

LINDA LINGLE  
GOVERNOR  
  
JAMES R. AIONA, JR.  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: (808) 586-2850  
Fax Number: (808) 586-2856  
[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

LAWRENCE M. REIFURTH  
DIRECTOR  
  
RONALD BOYER  
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

TWENTY-FOURTH LEGISLATURE  
Regular Session of 2008

Tuesday, January 29, 2008  
8:30 a.m.

**TESTIMONY ON HOUSE BILL NO. 2573 – RELATING TO WORKERS  
COMPENSATION.**

TO THE HONORABLE ALEX SONSON, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner (“Commissioner”),  
testifying on behalf of the Department of Commerce and Consumer Affairs  
(“Department”). The Department supports this bill.

The purpose of this bill is to increase the limitation on charges for medical care,  
services, and supplies for injured employees to 120% of the Medicare Resource Based  
Relative Value Scale system applicable to Hawaii effective January 1, 2009. The  
current limitation of 110% in Hawaii Revised Statutes (“HRS”) § 386-21(c) was adopted  
in 1995.

The workers’ compensation medical fee schedule is also referenced in the  
Insurance Code in HRS § 431:10C-308.5 and applies to medical treatment rendered in  
motor vehicle insurance cases.

The Department believes that the increase is justified and is necessary to ensure  
that employees and motor vehicle insurance claimants receive the necessary medical  
care and services for their injuries.

We thank this Committee for the opportunity to present testimony on this matter  
and respectfully request your favorable consideration.



# Hawaii State Chiropractic Association

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

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

January 26, 2008

House of Representatives  
Committee on Labor & Public Employment  
Chair Rep. Alex Sonson  
Vice Chair Rep. Bob Nakasone

Testimony for hearing  
Date: Tuesday, January 29, 2008  
Time: 8:30 am  
Conference Room 309

Chair Sonson, Vice Chair Nakasone, and members of the committee

My name is Gary Saito and I am the President and Executive Director of the Hawaii State Chiropractic Association. We are in **support of HB 2573** but wish to make some comments.

While we would prefer that the Hawaii work comp fee scheduled be unhooked from the Medicare fee schedule altogether, we support the intent of this bill because it at least tries to respect the expertise and qualifications of our many treating physicians and other healthcare practitioners.

The Medicare fee schedule is an inadequate reimbursement system for work comp for the following reasons:

1. Medicare is not an injury-based health delivery system
2. It is not a system meant for acute care
3. It does not fairly compensate practitioners for their time and treatment of injured workers
4. It does not have reporting requirements as are mandated in the work comp system; the 10% over Medicare rates is not an adequate compensation for the time required in the treatment of injured workers.

The Hawaii work comp fee schedule should never have been married to the Medicare fee schedule in the first place and many voices expressed this opinion 10 years ago. The growing failure of the work comp system to deliver quality care with accessibility to care demonstrates that the reimbursement component of the system is a failure. That so many doctors have abandoned the treatment of injured workers is a statement that reimbursements are not keeping up with the cost of living and the cost of doing business in Hawaii.

An LRB study determined that compensation should have been 135% of Medicare six years ago. With the rise in the cost of living over the last 6 years and with the Medicare fee schedule staying the same or decreasing in that time, a fair compensation should be more than that in today's dollars.

"Notice" contained in the Chiropractic Section of the Yellow Pages for the Big Island

June 20, 2005

Any year that the Medicare fee schedule drops 10% across the board as it has threatened to do the last 2 consecutive years, 120% of Medicare will only be equivalent to what we have today, a reimbursement system that isn't keeping up with the cost of doing business in Hawaii.

Thank you for allowing us to provide comment on this bill.

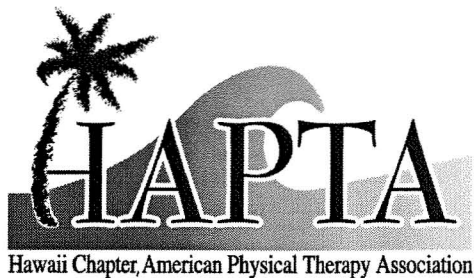
Sincerely,

A handwritten signature in black ink, appearing to read "Gary Saito". The signature is fluid and cursive, with a large initial "G" and "S".

