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TO THE SENATE COMMITTEE ON COMMERCE,  
CONSUMER PROTECTION, AND AFFORDABLE HOUSING

TWENTY-FOURTH LEGISLATURE  
Regular Session of 2008

Monday, February 25, 2008  
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 3017, S.D. 1 – RELATING TO INSURANCE.**

TO THE HONORABLE RUSSELL KOKUBUN, 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”). Thank you for scheduling a hearing on this bill. The Department strongly supports this Administration bill, with a suggested amendment.

The purpose of this bill is to make Article 11 of the Insurance Code, Hawaii Revised Statutes (“HRS”) chapter 431, expressly applicable to mutual benefit societies and allow the Commissioner to monitor the relationship and transactions between mutual benefit societies and their affiliates and among the affiliates of mutual benefit societies, in the same manner as presently authorized for other insurers. This version of the bill has a defective effective date of July 1, 2050.

Specifically, this bill will bring controlled affiliate transactions up to the standards set forth in HRS § 431:11-106 and allow the review of affiliated transactions. Mutual benefit societies will be required to file registration statements describing their affiliate network.

Currently, certain mutual benefit societies conduct the business of insurance through the extensive use of affiliates. Regulatory oversight of affiliate transactions is required, because they are not always independent or “arm’s length” transactions. Current law is unclear as to whether the Commissioner is authorized to take enforcement action regarding affiliated transactions conducted by mutual benefit societies.

Mutual benefit societies are no longer simple membership organizations owned and maintained for the benefit of their members. Some mutual benefit societies have become largely dormant, offering few benefits to few members, but holding substantial amounts of cash. Other mutual benefit societies are used as shell companies to divert profits to affiliates privately owned and controlled by management, and not operated for the benefit of members. Other mutual benefit societies have become investment vehicles for investors to hold investments and subsidiaries that have business dealings with affiliates.

The intent of this measure is to protect mutual benefit society members by providing oversight of these types of complex corporate and financial arrangements.

The Department respectfully requests amending the effective date on page 3, line 9, in section 5 of the bill to “July 1, 2008”.

We thank this Committee for the opportunity to present testimony on this matter and ask that the Committee pass an S.D. 2 with July 1, 2008 as the effective date.

# HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 25, 2008

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

**Re: SB 3017 SD1 – Relating to Insurance**

Dear Chair Kokubun, Vice Chair Ige and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 3017 SD1 which would increase the Insurance Commissioner's regulatory authority over mutual benefit societies and their affiliates. HMSA has concerns with this measure.

Although this measure seems to only implement some minor changes to the insurance code, we believe that these amendments could drastically affect the way that health plans are regulated in the State. The language in this bill is unclear as to what requirements health plans will need to comply with and what this regulation is actually hoping to accomplish.

We believe that if forced to comply with SB 3017 SD1, a new level of bureaucracy would be created that would tie the hands of health plans and stifle innovation. For example, when Hawaii's employers were experiencing difficulty in finding workers' compensation coverage, HMSA saw an opportunity to assist our members and created a worker's compensation affiliate. While this affiliate is no longer part of HMSA, we believe that if SB 3017 SD1 had been in effect at the time, this venture may not have been an option.

We believe that what looks like a small change in current statute could cause an unreasonable burden on health plans. We are especially concerned about how this measure might regulate our Foundation. The HMSA Foundation is a private charitable foundation and provides a vehicle by which HMSA can invest resources in a cost-effective manner to enhance the overall health and quality of life for the communities we serve. In addition to the possible issue with our own Foundation, we believe that this measure might impact our relationship with other Blue Cross Blue Shield Plans across the country.

We believe that the language in SB 3017 SD1 could cause more harm than good and respectfully request the Committee hold this measure. Thank you for the opportunity to testify today.

Sincerely,

A handwritten signature in black ink, appearing to read "JDiesman".

Jennifer Diesman  
Director, Government Relations