

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 1, 2012

To: The Honorable Karl Rhoads, Chair, Kyle Yamashita, Vice Chair,
and Members of the House Committee on Labor & Public Employment

Date: Friday, February 3, 2012
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations

Re: H.B. No. 2152 Relating to Workers' Compensation

I. OVERVIEW OF PROPOSED LEGISLATION

House Bill 2152 proposes to amend section 386-21, Hawaii Revised Statutes (HRS), by increasing the charges for medical care, services and supplies to not exceed one hundred thirty (130%) percent of fees prescribed in the Medicare Resources Based Relative Value Scale System applicable to Hawaii, effective January 1, 2013.

The Department of Labor & Industrial Relations ("Department") supports the intent of this bill. We believe low reimbursement rates to providers adversely affect the number of physicians willing to treat Hawaii's injured workers.

II. CURRENT LAW

Section 386-21, HRS, allows for charges for medical care, services and supplies to not exceed one hundred ten percent (110%) of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii.

Section 386-21, HRS, also allows the director to increase fees for specific services, if the fees provided under Medicare are not reasonable. Through Exhibit A of the Workers' Compensation Medical Fee Schedule Administrative Rules the department may adjust reimbursement rates when surveys indicate that Medicare plus 10% is not sufficient reimbursement for health care treatment.

III. COMMENTS ON THE HOUSE BILL

The Department supports the intent of increasing the allowable charges for medical care, services and supplies above the current one hundred ten percent (110%). We offer the following comments:

1. ACT 234, effective June 29, 1995 amended Section 386-21 to provide that charges for services shall not exceed 110% of Medicare Resource Based Relative Value Scale system. Act 234 was implemented in response to physician's concerns that reimbursement rates were too low. Over time, the reimbursement rates of providers have failed to keep pace with the higher costs of medical care, leading some physicians to opt out of providing treatment to injured workers in the workers' compensation system.
2. The Department is aware that any increase in reimbursement to medical providers may result in additional cost and higher insurance fee premiums for employers. The Department notes that from 2005 - 2010, Workers' Compensation premium levels have cumulatively decreased by 69%. This trend of decreasing premiums may be reversing, however, as evidenced by the leveling of premium costs last year.
3. The Department believes a reimbursement of 110% of Medicare to medical providers who treat injured workers is inadequate. The Department, however, has some concerns health care providers who are already adequately compensated for their services would receive an increase in allowable charges if the ceiling for charges were raised to 130% of Medicare.

The Department can and has adjusted reimbursement rates based upon surveys of prevalent charges when the surveys indicated reimbursement rates were higher than Medicare. Changes to reimbursement rates are made to the Department's Supplemental Fee Schedule known as Exhibit A of the Medical Fee Schedule Administrative rules. The previous administration failed to update the Medical Fee Schedule on a regular basis.

4. As an alternative approach to an across-the-board increase in allowable charges to 130% of Medicare reimbursement rates, the department suggests the legislature look at providing some relief attached to a comprehensive study of the long-term fiscal impact of this relief in the context this adjustment would have on the overall medical costs of the workers' compensation system.

NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
INTERIM DIRECTOR

DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

February 1, 2012

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

For Hearing on Friday, February 3, 2012
9:00 a.m., Conference Room 309

BY

BARBARA A. KRIEG
INTERIM DIRECTOR

House Bill No. 2152
Relating to Workers' Compensation

TO CHAIRPERSON KARL RHOADS AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on HB 2152.

The purpose of HB 2152 is to increase the fee schedule of compensation for medical care, services, and supplies in workers' compensation cases from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale applicable to Hawaii.

The Department of Human Resources Development appreciates the apparent intent of this bill, but is concerned about its significant cost implications on State funds appropriated for workers' compensation.

