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TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2010

Tuesday, March 9, 2010  
10:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2494, SD2 – RELATING TO INSURANCE.**

TO THE HONORABLE RYAN I. YAMANE, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is J.P. Schmidt, Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department opposes this bill which requires any insurer issuing a prescription drug policy to conform the benefits to the coverage offered under the insured's previous health plan.

The long term effect of this bill will be to require a uniform benefits package for prescription drugs in Hawaii. Uniformity in coverage may not be a good thing in that it reduces choices for consumers. In addition, even if uniform coverage were a good goal, the transition period in which an insurer will have to conform to various non-conforming policies issued by different insurers could be rocky, particularly since a given insurer may have policies under various drug regimes. It could also complicate premium rating for prescription drugs, particularly if it results in segmentation of the risk pool.

It would also be prudent to research the question of whether this amendment is a de facto amendment of the Prepaid Health Care Act that would jeopardize the Act's exemption from ERISA.

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

**Testimony to the House Committee on Health**  
**Tuesday, March 9, 2010**  
**10:00 a.m.**  
**Conference Room 329**

**RE: SENATE BILL NO. 2494 SD2 RELATING TO INSURANCE**

Chair Yamane, Vice Chair Nishimoto, and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber appreciates the opportunity to testify in opposition to SB 2494 SD2, which would require a health plan to provide prescription drug coverage to a member that is identical to the prescription drug coverage the member had been offered by their previous health plan.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

Currently Hawaii employers are mandated to provide health care coverage to their full-time employees under the Prepaid Health Care Act (PHCA). Although the PHCA does not require the provision of prescription drug benefits, most employers include this as a benefit for their employees as well.

Unfortunately under the language currently contained in SB 2494 SD2, employers would find it increasingly difficult to manage their employee's health care benefits and the cost of those benefits. This is because if the employer decided to switch health plans in order to exact a cost savings or even if the employer's plan made changes to their existing drug formulary, any savings could be lost since employees would be able to maintain the drug coverage they had prior to the change. In addition, an employer would end up with employees with the same medical coverage but with differing levels of drug coverage creating potential equity issues.

We would also point out that this measure would create an administrative burden on employers having to educate their employees on differences between drug formularies. Drug formularies are extremely large and comprehensive lists of medications which, if presented to employees, would only serve to create additional confusion. It is unclear how an employee would be able to determine which prescription drug coverage would best meet their needs or how an employer would even be able to provide guidance to their employees.

We believe that this measure would only serve to strain local employers during this difficult time. Therefore, we would respectfully request the Committee to hold SB 2494 SD1.



*The Official Sponsor of Birthdays*

March 8, 2010

Committee on Health  
Representative Ryan Yamane, Chair  
Representative Scott Nishimoto, Vice Chair

**Hearing:**

10:00 A.M. Tuesday, March 9, 2010  
Hawaii State Capitol, Room 329

**RE: SB2494, SD2 – Relating to Insurance**

**Testimony in Strong Support**

Chair Yamane, Vice Chair Nishimoto, and members of the Committee on Health. Thank you for the opportunity to offer testify in strong support of SB2494, SD2, which requires health insurance companies and entities to offer the same drug coverage to an insured that, was offered by a previous health insurer.

As the Committee may remember we previously testified in strong support of a similar house bill, HB2461. We strongly backed these measures as they would ensure that individuals are not deprived of life-saving medications due to a change in insurance coverage for reasons beyond the patient's control.

We fully endorse amended language in the SD2 that clarifies prescription drug categories including:

- Anticancer drugs, both oral and intravenous chemotherapy;
- Intravenous immune globulin therapy, also known as IVIG; and
- Pediatric prescriptions for children with chronic diseases or conditions;

We believe that it is this measure if enacted will be extremely beneficial for cancer patients undergoing active chemotherapy, further it will offer assurance that their prescribed drug regimen would remain unchanged.

We urge you to pass SB2494, SD2.

Thank you for your consideration.

