OF REPRESENTATIVES
Committee on Labor and Public Employment

HEARING
Friday, January 25, 2008
8:15 am
Conference Rm 309

Dear Co-Chairs Sonson and Nakasone

My name is Gary Saito. I am the current President and Executive Director of the Hawaii State chiropractic Association. We stand in support of the intent of his bill, but we would like to present our concerns about its specifics.

An advisory committee can certainly provide information, guidance, and recommendations helpful to the Dept of Labor, but the proposed makeup of the committee disadvantages the injured worker, which is contrary to the intent of the work comp laws.

There are no representatives of the healthcare industry who can advise on the nature of injuries, the efficacy of treatments, and the possibility of permanent injury status. Without that advice, decisions may not consider the very reason that an injured worker case presents for the board's review.

Employers and their representatives have demonstrated over and over again that they lack some necessary understanding of injury care and recovery. If decisions are made based on the economics of providing medical care and not on the necessity of medical care, an advisory board's decisions are not consistent with the intent of the existing work comp laws. If there are 5 employer representatives, there should be an equal number of representatives of the medical community because there are at least that many different healthcare professions that engage in the treatment of injured workers.

More thought should be put into the makeup of the advisory committee so that all involved parties have representatives at the table. The treating physician or practitioner is critical in any discussion that leads to the continuation or termination of care for injured workers.

Thank you for considering our testimony on this important issue.

Sincerely,

Gary Saito, DC
President, ED, Hawaii State Chiropractic Assn



OFFICERS

Cynthia Jean Goto, MD
President

Gary Okamoto, MD
President Elect

Linda Rasmussen, MD
Immediate Past President

Thomas Kosasa, MD
Secretary

Jonathan Cho, MD
Treasurer

Paula Arcena
Executive Director

January 22, 2008

To: Rep. Alex M. Sonson, Chair
Rep. Bob Nakasone, Vice Chair
House Labor and Public Employment Committee

From: Cynthia J. Goto, M.D., President
Linda Rasmussen, M.D., Legislative Co-Chair
Philip Hellreich, M.D., Legislative Co-Chair
Paula Arcena, Executive Director
Dick Botti, Government Affairs Liaison

Re: HB2018 Relating to Workers' Compensation

The Hawaii Medical Association supports HB2018 and would like to request an amendment to include two physicians who treat injured patients as voting member of the proposed Council on workers' compensation. Physician members of the Council will provide valuable input for improving access to quality of care for Hawaii's injured workers.

Thank you for the opportunity to provide this testimony.

PLEASE DELIVER

To Room 309 for:

LAB Committee

Tuesday

January 22, 2008

8:30am



Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877
Facsimile (808) 525-5879

Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
Representative Alex M. Sonson, Chair
Representative Bob Nakasone, Vice Chair

Tuesday, January 22, 2008
8:30 a.m.

HB 2018

Chair Sonson, Vice Chair Nakasone, and members of the committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 60% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council submits comments on this measure. This bill creates a council on workers' compensation in the Department of Labor and Industrial Relations to advise the Department in carrying out the purposes of this chapter. We believe this council may be helpful, however, since it is a newly created body, we suggest that the bill sunset in one year in order to analyze its effectiveness.

Thank you for the opportunity to testify.



Randy Perreira
President

HAWAII STATE AFL-CIO

320 Ward Avenue, Suite 209 • Honolulu, Hawaii 96814

Telephone: (808) 597-1441

Fax: (808) 593-2149

The Twenty-Fourth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii State AFL-CIO
January 22, 2008

H.B. 2018 – RELATING TO WORKERS' COMPENSATION

The Hawaii State AFL-CIO opposes the purpose and intent of H.B. 2018. We do not believe this advisory council is necessary and will only add to the bureaucracy affecting the workers' compensation system.

Thank you for the opportunity to testify in opposition to H.B. 2018.

Respectfully submitted,

for Randy Perreira
President



Working Together for Hawaii

The Twenty-Fourth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association
January 22, 2008

H.B. 2018 – RELATING TO WORKERS’ COMPENSATION

The Hawaii Government Employees Association opposes this bill. It is our assessment that the advisory council is unnecessary and that there may be more effective ways of exercising legislative oversight and addressing the challenges posed by the workers’ compensation system.

Thank you for the opportunity to testify in opposition to H.B. 2018.

Respectfully submitted,

A handwritten signature in black ink that reads "Nora A. Nomura". The signature is written in a cursive style.

Nora A. Nomura
Deputy Executive Director

HOUSE OF REPRESENTATIVES
THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Alex M. Sonson, Chair
Rep. Bob Nakasone, Vice Chair

Date: Friday, January 25, 2008
Time: 8:15 a.m.
Place: Conference Room 309, State Capitol

TESTIMONY OF FRED GALDONES/ILWU LOCAL 142

RE: HB 2018, RELATING TO WORKERS' COMPENSATION

Thank you for the opportunity to present testimony regarding HB 2018. We oppose this bill.

HB 2018 proposes to establish a workers' compensation advisory council in the Department of Labor and Industrial Relations to recommend changes regarding the workers' compensation law. This is, in our view, an unnecessary step that will needlessly complicate the operation of the department.

