

**TESTIMONY**

**SB 2608**

**LATE**

## **Testimony in OPPOSITION of SB 2608**

February 4, 2010

To: Senator Dwight Y. Takamine, Chair, Senate Labor Committee  
Senator Brian T. Taniguchi, Vice Chair, Senate Labor Committee

Dear Honorable Committee Chairs & Members:

My name is **Debbie Kawamoto** and I am a former injured worker, who has personally gone through and has survived the arduous and complicated worker's compensation system in Hawaii. I happen to also now be working for Vocational Management Consultants, Inc. as a Vocational Tech, assisting 5 Vocational Rehabilitation Counselors and the many injured workers they are currently working with. I also serve as Secretary, for the Hawaii Injured Workers Alliance (HIWA), an organization that is working toward making productive and much needed changes to the worker's compensation system, to provide various assistance to the injured worker to help them return to gainful employment in a timely manner.

I am writing this testimony to request that you **"DO NOT SUPPORT SB 2608"**, as it will only create even further hardship for the injured worker, who is trying to return to and once again become a productive and contributing member of our society, which is the ultimate goal of the Vocational Rehabilitation process.

### **Why I believe SB 2608 should NOT be passed:**

1) The injured workers that are receiving VR assistance come from various occupations and their respective injuries and disabilities can vary in severity. Therefore, they require different timeframes for medical testing, completion of a functional capacity evaluation, general healing & recovery, and adjustment to disability. All injuries whether physical or psychological in nature, require time. Regardless of what kind of injury or impairment, the injured worker needs this proper time to heal, in order to actively and productively participate in the requirements of the vocational rehabilitation program. During the healing process, due to no fault of their own, individuals may sometimes experience setbacks that may further delay the vocational rehab process. The healing and recovery process is unique to the individual and therefore, to **require unreasonable timeliness** such as outlined in SB 2608 (see reference below), for the injured worker, **simply does not make sense.**

- Pg 5 – Line 19 – 30 Days to allow for any adjustment to disability
- Pg 5 – Line 20 – 30 Additional days to conduct a functional capacity evaluation

2) The primary and ultimate goal of vocational rehabilitation is to help the injured worker once again become a productive contributing member of society. **At a time when the State of Hawaii is already in a budget crisis, the last thing any of your constituents, would want is for more injured workers to be out of work and to rely on public assistance and further increase the burdens onto the tax payers of Hawaii. If SB 2608 is passed, it will surely prevent and/or delay many injured workers from returning to the workforce and allowing the burden to continue.**

Thank you for allowing me to provide testimony to your committee. Please pay close attention to the testimonies of the injured workers, and the vocational rehabilitation counselors, attorneys and doctors who work daily with the injured workers and the struggles of the Work Comp system, as they will be the ones most heavily impacted by your decision/vote.

**Debbie Kawamoto**  
**Vocational Tech - Vocational Management Consultants, Inc.**  
**Secretary - HIWA**



HAWAII INJURED WORKERS ALLIANCE  
715 SOUTH KING STREET SUITE #410  
HONOLULU, HAWAII 96813

February 4, 2010

The Twenty-Fifth Legislature, State of Hawaii  
Hawaii State Senate  
Committee on Labor

**S.B. 2608** expands duties of the rehabilitation unit and providers of rehabilitation services. Allows employer to terminate temporary total disability benefits when the employee is able to return to work and is enrolled in a non-approved plan.

The **Hawaii Injured Workers Alliance strongly REJECTS** this measure.

S.B. 2608 will have a detrimental impact on the injured workers journey to recovery.

Vocational rehabilitation is to insure that injured workers become a part of the working community in a productive manner.

We believe this bill will be a negative step for injured workers in the State of Hawaii.

Your **REJECTION** of this bill would be greatly appreciated.

**George M. Waialeale**

**Executive Director**

Hawaii Injured Workers Alliance  
383-0436

Testimony for LBR 2/4/2010 2:45:00 PM SB2608

Conference room: 224

Testifier position: oppose

Testifier will be present: No

Submitted by: Mark Hambright

Organization: Individual

Address: P.O. Box 603 Waimanalo, Hi

Phone:

Submitted on: 2/4/2010

Comments:

I have worked in health care since 1983. I injured my back in 2008. It took over a year for me to get my back taken care of, I finally had surgery 3 months ago. This is unheard of and would have NEVER happened on the mainland. I am so tired of the political BS and corruption that goes on in this state. I can no longer go back to my previous position at work. I am in Physical therapy at the moment and cannot sit for more than an hour at a time. If this happened to you or one of your family members, you would be as pissed-off as I am right now. Remember, this IS an election year. I am a member of the, "Independent Tea Party"; I WILL, vote out anyone who does not vow to take care of the People and State of HAWAII....