A handwritten signature in cursive script, appearing to read "George Massengale".

George Massengale, J.D.  
Director of Government Relations



1100 New York Avenue, NW Suite 630 Washington, DC 20005 (202) 331-2196

March 6, 2010

The Honorable Ryan Yamane  
37th Representative District  
Hawaii State Capitol, Room 419  
415 South Beretania Street  
Honolulu, HI 96813

RE: SB 2494 SD2 - SUPPORT

Dear Representative Yamane,

The Alliance for Plasma Therapies, a national non-profit organization established to provide a unified, powerful voice of patient organizations and healthcare providers to educate about the diseases that rely on plasma derived therapies and advocate for fair access to plasma therapies for patients who benefit from their lifesaving effects, strongly supports SB 2494. SB 2494 requires health insurers and like entities to offer continued coverage of specific prescription medications where an individual's physician determines that continued coverage is in the best interest of the patient after changing insurance carriers.

On an annual basis, the Alliance receives approximately 250 insurance cases from patients who have been denied access to their lifesaving therapy intravenous immune globulin therapy (IVIG) throughout the U.S. IVIG is a plasma-derived therapy used to treat patients with autoimmune diseases, cancer, primary immune deficiencies and neuropathies. SB 2494 is very important for the thousands of Hawaiians who suffer from these diseases. Many Hawaiians affected by rare and chronic disorders, when diagnosed and receiving lifesaving therapies such as IVIG are put in danger when they do not receive their therapy on a timely basis. Patients and providers alike expect to be protected by having continuity of medically necessary drugs when they switch from one health plan to another or when they renew plans during open enrollment periods.

The Alliance receives a lot of calls from Hawaii residents informing us that they are not allowed to continue to use their prescribed medications after they switch or re-enroll in their health plans. Oftentimes these treatments are lifesaving from severe and chronic infections for primary immune deficient patients to paralysis for autoimmune and neuropathy patients when relying on therapies such as IVIG. Many patients have been successfully taking these drugs and/or treatments for years and depend on them to function and take care of their families. SB 2494 would allow Hawaiians to continue using medically necessary medications and treatments prescribed prior to enrollment in their plan.

Please help all patients who suffer from chronic and rare disorders by supporting this patient protection bill that directly strengthens the doctor patient relationship. Should you have any questions please contact me at 888-331-2196.

Regards,

Michelle Vogel  
Executive Director

March 7, 2010

The Honorable Ryan Yamane  
37th Representative District  
Hawaii State Capitol, Room 419  
415 South Beretania Street  
Honolulu, HI 96813

RE: SB 2494 – SUPPORT (As Amended)

Dear Representative Yamane,

The Neuropathy Action Foundation (NAF), which is dedicated to ensuring neuropathy patients obtain the necessary resources and tools to access individualized treatment to improve their quality of life, strongly supports SB 2494. SB 2494 requires health insurers and like entities to offer continued coverage of specific prescription medications where an individual's physician determines that continued coverage is in the best interest of the patient after changing insurance carriers.

SB 2494 is very important for the thousands of Hawaiians who suffer from neuropathy. Many Hawaiians affected by neuropathic pain are oftentimes high users of the health care system as they search for relief from persistent pain. However, once a medication or treatment that actually works is discovered many patients are able to live normal lives. Patients and providers alike expect to be protected by having continuity of medically necessary drugs when they switch from one health plan to another or when they renew plans during open enrollment periods.

The NAF receives a lot of calls from Hawaiians informing us that they are not allowed to continue to use their prescribed medications after they switch or re-enroll in their health plans. Oftentimes these treatments are limb saving like plasma derived IVIG. Many patients have been successfully taking these drugs and/or treatments for years and depend on them to function and take care of their families. SB 2494 would allow Hawaiians to continue using medically necessary medications and treatments prescribed prior to enrollment in their plan.

Please help neuropathy patients and others who suffer from chronic illnesses by supporting this patient protection bill that directly strengthens the doctor patient relationship. Should you have any questions please contact me at 877-512-7262.