First, there is already a broad spectrum of persons and institutions interested in the workers' compensation program who are vocal about expressing their recommendations and concerns. The full diversity and complexity of this range of opinion should not be artificially restricted by creating a committee to "advise" the department.

Second, if an arbitrary thirteen person advisory committee as proposed in this bill is actually created it may be manipulated to present a false consensus advocating changes that do not truly reflect community opinion. Our existing legislative bodies are charged with the responsibility for soliciting public opinion, generating and airing alternatives, enacting legislation and amending existing law, when that is required. An advisory committee would replicate functions now ably performed by legislative bodies such as this very committee and could transfer the focus of discussion and debate away from elected representatives to a forum of persons hand-picked by the executive branch.

Third, the structure of the proposed advisory committee is clearly flawed and not balanced. It proposes five voting employer members and five voting employee members, all of whom are appointed by the Director, who himself is a voting member. There are also three non-voting members with four year terms who "shall represent insurers authorized to transact workers' compensation insurance in the State." Yet there is no justification stated, and indeed none exists, for giving insurers as a special interest group this permanent, preferential treatment in the advisory's committee's composition when the interest of employers and insurers are generally the same in limiting the recovery of injured workers. The unusual favoritism displayed

by tilting the composition of the committee in favor of employers and insurers against employees demonstrates an intention to advance the interests of employers and insurers while subordinating the interests of employees. If HB 2018 is enacted, claims will be made in the future that the advisory committee represents a fair cross section of opinion in our entire community to which the legislature must respond, when in fact that is palpably untrue.

Fourth, it is our understanding that the current Director of the Department has made commendable efforts to reach out to speak with various concerned elements of the community about the work of the department concerning compensation for industrial injuries. This practice should be continued and demonstrates how advice and consultation can readily be obtained informally without the encumbrance of legislation and why a formal advisory committee such as the one proposed is quite unnecessary.

For all these reasons, we respectfully urge that HB 2018 not be enacted.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

“Building with Hawaii’s Professionals since 1955”

January 25, 2008

Representative Alex Sonson, Chair
House Committee on Labor & Public Employment
State Capitol, Room 309
Honolulu, Hawaii 96813

RE: HB 2018 “RELATING TO WORKERS’ COMPENSATION

Chair Sonson and Members of the Committee on Labor & Public Employment:

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

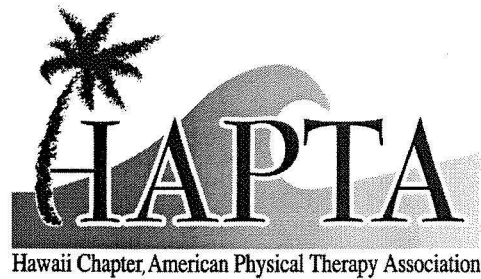
BIA-Hawaii believes that the creation of a workers’ compensation advisory council merits further discussion and consideration before being established by law. While the results of the workers compensation advisory council would affect every employer who must pay workers compensation premiums and benefits, the construction industry would feel the impact of such recommendations faster than would other industries.

We do not want to see redundancy in efforts to promote communication between labor unions, employers, and the State Department of Labor and Industrial Relations. In our industry, such discussions are already going on. In fact, representatives of the construction industry and labor organizations have engaged in meaningful discussions with the Department of Labor on labor issues in the last six months of 2007 and are continuing the dialogue throughout 2008.

Thank you for the opportunity to share our views with you.

**Testimony by:
Derrick Ishihara, PT**

**HB2018, Workers' Compensation
House LAB Committee
January 25, 2008 - 8:15 am
Conference Room 309**



Position: Oppose

Chair Sonson and Members of the House LAB Committee:

I am Derrick Ishihara, P.T., a small business owner/physical therapist and member of HAPTA's Legislative Committee. and member of the Hawaii Chapter – American Physical Therapy Association. The Hawaii Chapter – American Physical Therapy Association (HAPTA) is comprised of 300 member physical therapists and physical therapist assistants employed in hospitals and health care facilities, the Department of Education school system, and private practice. We are part of the spectrum of care for Hawaii, and provide rehabilitative services for infants and children, youth, adults and the elderly. Rehabilitative services are a vital part of restoring optimum functioning from neuromusculoskeletal injuries and impairments.

HAPTA opposes this measure because of the unbalanced nature of the advisory council, which excludes healthcare providers. The current composition is biased in favor of the employer, with 5 employers and 3 nonvoting insurance representatives, and the remaining 5 employee representatives. The absence of healthcare provider representatives is noticeable, particularly when healthcare providers are an important part of the workers' compensation system.

We do believe that an advisory council to the DLIR, when inclusive of all stakeholders, is a good thing and it can and should be done without legislation. However, we do oppose this legislation that would enable the advisory council to have what can be perceived as direct and closed-door meetings with the Legislature's Labor Committees about workers' compensation matters. Again, such discussions should be open to all stakeholders convened to provide input and discourse about improvements to the workers' compensation system.

We respectfully request that this bill be held in committee. Thank you for the opportunity to provide testimony. I can be reached at (808) 593-2610 if there are any questions.