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TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Monday, March 30, 2009
2:15 a.m.

TESTIMONY ON SENATE BILL NO. 940, SD 1, HD 1 – RELATING TO INSURANCE.

TO THE HONORABLE ROBERT N. HERKES, 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 supported this bill as originally drafted, which required direct payment to the State of Hawaii for provision of pre-hospital treatment and transport services under circumstances where the State and the health insurer have not entered into a contract. We strongly oppose the House Draft 1 that requires private entities to enter a contract within 90 days as contrary to sound public policy and leading to increased costs to the State.

Direct payment to a non-participating provider may encourage a health insurer to enter into a mutually beneficial participating provider contract with the State of Hawaii. If the insurer does not, this bill helps the State get compensated for the cost of services that it must provide Hawaii's people.

The amendment requiring an insurer to enter into contracts with hospitals and providers within 90 days is bad public policy because it puts a gun to the head of the

insurer. The hospitals and providers can hold out for high reimbursements with no downside. The higher costs paid by the insurer are then passed on to the state since the state pays for Medicaid costs.

We thank this Committee for the opportunity to present testimony on this matter and ask that you amend the bill to remove Part II and pass out the bill as a House Draft2.

PRESENTATION OF THE
CONTRACTORS LICENSE BOARD

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

AND

TO THE HOUSE COMMITTEE ON JUDICIARY

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Monday, March 30, 2009
2:00 p.m.

TESTIMONY ON SENATE BILL NO. 205, S.D.1, H.D.1, RELATING TO OWNER-BUILDERS.

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE JON RIKI KARAMATSU, CHAIR
AND MEMBERS OF THE COMMITTEES:

My name is Denny Sadowski, Legislative Committee chair of the Contractors License Board ("Board"). The Board appreciates the opportunity to present testimony on S.B. No. 205, S.D.1, H.D.1 relating to owner-builders. The Board supported the intent of S.B. No. 205, and the amendments proposed in the S.D.1; however, has not had the opportunity to discuss the amendments proposed on page 4, lines 6-9 of the H.D.1, but will do so at its next scheduled meeting on April 17, 2009.

Thank you for the opportunity to present comments on S.B. No. 205, S.D.1, H.D.1.

HMSA

Blue Cross
Blue Shield
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

March 30, 2009

The Honorable Robert Herkes, Chair
The Honorable Glenn Wakai, Vice Chair
House Committee on Consumer Protection and Commerce

Re: SB 940 SD1 HD1 – Relating to Insurance

Dear Chair Herkes, Vice Chair Wakai and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in opposition to Part I of SB 940 SD1 HD1. HMSA takes no position on Part II of this measure.

In June 2008, the Department of Health (DOH) canceled contracts it had with all the health plans in the state for the provision of ambulance services. Health plans, such as HMSA, had negotiated their own rates for years but DOH determined that since these contracted rates varied between plans that they would no longer contract with anyone to provide these services. The result of this action was to increase the cost of transporting HMSA's members to both the plan and the member.

Once DOH made the business decision to become a non-participating provider with HMSA, they no longer were entitled to the benefits that being a contracted provider brings. This includes how payment is made to DOH once a claim for ambulance services has been received. Our entire health care system is based on an agreement between the health plan and the provider. In the agreement, the provider agrees to accept the plan's eligible charge as payment in full (i.e. the provider agrees not to charge our members any more than the eligible charge, also known as balance billing) and the plan agrees to pay the provider directly as well as list the provider in its marketing materials. With DOH's decision to become non-participating with HMSA, just as any other non-participating provider, HMSA no longer pays them directly.

We would also note that although HMSA is not directly reimbursing DOH for the claims submitted on behalf of our members, the decision was made to continue to provide reimbursement to DOH at the participating provider eligible charge rate. This decision was made in an effort to protect our members from having to pay increased out-of-pocket expenses. This is being done since as a non-participating provider DOH would only be entitled to the lesser non-participating eligible charge and would then bill our members for the balance. By providing the participating eligible charge as payment, our members are experiencing less out-of-pocket expense.

Additionally, we do not believe that the legislative process should be used for this purpose since choosing to terminate all contracts with the health plans in the state was a business decision made by DOH.

For the reasons mentioned above, we would respectfully urge the Committees to remove Part I of SB 940 SD1 HD1 in its entirety. Thank you for the opportunity to provide testimony today.

Sincerely,

Jennifer Diesman
Assistant Vice President
Government Relations

MCCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

March 30, 2009

Honorable Robert N. Herkes, Chair
Honorable Glenn Wakai, Vice Chair
Committee on Consumer Protection and Commerce
House of Representatives
State Capitol
415 South King Street
Honolulu, Hawaii 96813

Re: S.B. No. 940, S.D.1, H.D.1 RELATING TO INSURANCE

Dear Chair Herkes, Vice Chair Wakai, and Committee Members:

On behalf of the American Family Life Assurance Company of Columbus (AFLAC), we respectfully submit the following written testimony with respect to Senate Bill No. 940, relating to insurance, which is to be jointly heard by your Committee on Consumer Protection and Commerce on March 30, 2009.