Regards,



James D. Lee  
Treasurer and Public Affairs Chair

cc: House Health Committee

March 8, 2010

Representative Ryan I. Yamane  
Chair, House Health Committee  
Hawaii State Capitol, Room 419  
Honolulu, HI 96813  
Fax: 808-586-6151

RE: SB 2494 - STRONG SUPPORT

Dear Representative Yamane:

I am a resident of Hawaii (Kailua) and the Board Secretary and Hawaii Liaison for the GBS/CIDP Foundation International. I am also a fully recovered GBS patient.

The Foundation is dedicated to ensuring GBS/CIDP patients obtain the necessary resources and tools to access individualized treatment to improve their quality of life. The Foundation strongly supports SB 2494.

Guillain-Barré Syndrome (GBS) is a rare inflammation of the nerves caused by the patient's body producing antibodies against the peripheral nerves. CIDP is the chronic form of this debilitating illness. One of the more effective treatments includes infusion of the biological drug intravenous immune globulin (IVIG).

SB 2494 requires health insurers to offer at least the same drug coverage to the insured that the insured had under their previous policy with a different insurer or like entity. In other words, the bill will provide for continuity/portability of drug coverage when patients either switch health plans or renew their existing plans whether or not the drug is covered by the plan, until the prescribed therapy is no longer prescribed by the patient's provider.

Please help GBS/CIDP patients in Hawaii and others who suffer from chronic illnesses by supporting this patient protection bill that directly strengthens the doctor patient relationship.

Aloha,

Phil Kinnicutt

PETER L. FRITZ  
414 KUWILI STREET, #104  
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HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2010

COMMITTEE ON HEALTH

Hearing March 9, 2010  
Testimony on S.B. 2494 SD2  
(Relating to Insurance)

Chair Yamane, Vice Chair Nishimoto, and members of the Committee:

My name is Peter Fritz. I am an attorney specializing in tax matters. This bill is intended to address concerns and or problems that have arisen in the administration of the prescription drug program for beneficiaries the covered under the Hawai'i Employer-Union Health Benefits Trust Fund ("EUTF"). Changes implemented by service providers have resulted in individuals being taken off of their existing and long standing prescription drug and placed on a new drug program whose effectiveness for the beneficiary is unknown. The bill is intended to give beneficiaries the right to continue to receive the drug coverage and drugs that they were receiving prior to any change in the drug coverage plan. I support the intent of this bill, but believe that language is necessary to clarify certain matters and suggest that the following provisions be incorporated into a new draft.

- **Limit Drug Continuation Coverage to EUTF Participants.** Limiting coverage to EUTF participants will provide relief to the individuals who raised concerns and not burden all employers in the State. In addition, it will limit challenges that the provisions in this measure do not comply with the Employee Retirement Security Income Act.
- **Eligibility Period.** It is important to have an eligibility period. Requiring people to be covered by the EUTF for a minimum amount of time would prevent people from working for the State for a few days to obtain entitlement to continuation coverage.
- **Qualifying Event.** A qualifying event is an event that entitles a beneficiary to elect qualifying drug continuation coverage. In addition, the measure should contain an election period. If a beneficiary does not make an election within that period of time, the beneficiary will not be able to make the election. Examples of qualifying events can be found in the federal COBRA law.



- **Payment for Continuation Coverage.** A formula needs be developed to determine how much a beneficiary will pay for the continuation coverage. For example, the beneficiary might be required to pay the difference between the cost of the old drug plan and the new drug plan. In addition, the service provider should be entitled to add an administrative fee of 2% to cover its costs.
- **Coordinate Drug Continuation Coverage with Existing Continuation Coverage Provisions in the EUTF Plan.** The continuation coverage provisions n this measure should be coordinated with the existing continuation coverage provisions in the EUTF plan.

Thank you for the opportunity to testify.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Peter L. Fritz". The signature is written in a cursive, somewhat stylized font.

Peter L. Fritz