

SB 2864



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 COMMITTEES ON HEALTH AND
COMMERCE, CONSUMER PROTECTION AND AFFORDABLE HOUSING

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Friday, February 1, 2008
1:15 p.m.

TESTIMONY ON SENATE BILL NO. 2864 – RELATING TO INSURANCE

TO THE HONORABLE DAVID Y. IGE AND RUSSELL S. KOKUBUN, CHAIRS, AND
MEMBERS OF THE COMMITTEES:

My name is J. P. Schmidt, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department has a number of concerns with this bill, which makes some health insurers pay higher reimbursements for healthcare services and other health insurers decrease the number of the uninsured. Our concerns are as follows.

First, it appears that the bill is intended to target insurers who provide health insurance in accordance with the Prepaid Health Care Act, Hawaii Revised Statutes (“HRS”) chapter 393, and authorized under HRS chapters 432 and 432D. That should be specifically stated. We also have hundreds of insurers that provide accident and health or sickness insurance who are not the type of insurer this bill is intended to regulate. Because the bill is not properly targeted it creates an unlevel playing field that will distort the market.

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Second, it creates an unlevel playing field to have some insurers providing higher reimbursements and other insurers reducing the number of the uninsured. Any rule to be applied to a market should be applied equally to all market participants so that there is no unfair competitive advantage given to one over the other.

Third, the bill refers to an exemption from premium taxes pursuant to HRS section 431:19-116. This section relates to the taxation of captives and has nothing to do with health insurance. Health insurers are subject to premium taxes pursuant to HRS section 431:7-202.

Fourth, we note that it is not a common practice for governments in the United States to mandate minimum price levels for sellers of goods and services.

We thank this Committee for the opportunity to present testimony on this matter and ask that this bill be held.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON S.B. 2864 RELATING TO INSURANCE

February 1, 2008

Via E Mail: testimony@capitol.hawaii.gov
Senator David Y. Ige, Chair
Committee on Health
State Senate
Hawaii State Capital, Conference Room 016
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Ige and Committee Members:

Thank you for the opportunity to comment on Senate Bill 2864, relating to Insurance.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred fifty-three (353) member companies account for 93% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI member company assets account for 93% of legal reserve company total assets. Two hundred sixty-one (261) ACLI member companies currently do business in the State of Hawaii.

As currently drafted Senate Bill 2864 applies to all insurers that provide accident and health or sickness coverage.

ACLI submits that the reimbursements for health care services mandated by the bill are intended to apply only to "health insurance".

However, "accident and health or sickness insurance" is defined in Section 431: 1-205, to include disability insurance issued by life insurers.

In order to dispel any confusion that Senate Bill 2864 applies to anything other than health insurance ACLI suggests that Section 2 of the Bill be amended in relevant part as follows:

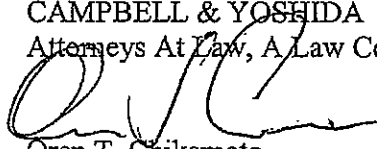
§431: 10A-____ Health insurers: market-share-based reimbursement rates. (a) Any insurer with fifty per cent or more of the market share that provides accident and health or sickness coverage, other than disability income insurance, shall provide reimbursements for health care services at a rate of one hundred thirty-five per cent of the current medicare fee schedule.

(b) Any insurer with less than fifty per cent of the market share that provides accident and health or sickness coverage, other than disability

income insurance, shall be exempt from payment of taxes on gross premiums pursuant to section 431: 19-116

Again, thank you for the opportunity to comment on Senate Bill 2864.

CHAR HAMILTON
CAMPBELL & YOSHIDA
Attorneys At Law, A Law Corporation



Oren T. Chikamoto
737 Bishop Street, Suite 2100
Honolulu, Hawaii 96813
Telephone: (808) 524-3800
Facsimile: (808) 523-1714
E mail: ochikamoto@chctlaw.com



January 31, 2008

The Honorable Russell Kokubun
Chair, Senate Committee on Commerce, Consumer Protection and Affordable Housing

The Honorable David Ige
Chair, Senate Committee on Health

In **Opposition** to SB 2864 (written testimony only)

Thank you for the opportunity to testify in opposition to SB 2864.

AlohaCare is Hawaii's third largest health plan with more than 55,000 health plan members statewide. We are unique in that our entire mission as a health plan is to serve Hawaii's most fragile and vulnerable populations. We do so exclusively through State and Federal government contracts. AlohaCare was formed in 1994 by Hawaii's community health centers. Historically, the vast majority of Hawaii's uninsured citizens have received their health care at a community health center. We therefore, feel passionate about reducing the number of uninsured.

We greatly appreciate the Legislature's efforts to reduce the number of uninsured in Hawaii, however, SB 2864 would not accomplish this and would set a dangerous precedent by exempting for-profit health plans from paying the 4.265 percent premium tax on their gross revenue.

What this bill proposes is a serious overstep of tax authority. The Internal Revenue Service is the government agency that is set up to rigorously review and approve businesses to receive tax exempt status as a non-profit. The IRS grants this distinction to non-profit organizations, like AlohaCare, because the IRS has determined that the mission, structure and objective of the non-profit are to benefit the public.