Gary Saito, DC  
President and ED, HSCA

**Testimony by:  
Derrick Ishihara, PT**

**HB2573, Workers' Compensation  
House LAB Committee  
January 29, 2008 - 8:30 am  
Conference Room 309**



**Position: Support Intent, with Recommendations**

Chair Sonson and Members of the House LAB Committee:

I am Derrick Ishihara, P.T., a small business owner/physical therapist, 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 appreciates the intent of this measure to increase the reimbursement for medical services from 110% to 120% of the Medicare RBRVS system. We note however that the level of reimbursement for Medicare services will be reduced by 10.1% on 7/1/08 unless action is taken in Congress prior to that date. This reduction in reimbursement is determined largely by the Federal budget and other issues not directly related to the actual cost of delivering medical services in the State of Hawaii.

We feel that an increase in the 130% to 140% range would be more appropriate for the short term given the unstable nature of Medicare reimbursement policy. We understand that the Director is statutorily empowered to update the WC fee schedule, however in practice this would be a cumbersome and time consuming task as there are literally hundreds of treatment codes commonly used in WC cases.

We also caution against arbitrarily using reimbursement rates set by private insurers as in recent years these rates have also been pushed downward in the wake of the sharp drop in the WC reimbursement rates in the mid-to-late 1990s.

The current statute states that "The rates or fees provided for in this section shall be adequate to ensure at all times the standard of services and care intended by this chapter to injured employees." We find that the fees allowed for medical services to injured workers are no longer adequate for these purposes. Not only are specialists difficult to find for injured workers, many primary care physicians no longer treat injured workers. Many injured workers who have longstanding relationships with their family doctors are having to find new doctors if they are injured at work. Many primary care physicians no longer participate because of the antagonistic atmosphere and the low reimbursement when working with the WC system in Hawaii. Such a personal choice of whom you see for medical care should not be disrupted by where you sustained your injury.

Over the years, HAPTA has testified that for WC cases, reimbursement rates should be modeled after the Federal WC rates (OWCP) rather than the Medicare reimbursement rates. We continue to recommend a study of the use of OWCP rates on WC in the State of Hawaii. In the meantime, 130% to 140% of Medicare RBRVS could be used as an alternative.

Thank you for the opportunity to provide testimony. I can be reached at (808) 593-2610 if there are any questions.



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 29, 2008  
8:30 a.m.

### **HB 2573**

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 **opposes** H.B. 2573. HB 2573 increases the medical fee schedule reimbursement from 110% of Medicare to 120% of Medicare. We believe this bill is unnecessary because the Director of the Department of Labor and Industrial Relations has the ability to increase certain codes when necessary. In fact, in 2006, the department adjusted fees for approximately 1,300 CPT codes. In addition, an across the board increase will also affect personal injury protection reimbursement rates in motor vehicle insurance and the Insurance Commissioner has similar powers to increase certain codes when appropriate.

We respectfully request that H.B. 2573 be held.

Thank you for the opportunity to testify.

HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
Rep. Alex Sonson, Chair

Conference Room 309  
Tuesday, January 29, 2008 at 8:30 a.m.

Testimony in support of HB 2573.

I am Rich Meiers, President and CEO of the Healthcare Association of Hawaii, which represents the entire spectrum of health care, including acute care hospitals, two-thirds of the long term care beds in Hawaii, as well as home care and hospice providers. Thank you for this opportunity to testify in support of HB 2573, which increases the ceiling for workers compensation payments to health care providers from 110% to 120% of the Medicare fee schedule.

In recent weeks the media has featured health care in a number of articles, highlighting the adverse impacts of low payments to health care providers on Hawaii's health care system. Insufficient payments from various sources that do not cover the actual costs of care have resulted in the reduction or elimination of various programs. In fact, certain hospitals are on the verge of bankruptcy due to lack of sufficient revenue. Access to quality health care for all of Hawaii's residents is now at risk.

The workers compensation fee schedule is set statutorily at a maximum of 110% of the Medicare fee schedule, which itself does not cover the actual costs of care. The workers compensation fee schedule is also insufficient.

The inadequacy of workers compensation payments to health care providers is described in a report by the Legislative Reference Bureau entitled, "The Medical Fee Schedule Under the Workers' Compensation Law." The report concludes that, at 110% of the Medicare fee schedule, the workers compensation fee schedule is insufficient. The report describes how low payments cause some providers to refuse workers compensation cases, resulting in reduced access to quality care for patients. The report recommends increasing the workers compensation fee schedule to at least 125% of the Medicare fee schedule. That report is now 10 years old. Unfortunately, it is still as relevant today as it was then.