We are tired of all of your false promises and big money pockets.

I went to college for 5 years so I could do a job that I loved and was good at. Because of the incompetent people I work with, my back was injured. I have been off of work for 17 months now. I blame the STATE of Hawaii for this, because once again it is pure buracratic BS. I should NOT have had to wait for over a year to have surgery on my back. Totally unheard of!!!!

Mark Hambright

Testimony for LBR 2/4/2010 2:45:00 PM SB2608

Conference room: 224

Testifier position: oppose

Testifier will be present: No

Submitted by: Emily Skedeleski

Organization: Individual

Address: 94-1037 Hanauna St. Waipahu, HI

Phone: 808 286 1846

Submitted on: 2/4/2010

Comments:

For me, vocational rehab was a blessing in disguise. I was able to learn computer skills which are now a necessity in finding a job. They helped in assisting me in finding a job with a resume, mock interview, and calling/emailing for jobs. Vocational rehab is a must if you have been with one employer for most of your working life after being hurt on the job. They help train you to find a job in the current job market.

**International Association of Rehabilitation Professionals  
Hawaii Chapter**

**Testimony SB 2608**

February 3, 2010

Senator Dwight Y. Takamine  
Chair, Senate Labor Committee

Senator Brian T. Taniguchi  
Vice Chair, Senate Labor Committee

Honorable Committee Members,

My name is **Kirsten Harada** and I am a member of the International Association of Rehabilitation Professionals-Hawaii Chapter. I have been a counselor providing vocational rehabilitation services for the past 17 years. I am writing because **I don't support SB 2608**. I feel that it will adversely affect the rehabilitation process and rights afforded to injured workers whereby it will hinder their efforts in returning back to suitable and gainful work where they can become productive members of their community.

If an employee has no permanent disability but suffers from permanent work restrictions, their skills and limits should be assessed to determine whether their earnings can be restored as closely as possible to that level in which they were earning at the time of injury. In some cases returning to a direct placement position does not meet that requirement and in those cases injured workers should be afforded the ability to pursue training if appropriate, in a timely and cost effective manner.

There is also concern related to the limiting of timeframes. Each injured worker that refers for vocational rehabilitation services comes with varying ranges of severity of disability. To say that a person with an amputation should be given the same 30 days to adjust to their disability as say a mild strain is not realistic. The more severe an injury the longer the timeframe to heal and adjust as there is more treatment, testing, and need to acclimate to what that person can no longer do. This would include in a lot of cases coming to terms with their inability to no longer work in a job that they have been with for most of their career. Thus preparing a plan within a 90 day period with no more than one 45 day extension should not be supported as each individual should be treated on a case by case basis based on their individual circumstances.

If these timeframes are being proposed to cut costs it should also be noted that in 2008, case statistics provided by the Department of Labor indicates that a total of 1019 clients were provided vocational rehabilitation services. The cost of servicing these individuals amounted to \$4,893,345.00 or an average of \$4802.10 per case. This is nominal when one considers that services are getting injured workers back to work and not leaving them to depend on another system where they would be faced with relying on public assistance, further burdening the tax payer.

I also do not agree with the changes proposed to page 9, sections 11 through 17. I feel that the director should be able to continue to approve plans if it is in the "best interest" of the employee and will provide "reasonable assurance that the employee will be placed in suitable and gainful employment." I feel that the changes made will take away the director's ability to approve plans that don't fit into the proposed criteria. I also don't agree with a plan "default [ing] to direct placement not more than 60 days", if the client is in an approved plan and has been determined to be able to return back to usual and customary work. The client has already gone through the process of eliminating return to work at a usual and customary level by the time a plan is developed and is already putting that plan in motion. They should be given the option to choose as they have followed the appropriate process to get to this point and are already focused on learning new skills (if it is a training plan) or returning to a different occupation.

Lastly, I don't agree with discontinuing temporary total disability benefits should an injured worker already be enrolled in vocational rehabilitation services and determined to be able to return back to usual and customary work. As is with the existing law, the injured worker should be entitled to vocational assistance back to their usual and customary work with a follow up period to determine that the position is appropriate and there are no new changes or issues on the job that might impact on their ability to continue working there.

The purpose of vocational rehabilitation is to help injured workers become productive, contributing members of our community and SB 2608 does not support this. I strongly encourage you to reject this bill. Thank you for the opportunity to address this committee in regard to SB 2608.