We are aware that more physicians and medical providers are opting not to accept workers' compensation patients due to a variety of factors, including the limits on payments allowed under the statute and the administrative burdens of providing treatment to a claimant. This bill is apparently intended to provide a financial incentive for more providers to accept claimants as patients. We believe that having more physicians and medical providers participating in workers' compensation would lead to

more choices, better quality, and more timely provision of services to our injured workers.

However, the fiscal impact of the proposed 18% increase in the reimbursement for medical care, services, and supplies that fall under the Medicare fee schedule will be significant. Over the years, medical care has by far been the most expensive cost item in our workers' compensation program, consistently averaging at least 40% of our total costs. An across-the-board increase for services that fall under the Medicare fee schedule will drive our medical costs higher and will likely require an increase in our appropriation to pay claims under Chapter 386.

We note that Section 386-21, HRS, authorizes the Director of the Department of Labor and Industrial Relations to issue a supplemental fee schedule if the director determines that an allowance for a specific service under Medicare is not reasonable. As an alternative to this bill, we suggest that the Department of Labor and Industrial Relations be given the time and latitude to continue its ongoing and commendable efforts to gather the input of all workers' compensation stakeholders to address the many issues facing our current system--including the number of participating physicians. Should the DLIR believe any allowances need to be adjusted, all stakeholders would have the opportunity to provide their input.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
INSURANCE DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

P. O. BOX 3614
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KEALU'I S. LOPEZ
DIRECTOR

GORDON I. ITO
INSURANCE COMMISSIONER

TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Friday, February 3, 2012
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 2152 – RELATING TO WORKERS'
COMPENSATION.**

TO THE HONORABLE KARL RHOADS, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department takes no position on this bill and offers the following comments.

The purpose of this bill is to increase the fee schedule of compensation for medical care, services, and supplies in workers' compensation cases from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale applicable to Hawaii as prepared by the U.S. Department of Health and Human Services.

Since we are currently seeing a slight increase in workers' compensation loss costs, the Department has concerns that increasing the fee schedule to 130 percent, as proposed in this bill, would compound future premium increases.

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

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN SUPPORT OF H.B NO. 2152**

February 3, 2012

To: Chairman Karl Rhoads and Members of the House Committee on Labor and Public
Employment:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the
Hawaii Association for Justice (HAJ) in support of H.B. NO.2152, relating to workers'
compensation.

H.B. No. 2152 increases the workers' compensation fee schedule for medical
treatment and services rendered to injured workers. It has become increasingly difficult
to find doctors willing to accept patients covered by the workers' compensation fee
schedule because of the low reimbursement and increased paperwork associated with
processing workers' compensation claims. Many doctors do not have sufficient billing
staff and are unable to hire additional staff to handle workers' compensation billing given
the current level of reimbursement.

Often, injured workers cannot continue treatment with their family doctor who is
most familiar with their condition and other medical issues that should be best handled or
coordinated by a single provider. The result can be inconsistent or even conflicting
medical treatment and advice from a family doctor providing care under traditional health
insurance and another doctor providing care under workers' compensation. In some
cases, injured workers cannot find doctors to treat them under the workers' compensation
fee schedule and face critical delays in obtaining treatment or are unable to receive
treatment from appropriate specialists.

Hawaii has a much higher cost of living than most states and reimbursement levels commensurate with the cost of doing business and living in Hawaii are necessary to recruit and retain doctors and other healthcare providers. Increasing the workers' compensation fee schedule is an important factor in providing fair reimbursement for Hawaii's doctors, which in turn, provides better medical care for our injured workers.

Thank you for allowing me to testify in support of this measure. Please feel free to contact me should you have any questions or desire additional information.

HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

Hearing: Friday, February 3, 2012
Time: 9:00 a.m. – 12:00 pm.
Place: Conference Room 309

TESTIMONY OF ILWU LOCAL 142
RE: HB 2152 RELATING TO WORKERS' COMPENSATION

Chair Rhoads, Vice Chair Yamashita, Members of the Committee:

Thank you for the opportunity to present testimony regarding HB 2152. We support this bill.