S.B. No. 940, S.D.1, H.D.1, is intended to require direct payment for the provision of pre-hospital ambulance treatment and transport services. However, there are certain types of supplementary or limited benefit insurance, for example, covering only accidental injuries, hospital stays or specific diseases, for which it would not be appropriate to require such direct payment.

Specifically, AFLAC offers limited benefit policies which include an ambulance benefit, but such benefit is a supplemental amount that is intended to assist the insured with the costs related to receiving services or treatment, rather than to reimburse the insured for the costs of the services or treatment itself, which are covered by the insured's primary health insurance. These limited benefit insurance policies provide benefits paid directly to the insured, based on specific occurrences of treatment (or disease), without regard to the cost to the insured, *i.e.*, are not reimbursement policies.

Because the benefits under such policies always are paid to the insured, regardless of the cost of treatment, and such benefits are supplemental to the insured's primary health insurance, requiring direct payment to the State would not be appropriate and would be contrary to the purpose of the consumer in purchasing the policy.

For the foregoing reasons, we support the amendment of subsection (a) of the new section to be added to HRS chapter 431:10A by section 2 of H.B. No. 940 to delete from its

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coverage "limited benefit insurance" by adding the following, which is based upon the language currently contained in Hawaii Revised Statutes section 431:10A-121:

> **"§431:10A- Direct payment for pre-hospital ambulance treatment and transport services.** (a) Any accident and health or sickness insurer that offers coverage for pre-hospital ambulance treatment and transport services, other than an accident-only, specified disease, hospital indemnity, medicare supplement, long-term care, or other limited benefit health insurance policy, shall provide for direct payment for the provision of pre-hospital ambulance treatment and transport services. This subsection (a) shall not apply to any transaction between the provider of pre-hospital ambulance treatment and transport services and an insurer if the parties have entered into a contract providing for direct payment.
>
> (b) For purposes of this section, "Direct payment" means:
>
> (1) A claim shall be filed on behalf of the enrollee for the provision of pre-hospital ambulance treatment and transport services with the insurer;
>
> (2) The insurer shall pay for the provision of pre-hospital ambulance treatment and transport services within sixty days of receipt of a claim filed by the provider; and
>
> (3) The provider shall not make a demand for payment from the enrollee for the provision of pre-hospital ambulance treatment and transport until payment has been received from the insurer. Thereafter, the provider may make a demand for payment from the enrollee for any unpaid portion of the services provided to the enrollee.
>
> "Pre-hospital ambulance treatment and transport services" means ambulance treatment and transport services generated through requests to the State's 911 system."

(Additional language underscored.)

The proposed exception is based upon similar exceptions in mandated coverage for limited benefit health insurance policies. *See, e.g.*, HRS § 431:10A-121 ("Each policy of accident and health or sickness insurance providing coverage for health care, other than an accident-only, specified disease, hospital indemnity, medicare supplement, long-term care, or other limited benefit health insurance policy, that is issued or renewed in this State, shall provide coverage for outpatient diabetes self-management training, education, equipment, and supplies . . . ").

Thank you for your consideration of the foregoing.

Very truly yours,

McCorriston Miller Mukai MacKinnon LLP

Peter J. Hamasaki

Hawaii Pacific Health

55 Merchant Street • Honolulu, Hawaii 96813 • hawaiipacifichealth.org

Monday – March 30, 2009
Conference Room 325
2:15 pm

The House Committee on Consumer Protection & Commerce

To: Representative Robert N. Herkes, Chair
Representative Glenn Wakai, Vice Chair

From: Hilton Raethel
Vice President – Contracting & Decision Support

RE: Testimony in Strong Support of SB 940 SD1 HD1

My name is Hilton Raethel, Vice President of Contracting and Decision Support for Hawaii Pacific Health which is the four-hospital system of Kapi'olani Medical Center for Women & Children, Kapi'olani Medical Center at Pali Momi, Straub Clinic & Hospital, and Wilcox Memorial Hospital. For more than a century, families in Hawaii and the Pacific Region have relied on the hospitals, clinics, physicians and staff of Hawaii Pacific Health as trusted healthcare providers. Our non-profit integrated healthcare system is the state's largest healthcare provider and is committed to improving the health and well-being of the people of Hawaii and the Pacific Region through its four hospitals -- Kapi`olani Medical Center for Women & Children, Kapiolani Medical Center at Pali Momi, Straub Clinic & Hospital and Wilcox Memorial Hospital -- 18 outpatient centers and a team of 1,100 physicians on the islands of Oahu, Kauai and Lanai.

We are writing in strong support of Senate Bill 940 SD1 HD1 which will require insurance entities contracting with the State to provide Medicaid coverage to have written contracts with at least 50% of the hospitals and providers in the coverage area within 90 days of contracting with the State, thereby ensuring an operable network for recipients.

We support this measure because it will help ensure a smooth transition for QUEST and QUEST Expanded Access plan participants and ensure that prospective Medicaid plans have a viable and operable network of hospitals and providers of healthcare services in place *prior* to contracting with the State.

Thank you for the opportunity to testify. We ask that you pass SB 940 SD1 HD1 from this committee.