Sincerely

Kirsten Harada, M.Ed., CRC, LMHC  
Rehabilitation Specialist  
Vocational Management Consultants  
715 S. King Street, Suite 410  
Honolulu, HI 96813  
808-538-8733

SENATE COMMITTEE ON LABOR  
Senator Dwight Y. Takamine, Chair  
Senator Brian T. Taniguchi, Vice Chair

Thursday, February 4, 2010  
2:45 p.m.

**S.B. 2608**

Chair Takamine, Vice Chair Taniguchi, and members of the Committee, my name is **Jamie Marcello, and I represent Hawaiian Airlines.**

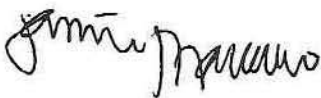
**Support for S.B. 2608.**

We believe the Vocational Rehabilitation system will be much improved by S.B. 2608, especially by establishing the ability of the Disability Compensation Division of the Department of Labor (DCD) to have decision making power over the vocational rehabilitation counselors. This will benefit those in need of vocational rehabilitation services.

As is the case with much proposed legislation you must review, the tightening of the laws surrounding service providers for a service such as this are in response to those who abuse the system. The language in S.B. 2608 also requires rehabilitation providers to adhere to reasonable timelines and protocols. This will benefit the injured worker by providing timely service and facilitating the employee's return to meaningful and gainful employment.

Thank you for the opportunity to testify. I request that you pass SB2608.

Signed:



Jamie Marcello



SENATE COMMITTEE ON LABOR  
Senator Dwight Y. Takamine, Chair  
Senator Brian T. Taniguchi, Vice Chair

Thursday, February 4, 2010  
2:45 p.m.

**S.B. 2608**

Chair Takamine, Vice Chair Taniguchi, and members of the Committee, my name is **Joann Hansen, and I represent Hawaiian Airlines.**

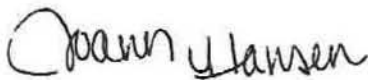
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Joann Hansen

SENATE COMMITTEE ON LABOR  
Senator Dwight Y. Takamine, Chair  
Senator Brian T. Taniguchi, Vice Chair

Thursday, February 4, 2010  
2:45 p.m.

**S.B. 2608**

Chair Takamine, Vice Chair Taniguchi, and members of the Committee, my name is **Rene Pua Akimoto, and I represent Hawaiian Airlines.**

**Support for S.B. 2608.**

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Signed:



Rene Pua Akimoto

SENATE COMMITTEE ON LABOR  
Senator Dwight Y. Takamine, Chair  
Senator Brian T. Taniguchi, Vice Chair

Thursday, February 4, 2010  
2:45 p.m.

**S.B. 2608**

Chair Takamine, Vice Chair Taniguchi, and members of the Committee, my name is **Robyn Mackinaw, and I represent Hawaiian Airlines.**

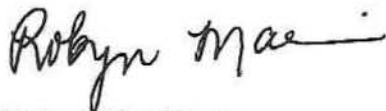
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Thank you for the opportunity to testify. I request that you pass SB2608.

Signed:



Robyn Mackinaw

**SENATE TWENTY-FIFTH LEGISLATURE 2010  
LABOR COMMITTEE**

CHAIR: SENATOR D. TAKAMINE  
VICE CHAIR: SENATOR BRIAN TANIGUCHI

**Date: Hearing 2/4/10 at 2:45 p.m in room 224  
Senate Bill 2608**

**In Opposition to SB 2608**

Honorable Committee Members,

I am **Beverly Tokumine**, a vocational rehabilitation counselor employed at Vocational Management Consultants, Inc. Our company handles vocational rehabilitation cases with the State of Hawaii and the Federal Government with the Veterans Administration. I am writing to stated we oppose passing of Senate Bill 2608.

The purpose of vocational rehabilitation is to help injured workers become productive, contributing members of our community and SB 2608 does not support this. We do not want injured workers to rely on public assistance and increase the burden on the tax payers of Hawaii. I strongly encourage you to reject this bill. Thank you for the opportunity to address this committee in regard to SB 2608.

In regards to the 30 days to allow any adjustments to disability, this is not realistic. As an experienced rehabilitation professional, medical practitioner or mental health professional will attest, the profound effects of physical injuries coupled with the psychological impact that these injuries have on an injured worker's livelihood, family life and self-image defy precise measures of estimation as to adjustment to disability. Allowing 30 days for this process to be completed is unrealistic and deprives the injured worker of the time necessary to confront the reality of his disability and its effects on his life.

