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**To:** The Honorable Henry J. C. Aquino, Chair,  
and Members of the House Committee on Public Safety & Military Affairs

**Date:** Thursday, February 9, 2012

**Time:** 9:00 a.m.

**Place:** Conference Room 309, State Capitol

**From:** Frederick D. Pablo, Director  
Department of Taxation

**Re: H.B. No. 1723 Relating to the TRICARE Program**

This measure repeals the sunset date for Act 70, Session Laws of Hawaii 2009 which is scheduled to take effect on December 31, 2013.

The Department of Taxation (Department) supports this measure.

TRICARE is a program established by the United States Department of Defense to provide managed medical care to military members and their dependents. Act 70, Session Laws of Hawaii 2009, provided an exemption to TRICARE from the general excise tax on amounts received from the Department of Defense but that are paid to third party service providers. That measure, however, has a sunset date for the exemption of December 31, 2013. The purpose of this measure is to remove that sunset date and to make the exemption permanent.



Hawaii Chapter, MOAA  
P.O. Box 1185  
Kailua, Hawaii 96734-1185

**Testimony of Thomas Smyth**

**Military Officers Association of America, Hawaii Chapter**

**Before the Committee on Public Safety and Military Affairs**

**Thursday, February 9, 2012, 9:00 am, Room 309**

**HB 1723 Relating to the TRICARE Program**

**Chair Aquino, Vice Chair Cullen and Committee Members**

**Our chapter of more than 400 retired and currently serving officers of the Uniformed Services strongly supports HB 1723 that removes the 2013 sunset for the GET exclusion for TRICARE in Hawaii in Act 70/SLH 2009.**

**There are three TRICARE programs that are a very essential element of military compensation: TRICARE For Life is used by retirees over the age of 65 in conjunction with Medicare Part B to ensure relatively affordable managed care for those who often need it the most. TRICARE Standard and Tricare Prime provide health insurance to currently serving personnel and their families and retirees under age 65.**

**As I am sure you are aware, Hawaii is the only state that has a tax like the General Excise Tax on income of for-profit health care service providers. The western regional TRICARE managed care support contractor does not have to pay a similar tax in the other 20 states in this region. And that is true for the other two regional contractors across the United States and the three who provide support around the world. Bid competition by TRICARE contractors often results in contract challenges. It is essential that our contractor be able to predict costs going forward.**

**Allowing the GET exemption to end would significantly increase costs for our service member, last and present, living in Hawaii. It is only fair to remove the sunset provision to allow these costs to remain stable.**

**Thank you for the opportunity to provide testimony on this important bill.**

**Testimony to the House Committee on Public Safety and Military Affairs  
Thursday, February 9, 2012  
9:00 AM  
Conference Room 309**

**RE: HOUSE BILL NO. 1723, RELATING TO THE TRICARE PROGRAM**

**Chair Aquino, Vice Chair Cullen, and members of the committee.**

My name is Charles Ota and I am the Vice President for Military Affairs at The Chamber of Commerce of Hawaii (The Chamber). I am here to state The Chamber's support of House Bill No. 1723, Relating to The TRICARE Program.

The measure proposes to exclude from the general excise tax, amounts received by a managed care support contractor of the TRICARE program for the actual cost or advancement to third party health care providers pursuant to a contract with the United States.

The Chamber's Military Affairs Council (MAC) serves as the liaison for the state in matters relating to the U.S. military and provides oversight for the State's 12.2 billion dollar defense industry.

The proposal recognizes that managed care support contracts are awarded by the United States to extend authorized health care services to eligible military members, their families, and veterans, and should not be subject to payment of the state GET.

We recommend that the bill be approved.

Thank you very much for the opportunity to testify.

# HMSA



Blue Cross  
Blue Shield  
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

February 9, 2012

The Honorable Henry J.C. Aquino, Chair  
The Honorable Ty Cullen, Vice Chair

House Committee on Public Safety and Military Affairs

**Re: HB 1723 – Relating to the Tricare Program**

Dear Chair Aquino, Vice Chair Cullen and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of HB 1723.

