



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

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

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

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Thursday, February 26, 2009
8:30 a.m.

TESTIMONY ON SENATE BILL NO. 304 – RELATING TO INSURANCE BENEFITS.

TO THE HONORABLE ROSALYN H. BAKER, 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 the intent of this bill, which is to require that coverage for mental health and alcohol and drug abuse treatment is on a par with treatment for physical illness or injury. We see no reason for differential treatment in these cases. However, we wish to express our concerns with the way the bill is drafted.

Section 3 of the bill requires the Commissioner to adopt administrative rules that “shall ensure” access to care. Although it is easy to speak in generalities about access to care and what it might mean, it may not be feasible to legislate it into existence. Some areas may be underserved because the economics do not support a full range of providers, or even because some doctors may have personal reasons for preferring not to live and work in a given place. In addition, it can be quite difficult to enforce access requirements because of the high degree of subjectivity involved in determining what constitutes “timely and appropriate” access. What might seem timely and appropriate to one person may not to another. Extended and complex legal disputes may follow. We

are also concerned that this may lead us into the complicated area of managing physician reimbursements, at least in the mental health area. We note that the expertise of the Insurance Division is primarily in insurance finance. We are not experts in healthcare delivery and this bill could effectively put us in charge of the mental healthcare system. Finally, it is not clear to what extent this legislation gives us authority over healthcare providers, but to “ensure” access, we may need to assert authority that the Legislature does not contemplate giving to us through this bill.

Item (3) of Section 3 of the bill references “medically necessary treatment”. We recommend that this be changed to “medically appropriate treatment,” which is broader and does not require as stringent a scientific proof to back it up. More people can be helped with a broader standard. It can take many years for enough scientific proof to build up around a treatment to warrant calling it “medically necessary”.

We thank this Committee for the opportunity to present testimony on this matter.