LATE

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

LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON HEALTH

TWENTY-FOURTH LEGISLATURE
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Friday, February 8, 2008
1:15 p.m.

TESTIMONY ON SENATE BILL NO. 2149 – RELATING TO INSURANCE.

TO THE HONORABLE DAVID Y. IGE, 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 takes no position but offers comments only for this bill, which brings dental insurers under the premium rate regulation regime established for health insurers.

This bill will not be effective in regulating dental insurers. This bill picks a few sections from the rate regulation regime and applies it to dental insurers. This simply will not work because it leaves out most of the regulations that are necessary to implement rate regulation. The entire regime of rate regulation must be imposed for it to be successful. In particular, the bill provides no guidance as to what should be filed, what methodology of filing should be used, what the basis for disapproval should be, how to handle interim rates, or what penalties can be assessed for noncompliance. In short, this bill does not establish an effective regulatory regime for dental insurers. In addition, by enacting a separate regime for dental insurers, this bill creates an unlevel playing field between health insurers and dental insurers. Finally, because the bill only

modifies certain sections of the rate regulation statute it creates significant legal ambiguity as to what applies to dental insurers and what does not. This can be very problematic when it comes time to enforce the statute.

It should also be noted that dental insurers are not subject to a requirement to file annual financial statements with the Insurance Commissioner. This will make it harder for the Commissioner to implement rate regulation for dental insurers and when it is done, it will not be a level playing field because dental insurers will be using financial statements based on generally accepted accounting principles ("GAAP") as opposed to statutory accounting principles.

To enact effective regulation of dental insurers, this bill should incorporate the defined term "dental insurance provider" into the definition of managed care plan instead of treating it as something separate from health insurance. Doing that would bring dental insurers under the complete regulatory regime established for health insurers which, as we have said, is necessary for the regulation to be implemented successfully. Specifically, we strongly recommend the following changes if this bill moves forward.

1. Modify the definition of "managed care plan" as follows:

   "Managed care plan" or "plan" means <u>a dental insurance provider or</u> a health plan as defined in section 431:10A, or chapter 432 or 432D, regardless of form, offered or administered by a health care insurer, including but not limited to a mutual benefit society or health maintenance organization, or voluntary employee beneficiary association, but shall not include disability insurers licensed under chapter 431."

2. Add a new definition of "health insurance" as follows:

"Health insurance" means insurance for medical goods and services, pharmaceuticals, and dental goods and services."

3. Reverse the addition of the phrase "dental insurance provider" to "managed care plan" everywhere it appears in this bill. In addition eliminate the words "or dental care services and benefits by a dental insurance provider" from page 3, lines 3-4 of the bill.

4. Reverse the addition of the word "dental" to the words "health insurance" everywhere it appears in this bill.

5. Make the effective date of the bill January 1, 2009 so that the dental insurers have ample time to develop a proper rate filing. Filings are complex and if a dental insurer is new to the process it will take some time for them to develop an effective rate filing.

6. Delete the exclusion for health plans that write dental insurance in order to assure a level playing field among all dental insurers. This requires modifying HRS section 431:14G-105(m) as follows:

   "(m) Subsections (a) through (l) shall not apply to third party administrator services, [prepaid dental insurance offered by managed care plans,] prepaid vision insurance offered by managed care plans and disability insurers licensed under chapter 431. For managed care plans with rates based totally or in part on the individual group's claims experience, insurers subject to this subsection shall submit to the commissioner for approval descriptions of the methodology to be used in creating rates and every modification thereof that it proposes to use. The description of methodology shall contain specific information allowing a determination of rates that meet the standards of section 431:14G-103(a) and supporting information and justification. Every filing shall state its proposed

effective date and shall indicate the character and extent of the coverage contemplated. Complete supporting and supplementary rating information for rates shall be maintained and made available to the commissioner upon request."

We thank this Committee for the opportunity to present testimony on this matter and ask that this bill be held or, if the bill is to move forward, that the changes recommended herein be incorporated.