Act 70, SLH 2009, clarified that any amounts received by a managed care support contractor for reimbursements of costs made by the contractor to administer the federal government's TriCare program, are exempt from the Hawaii General Excise Tax. That Act includes a provision requiring its repeal on December 31, 2013. HB 1723 would eliminate that sunset provision and make the statute permanent.

This exemption truly will support the continued availability and strength of the TriCare program and ensure that HMSA is able to continue to provide coverage to many of the approximately 163,000 current and former military personnel and their family members who reside in Hawaii.

Thank you for the opportunity to testify in support of HB 1723.

Sincerely,

A handwritten signature in black ink that reads "Mark Oto".

Mark Oto  
Director  
Government Relations



February 7th, 2012

**TESTIMONY IN SUPPORT OF HOUSE BILL 1723  
RELATING TO THE TRICARE PROGRAM**

**HOUSE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS  
HEARING ON THURSDAY, FEBRUARY 9TH, AT 9:00 AM, IN CONFERENCE  
ROOM 309**

Aloha Chair Aquino: The Oahu Veterans Council' delegates are honored to represent the interests of our veterans and their families. Our Legislative Committee voted unanimously to support House Bill 1723.

We sincerely appreciate your efforts to exclude from our general excise tax, amounts received by a managed care support contractor of the TRICARE program, for the actual cost or advancement to third party health care providers, pursuant to a contract with the United States.

The Oahu Veterans Council respectfully urges your committee to consider passing House Bill 1723 as written; mahalo, for allowing us to testify, regarding this extremely important issue.

*Dennis Egge*

Dennis Egge; Chairman, Legislative Committee



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# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** GENERAL EXCISE, Make TRICARE exclusion permanent

**BILL NUMBER:** SB 2101; HB 1723 (Identical)

**INTRODUCED BY:** SB by Green, Baker, Chun Oakland, Espero and 1 Democrat; HB by Yamane

**BRIEF SUMMARY:** Amends Act 70, SLH 2009, to make permanent the exclusion from the general excise tax of the amounts received by a managed care support coordinator of the TRICARE program for reimbursement of costs or advances made to health care providers pursuant to a contract with the United States for the administration of the program by repealing the December 31, 2013 sunset provision.

**EFFECTIVE DATE:** July 1, 2012

**STAFF COMMENTS:** The TRICARE program was established by the U.S. Department of Defense (DOD) as the managed care component of the Military Health Care system to augment the health care services provided to DOD personnel at military treatment facilities. TRICARE contracts with third-party administrators (managed care support contractors) to establish and maintain networks of TRICARE-authorized civilian health care providers. These managed care support contractors make advances to health care providers for the services they provide to TRICARE beneficiaries and are reimbursed by the DOD for the amounts of such advances. Note well that this exemption does not apply to the fee paid to the third-party administrator which would continue to be subject to the general excise tax as the fee is gross income to the third party administrator.

While Act 70, SLH 2009, clarified that amounts received by the managed care support coordinators as reimbursements from the DOD for advances they made on behalf of the DOD for TRICARE program purposes are not taxable under Hawaii's general excise tax law, the act contained a December 31, 2013 sunset date. The proposed measure would make this general excise tax exclusion permanent.

Digested 1/23/12

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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**TO:** Representative Henry J.C. Aquino  
Chair, House Committee on Public Safety & Military Affairs  
*Via Email: PBMtestimony@capitol.hawaii.gov*

**FROM:** Gary M. Slovin

**DATE:** February 7, 2012

**RE:** H.B. 1723 - Relating to the TRICARE Program  
Hearing Date: Thursday, February 9, 2012 at 9:00 a.m.  
Conference Room 309

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Dear Chair Aquino and Members of the Committee on Public Safety & Military Affairs:

I am Gary Slovin, testifying on behalf of TriWest Healthcare Alliance Inc. ("TriWest"), a Delaware corporation headquartered in Phoenix, Arizona. **TriWest supports H.B. 1723, Relating to the TRICARE Program.**

In Hawaii, TriWest is the only third-party administrator of a cost-effective, high quality network of health care providers for the nation's active and retired uniformed service members and their families, under a federal government program known as "TRICARE" (formerly known as "CHAMPUS").