Access to quality medical care is perhaps the single most important factor in the successful functioning of our workers' compensation system. Effective medical care enables injured workers to resume productive lives or to make the necessary adaptations to transition to other occupations. Sound medical treatment also permits employers and insurers to minimize their expenses in paying for lengthy temporary or permanent disability.

At present, effective medical care is not available to all injured workers because the level of compensation received by those physicians willing to take workers' compensation is below that paid for regular prepaid health insurance. When the lower rate of reimbursement is coupled with the administrative requirements for claims documentation and the added time this entails, many medical providers are simply refusing to accept workers' compensation patients. The result is that injured workers can go untreated or cannot access quality care. Our best and busiest physicians can build successful practices without workers' compensation patients and thus they are often the least available to care for injured workers.

HB 2152 would go far to correct the inadequate compensation of medical providers in the workers' compensation arena by increasing the base for compensation from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale. No significant adjustments in this compensation have been made for an extended time period, and thus, enhancement is justified merely to keep pace with inflation, if for no other reason.

Accordingly, we urge that HB 2152 we approved, as it will not only increase the availability of quality medical care, but in the long run insure a more stable and economical overall system of coverage.



Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877

Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
Representative Karl Rhoads, Chair
Representative Kyle T. Yamashita, Vice Chair

Friday, February 3, 2012
9:00 a.m.

HB 2152

Chair Rhoads, Vice Chair Yamashita, and members of the Committee; my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** HB 2152. This bill increases the medical fee schedule reimbursement from 110% of Medicare to 130% of Medicare. We believe this bill is unnecessary because both the Director of the Department of Labor and Industrial Relations and the Insurance Commissioner have the ability to increase reimbursements. In fact, in 2006, the Department of Labor and Industrial Relations adjusted fees for approximately 1,300 CPT codes. In addition, an across the board increase will adversely affect motor vehicle insurance costs. While the initial increase to personal injury protection (PIP) coverage may be small, PIP costs will drive higher bodily injury liability costs, uninsured motorist coverage costs, and underinsured motorist costs.

We respectfully request that HB 2152 be held.

Thank you for the opportunity to testify.



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

DATE: Friday, February 03, 2012

TIME: 9:00 a.m. – 12:00 p.m.

PLACE: Conference Room 309

To: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

From: Hawaii Medical Association
Dr. Roger Kimura, MD, President
Linda Rasmussen, MD, Legislative Co-Chair
Dr. Joseph Zobian, MD, Legislative Co-Chair
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: HB 2152 RELATING TO WORKERS' COMPENSATION.

In Support

Chairs & Committee Members:

Hawaii Medical Association supports this measure.

In 1995, a comprehensive package of legislative proposals was made to reform workers' compensation in response to rising insurance premiums. The Legislature couldn't agree on fair and meaningful reforms, so the medical fee schedule was arbitrarily slashed by 54%, basing reimbursement on Medicare plus 10%. Hawaii's medical fee schedule fell to fifth lowest in the nation, 18% below the national median. Counter-intuitively, costs per case continued to rise and soon exceeded pre-1995 levels.

The probable reason for this is the impact that inadequate reimbursement had on restricting access to care. A critical element in treating workers' compensation cases is immediate access to comprehensive medical care and management. Any delays tend to make the injury more costly, even to the extent of permanent impairments and disabilities. This also affects the time period the employee is off work, creating greater costs to employers for temporary disability payments.

The legislature must recognize that the practice of medicine is also a business and therefore follows the same economic rules under which any business operates. In short, no business or profession can exist if they are forced to take a loss on sales or services. In addition to taking a loss on services physicians taking workers compensation are forced to deal with an increasingly

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unmanageable level of administrative burdens. Predictably, there has been a steady exodus of physicians willing to treat injured workers. Because no-fault automobile injuries are reimbursed according to the workers' compensation fee schedule, these patients also have been having an increasingly difficult time receiving care for their injuries. The situation has finally reached crisis proportion as demonstrated by a Hawaii Medical Association survey indicating that over 65% of doctors that had previously taken these cases now refuse to do so. It is now extremely common that physicians refuse care of these injuries even to their established patients. Straub Hospital and Clinic is perhaps the largest example of this.