This bill takes a step toward bringing health care providers to stable financial footing. It also improves access to quality care for those who have been injured in workplace accidents.

For the foregoing reasons, the Healthcare Association of Hawaii strongly supports HB 2573.

# GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET  
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196  
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880  
info@goodsill.com • www.goodsill.com

INTERNET:  
gslovin@goodsill.com  
cpablo@goodsill.com  
ahoriuchi@goodsill.com  
meito@goodsill.com  
jmarkle@goodsill.com  
lkakazu@goodsill.com

GOVERNMENT RELATIONS TEAM:

GARY M. SLOVIN, ESQ.  
CHRISTOPHER G. PABLO, ESQ.  
ANNE T. HORIUCHI, ESQ.  
MIHOKO E. ITO, ESQ.  
JOANNA J. H. MARKLE\*

LISA K. KAKAZU\*\*  
\* Government Relations Specialist  
\*\* Legal Assistant

January 28, 2008

TO: Representative Alex Sonson  
Chair, Committee on Labor & Public Employment  
Hawaii State Capitol, Room 323  
Via Email: [LABtestimony@Capitol.hawaii.gov](mailto:LABtestimony@Capitol.hawaii.gov)

FROM: Anne T. Horiuchi, Esq.  
H.B. 2573 Relating to Workers' Compensation  
Hearing Date: Tuesday, January 29, 2008 at 8:30 a.m.

---

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

I am Anne Horiuchi, testifying on behalf of the American Insurance Association (AIA). AIA represents approximately 350 major insurance companies that provide all lines of property and casualty insurance and write more than \$123 billion annually in premiums. AIA members supply 23 percent of the property/casualty insurance sold in Hawaii. The association is headquartered in Washington, D.C., and has representatives in every state.

H.B. 2573 increases the workers' compensation fee schedule from one hundred ten to one hundred twenty percent.

AIA is in the process of reviewing the various workers' compensation measures before the Legislature. At this time, AIA does not take a position on H.B. 2573.

Thank you very much for this opportunity to submit testimony.



Hawaii Employers' Mutual Insurance Company, Inc.

1003 Bishop Street  
Suite 1000  
Honolulu, Hawaii 96813  
Tel: 808-524-3642 ext. 212  
Fax: 808-522-5510  
e-mail: [efukeda@hemic.com](mailto:efukeda@hemic.com)

**COMMITTEE ON LABOR & PUBLIC EMPLOYMENT**

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

Testimony Related to HB 2573  
Tuesday, January 29, 2008  
8:30 A.M.  
Conference Room 309

Chair Sonson, Vice Chair Nakasone, and Committee Members:

I am Ernest H. Fukeda, Jr., Chief Operating Officer of Hawaii Employers' Mutual Insurance Company, Inc. (HEMIC). Thank you for the opportunity of offering testimony regarding HB 2573. It is clear that it is time to review the Workers' Compensation fee schedule for appropriateness and effectiveness. Another element that needs to be validated in conjunction with this bill is for the physicians to demonstrate their availability and effectiveness to facilitate an improved system.





## LATE TESTIMONY

PLEASE DELIVER

To rm 309 for:  
Committee on Labor &  
Public Employment

Tuesday  
1/29/08  
8:30 am

January 29, 2008

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

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: HB2573 Relating to Workers' Compensation (Increases workers compensation fee schedule from one hundred ten to one hundred twenty percent)

The Hawaii Medical Association supports HB2573. An increase in the workers' compensation fee schedule is vital so that injured workers can be properly cared for and have access to the medical care they need.

However, we would prefer to separate the workers' compensation fee schedule from the Medicare fee schedule. The Medicare fee schedule was originally designed for the medical care of the elderly, not the injured workers. In addition, the Medicare fee schedule has decreased annually for many years with no recognition of the cost of providing adequate medical care.

Thank you for the opportunity to testify on this matter.

*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

Hawaii Medical Association  
1360 S. Beretania St.  
Suite 200  
Honolulu, HI 96814  
(808) 536-7702  
(808) 528-2376 fax  
www.hmaonline.net