**What is TRICARE?** The Federal Government has established a managed health care program for members of the uniformed services and certain dependents. It was created in the early 1990s to supplement the existing military health care delivery system and provide health care services for active duty military personnel, military retirees, and their families (collectively, the "Beneficiaries") by utilizing civilian health care providers.

In Hawaii, the Beneficiaries have access to military health care facilities, such as the Tripler Army Medical Center, and to health care clinics on military bases throughout the state. In addition, the Beneficiaries have access to medical services through the network of community health care providers that have been contracted by TriWest.

TRICARE receives its funding as part of the annual defense appropriations budget. It is administered by the TRICARE Management Activity ("TMA"), which is part of the

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United States Department of Defense (“DoD”), Office of the Assistant Secretary of Defense (Health Affairs).

**What is TriWest?** TriWest is dedicated to providing the best possible service to military families. It manages the TRICARE program for over 3 million Beneficiaries – this is TriWest’s only line of business. In Hawaii, TriWest employs approximately fifty-five employees.

In the health care industry, TriWest’s business would be characterized as a “**third-party administrator.**” TriWest, known as a “**managed care support contractor**” in the applicable Federal laws and regulations, is a disbursing agent for the Federal Government in the western states, including Hawaii. Its job is to receive claims and invoices from health care providers, and then pay those claims according to the amounts and guidelines set by the Government (“**reimbursement**”). The Government then reimburses TriWest for the amounts paid, and also pays TriWest an **administrative fee** for its services. This is best illustrated in the attached PowerPoint slide.

TriWest pays, and has always paid Hawaii General Excise Tax on the amounts it receives from TRICARE as compensation for its services as *managed care contractor*, but it does not pay, and has never paid, tax on the reimbursement amounts. TriWest has in the past worked with the Department of Taxation to seek confirmation that it is not subject to Hawaii General Excise Tax on such amounts. Department representatives generally have been sympathetic to TriWest’s position and understanding of its desire for certainty as to its tax liability. In the process of reviewing TriWest’s request for a definitive ruling letter from the Department, however, some technical concern was expressed as to the clarity of the legal basis for exempting such reimbursement amounts from Hawaii General Excise Tax. Therefore, in 2009, Act 70 was passed to amend HRS Section 237-24 (Amounts not taxable) by adding a new subsection (17).

“(17) Amounts received by a managed care support contractor of the TRICARE program that is established under Title 10 United States Code chapter 55, as amended, for the actual cost or advancement to third party health care providers pursuant to a contract with the United States.”

This clarified that the amounts received by TriWest from TRICARE as “reimbursements” are excluded from the imposition of the General Excise Tax. However, this is scheduled to sunset on December 31, 2013. This measure would repeal the 2013 sunset date and make the clarifying legislation permanent.



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We would like to also note that, based upon our updated figures, the number of current and former service members and their family members who are served in Hawaii is one hundred sixty-five thousand, not one hundred fifty thousand as the bill currently states on page 1, lines 9-10.

We thank you for the opportunity to testify in support of this measure.



US Department of Defense  
Military Health System



**REIMBURSEMENT**  
*For Medical Services  
Provided to  
Hawaii-based TRICARE beneficiaries  
by Hawaii medical providers/hospitals*

\$45 million

**ADMINISTRATIVE FEES**

\$13.4 million/FY 2011

\$604,000 in GE Taxes/FY 2011

*Act 70, SLH 2009  
amends HRS §237-24  
to clarify that the  
reimbursements are  
not taxable amounts*



*Managed care support contractor  
aka Third-Party Administrator or "TPA"  
•Claims Processing, Enrollment,  
Utilization and Disease Management  
and Network Building*

**Network Health Care Providers**

Medical services and supplies



**Soldiers, Sailors, Airmen, Dependents, Retirees**

165,000 Beneficiaries in Hawaii