In regards to allowance of only one extension to a rehabilitation plan not to exceed 45 days, occasionally delays are encountered in a plan often brought about by medical or personal emergencies, or educational issues, e.g., unavailability of classes, administrative delays. All of these are outside the control of the injured worker; this would be unfair to the injured worker.

In regards to the removing the rights of the director to approve a plan that is in the best interest of the employee. This contains reasonable assurances that the employee will be placed in suitable gainful employment. This proposal appears to further erode the rights of the injured worker, as well as, remove the director's ability to exercise his or her judgment and appeal to the spirit of the laws related to rehabilitation. For these reasons, this omission should be rejected.

Thank you for the opportunity to comment on this bill and their recommendations.

Tokumine, Beverly

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Sincerely,

A handwritten signature in black ink, appearing to read 'Beverly Tokumine', written over the typed name and address.

Beverly Tokumine, M.Ed. CRC, LMHC  
Rehabilitation Specialist  
Vocational Management Consultants  
715 S. King Street, Suite 410  
Honolulu, HI 96813  
808-538-8733

## SENATE

TWENTY-FIFTH LEGISLATURE 2010

LABOR COMMITTEE

CHAIR: SENATOR D. TAKAMINE

VICE CHAIR: SENATOR BRIAN TANIGUCHI

**Date: Hearing 2/4/10 at 2:45 p.m in room 224****Senate Bill 2608****In Opposition to SB 2608**

**My name is Laurie Hamano.** I am a vocational rehabilitation counselor for the private sector for the past 25 years. My company is Vocational Management Consultants, Inc. We have been in business since 1995. VMC also works with the Federal Government with the Veterans Administration as well. We are opposing the passing of Senate Bill 2608. In overview of the bill, there appears to be arbitrary changes in the time lines that appear to be attempts at reducing the injured workers benefits. It is not clear as to what the changes are based upon.

- 1) In the first change that is being recommended on line 14-18 on the bill, it speaks about the injured workers who have "permanent work restrictions" but "no permanent disability". This would only allow for the injured worker to be placed in "only direct placement services". As a counselor we have faced situation when the injured worker eventually receives such an indication that there is no permanent disability however, they are provided with permanent limitations that preclude the worker from their usual and customary work that deems them eligible for the vocational rehabilitation services. To eliminate the ability to train without knowing the injured workers situation and basing it purely that there is "no permanent disability" would be unfair.
- 2) The next recommendation on page 2 discussed additional duties and responsibilities for the Rehabilitation Unit. Please note here that there is only one person (Diane Oshiro) who makes this Unit. She no longer has a clerical worker to help her. The concern would be whether the Unit could handle any additional responsibilities or duties in the law given the budget crunch.
- 3) On page 3, the Injured worker should they not select a provider within 30 days, the unit shall assign a counselor on the injured workers behalf. The concern here is that the injured workers are not notified of their "right" to a vocational rehabilitation counselor and would not even know that they have that right to choose. There would be need for the injured workers to be informed at the beginning of the claim by the employers of their rights to medical care, vocational rehabilitation and temporary total disability benefits. Many injured workers indicate that they did not have any idea that vocational rehabilitation services were available to them until informed by their attorneys.