For-profit health plans are in the business of paying profits to their owners and stockholders. This bill would improperly relieve these organizations from their tax obligations and advantage their owners and stockholders at a substantial cost to the State. This bill sets a very dangerous precedent by subsidizing for-profit companies.

Since our inception, AlohaCare has devoted significant amounts of money, time, and effort to decrease the number of uninsured in Hawaii. We are committed to continue to do so not because of a promise of a tax exemption, but because of our mission to help Hawaii's most medically fragile citizens.

We urge you to hold this bill.

Thank you for this opportunity to testify.

Sincerely,

John McComas
Chief Executive Officer

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 1, 2008

The Honorable David Ige, Chair
The Honorable Russell Kokubun, Chair

Senate Committees on Health and Commerce, Consumer Protection and Affordable Housing

Re: SB 2864 – Relating to Health Insurance

Dear Chair Ige, Chair Kokubun and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in opposition to SB 2864 which would require that health plans with more than 50 per cent of the market share provide increased insurance reimbursements and for-profit health plans with less than 50 per cent of the market share be afforded an exemption from premium taxation provided they work toward decreasing the number of uninsured in Hawaii.

Unfortunately, we believe that the current language of this measure raises many issues and concerns. Including:

Fairness and Equity

SB 2864 would essentially create different regulatory requirements for health plans operating in the State. We believe that this would create an unlevel playing field and that all health plans should have to adhere to the same set of regulatory guidelines.

Legislating Reimbursement Policies is Potentially Dangerous

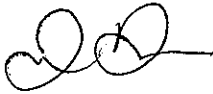
- Once a bill's language has been approved and becomes statute it is essentially static in nature. Unless the Legislature sees fit to revisit an issue and amend existing law while in session, changes cannot be made swiftly.
- Medical services and technologies are changing quickly as scientific advances are made. Again a reimbursement rate set in statute would be unable to rapidly change to keep up with medical advances.
- The current methods that health plans use to determine reimbursement rates consist of different factors and components and are not solely based on the rates contained in the Medicare fee schedule. When developing rates, HMSA takes into account the make up of our member population which, being mostly employer-based, differs significantly from the Medicare population. Since these populations differ, the types and amounts of services being utilized differ as well. Additionally Hawaii's unique geographic makeup presents distinct challenges when it comes to the availability of health care resources.

Creating a Loophole to Acquire Non-Profit Status

HMSA's non-profit status benefits not only the 11,000 businesses in the State that purchase our health plans and our 700,000 members but the entire community. Our health and wellness initiatives are funded through the HMSA Foundation and HMSA's corporate giving. Under the language of SB 2864, a for-profit health plan would be able to enjoy the benefits of tax exemption not through meeting the statutory requirements existing in law today but by complying with the language in SB 2864. We believe that this would be precedent setting in nature for all businesses operating in the State.

For the reasons listed above, we would respectfully request the Committees consider holding this measure. Thank you for the opportunity to testify in opposition to SB 2864.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD', with a horizontal line extending to the right.

Jennifer Diesman
Director, Government Relations



LATE TESTIMONY

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION & AFFORDABLE HOUSING

Sen. Russell Kokubun, Chair

SENATE COMMITTEE ON HEALTH

Sen. David Ige, Chair

Conference Room 016

February 1, 2008 at 1:15 p.m.

Testimony in support of SB 2864.

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 SB 2864, which requires any health care insurer with at least 50% of the market share to pay for health care services at a rate of at least 135% of the Medicare fee schedule.

In recent weeks the media have featured a number of articles highlighting the complex and multi-faceted crisis that is plaguing Hawaii's health care system. Payments for health care from Medicare, Medicaid, and private insurance are too low. Medical malpractice insurance premiums are too high. Some physicians have already left Hawaii to practice on the mainland where financial conditions are more reasonable. Kahuku Hospital was on the verge of bankruptcy a year ago and about to close its doors before it was acquired by the Hawaii Health Systems Corporation (HHSC). Meanwhile, HHSC is requesting emergency funding during the current session in order to pay its suppliers. This bill addresses one aspect of Hawaii's health care crisis.

Our country's economic system is based on healthy competition, which helps to ensure that customers have access to the best products and services at the best prices. When competition is limited in any particular market, distortions appear, and the customer is not well served. Government can play a role in reducing distortions. For example, the federal government took legal action in 1984 against the Bell telephone system, which was a virtual national monopoly. That action resulted in the breakup of Bell into many separate telephone companies. In Hawaii, the Public Utilities Commission regulates the rates charged by all public utilities companies, such as electricity rates.

Hawaii suffers from imperfect competition within the health care insurance market, where a single company is dominant. That company and a few small insurers contract with numerous providers for health care services. That type of market structure is called an oligopsony, which predicts that payments made by insurance companies to health care providers are less than they would be under pure competition. This is one of the reasons that health care providers are suffering financially. This bill seeks to create a sense of fairness in the health care marketplace.

For the foregoing reasons, the Healthcare Association supports SB 2864.