L.Hamano

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- 4) On page 4, there was an addition of "work capabilities" to "(A) Current medical status". The limitations are noted in (E) "Physical or psychological limitations or both". There is no need to add the work capabilities to (A).
- 5) Under E) the portion of the statement "a reasonable amount of time" is taken out. "Within thirty days of the injured worker's selection of a provider" information from another physician shall be accepted." This addition would be satisfactory if approved by the treating physician.
- 6) On page 5, the provider for service would have "thirty days to allow for any adjustments to disability such as : Shock, Denial, Acceptance and Accommodation". Copies of the Adjustment to Disability " An Outline of Stages and Counseling Strategies" are available on request. This article describing the breath of stages that the injured worker would be going through while in vocational rehabilitation counseling. Thirty days for such counseling would be difficult at best. Please note that this synopsis was taken from two articles by Hanoch Livneh from the Journal of Rehabilitation as an example of what would be required in the counseling of the adjustment of disabilities as well as the first page of "Understanding Psychological Adjustment to Disability: An American Perspective" is provided. These documents remind us that Adjustment to Disabilities is not a "24 hour virus" that would be complete in 24 hours or a week. The levels of depression that we as counselors must deal with are serious and significant by the time the injured worker becomes involved in the counseling.
- 7) The next addition is on page 6 (3) regarding 90 days to prepare and submit a vocational rehabilitation plan inclusive of only one extension. All of the extensions now are supported by the justification (i.e. documentation from the school or the injured workers doctor report). Ninety days would be sufficient IF the counselor has all the pieces of information required by the law to provide the document but this is not always possible.
- 8) The next addition is "using transferable skills by way of direct placement" in the Level III. My interpretation is that this says that the counselor is to use the injured workers transferable skills in a direct placement plan. However, once this is done, this would eliminate the injured worker from receiving the training option should the injured worker not find suitable and gainful employment via their transferable skills. In my last 25 years, the first use of their transferable skills are determined via the transferable skills analysis to determine if they are qualified to work in other type of work that is AVAILABLE in the labor market. Many times their limitations preclude that they cannot use their transferable skills in other jobs. If the counselor uses the direct placement plan and there are no jobs available for the worker, then the injured worker would not have the option to consider training into another field that is more viable.
- 9) Regarding (7) currently, VMC adds the contingency plan into the rehabilitation plan for direct placement should the injured worker not be able to complete their training. This however is an agreement with the carrier prior to this being placed into the plan.
- 10) The elimination of the director's ability to approve plans that are in the "best interest of the employee" as well as the "reasonable assurances that the employee will be placed in suitable gainful employment" gives the unit even less capability of approving plans that don't fit in every requirement. As in every injured worker that has gone through the vocational rehabilitation program, the counselors cannot "pigeon-hole" them as they all

L.Hamano

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have different strengths, background, education, experiences and limitations that they come with.

- 11) Suspension of injured workers while in plan if they have any intervening medical issues is already being done via standard practice.
- 12) Documentation for the cost and the items to be purchased are provided in the plans now. Receipts are also provided. The living expense forms are for that purpose to include the receipts or the vendors invoices. This is standard practice.
- 13) Page 10 recommendation notes that the injured worker should he be released to his usual and customary employment while in an approved plan could be in a training plan. He or she should be allowed to decide whether to complete their training as they have spent the time and energy learning a new skill. This is unusual and does not occur often.
- 14) The recommendation on page 11 from line 7-17 note that the injured worker would lose his benefits once released to his usual and customary employment. Past practice has been to allow the injured worker to be assisted through the transition of returning to work in his usual and customary position as there might have been changes to the position not noted. This would allow the injured worker the transition to ease back into work. This easement back to work has been helpful to those who are attempting to return to their usual and customary position. Some of the injured workers who returned might find the work too arduous for their current abilities.
- 15) On page 12, line 4-8 the VR counselors have noted that the TTD payments have ceased when the cases are closed. However, this has not been for all cases depending on their medical status and the settlement practices.
- 16) On page 13, line 14-21 it is the understanding of this counselor that this request could be made at any time by the carriers. This counselor also requests that the VR counselor also has the same right to ask for the carrier to cooperate with the counselor as they work with the injured worker to design a viable and reasonable rehabilitation plan. At this time, the carriers/employers can continue to object to plans no matter what is devised and submitted causing more delays and anguish on the part of the injured worker. Hearings then continue to add delays to the progress of these cases.

In review of the cost per case from the Data Book completed by Department of Labor, the vocational rehabilitation payments by industry noted there were 1232 cases/cost \$5,063,253.00 in 2005 and the average per case was \$4109.78. In 2008, from the Data Book there were 1019 cases (213 cases less 3 years later in 2008) and the cost for Vocational Rehabilitation was \$4,893,345.00. Cost per case is \$4802.10. In looking at the total (medical/other services) cost in 2008 was \$245,762,853.00, vocational rehabilitation benefits were deemed to be 1.9% of this entire total.

The number of cases each year continue to reduce as there clearly appears to be more cost shifting where injured workers move out of the system to the Welfare system, Social Security Disability system, and other medical systems. **In the State in 2008, the number of reported cases was 24, 542.** When these injured workers move out of this system, we as citizens and taxpayers end up paying for these injured workers outside of the Workers Compensation system.



L.Hamano

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Thank you for the opportunity to comment on this bill and their recommendations. Again, due to the above comments and review the undersigned opposed SB 2608.

Sincerely,

Laurie H. Hamano, M.Ed. CRC, LMHC

President of Vocational Management Consultants, Inc.

Hawaii Injured Workers Alliance –Current Member andTreasurer

International Association of Rehab Professionals – Current Member

Chamber of Commerce of Hawaii Current Member