We have come to the legislature regularly to correct this problem since Act 234 was passed in 1995 asking for recognition that injured workers and their families are suffering as a result of low reimbursements impeding access to medical care. We hope that now the legislature finally understands this to be true and takes action to correct the situation.

Thank you for the opportunity to provide this testimony.

Testimony of
John M. Kirimitsu
Legal & Government Relations Consultant

Before:

House Committee on Labor & Public Employment
The Honorable Karl Rhoads, Chair
The Honorable Kyle T. Yamashita, Vice Chair

February 3, 2012
9:00 am – 12:00 pm
Conference Room 309

Re: HB 2152 Relating to Workers' Compensation

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on HB 2152 providing for an increase in the fee schedule for medical services in workers' compensation cases.

Kaiser Permanente Hawaii supports this bill.

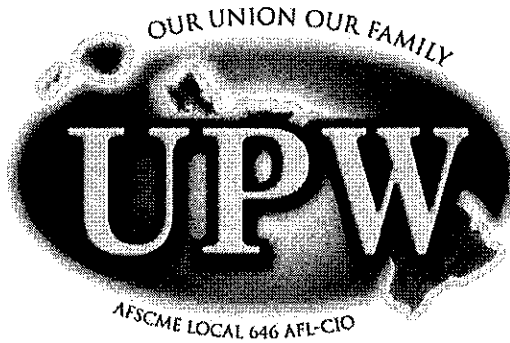
Basing the medical fee schedule on the Medicare RBRVS began in 1995, and to date, the payments to health care providers has remain unchanged at 110% of Medicare RBRVS. Therefore, this bill's proposed increase to 130% is long overdue.

This issue of increasing the medical services reimbursement for workers' compensation cases has a long standing history before the Hawaii legislature. In 1998, the Hawaii legislature requested a study to determine if the 110% ceiling on the workers' compensation medical fee schedule based on the Medicare-RBRVS should be adjusted. In that study, the Legislative Reference Bureau recommended an increase in the 110% medical fee schedule, and attributed the low medical fee schedule for the trend in health care providers not accepting new patients for workers' compensation cases. The complete Legislative Reference Bureau report and its findings may be viewed at <http://hawaii.gov/lrb/rpts98/fee.pdf>.

Traditionally, workers' compensation fee schedules do not properly recognize and reimburse physicians who go beyond traditional medical services and perform the extra work required to promote an employee's rapid return to work. It is well documented that workers' compensation cases require more physician time in caring for and educating the patient, increasing the cost of delivering workers' compensation services compared with routine health care. As a result, low

fee schedules can discourage the participation of qualified physicians and have a consequential negative impact on access through a reduction of available physicians. On the other hand, an appropriate fee schedule promotes the development of quality occupational health programs and services, which in turn ensures higher quality of health care and increased access to injured workers without passing on higher costs to employers and insurers.

Thank you for the opportunity to comment.



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Sixth Legislature
Regular Session of 2012

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
The Honorable Rep. Karl Rhoads, Chair
The Honorable Rep. Kyle T. Yamashita, Vice Chair

DATE OF HEARING: Friday, February 3, 2012
TIME OF HEARING: 9:00 a.m. – 12:00 p.m.
PLACE OF HEARING: Conference Room 309

TESTIMONY ON HB 2577 RELATING TO WAGES

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO (“UPW”)

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 11,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW supports HB 2577 which would amend Section 388-1 and Section 388-3 of the Hawaii Revised Statutes (HRS). This measure would include promised vacation and other leaves as paid time off in the definition of “wages.” The bill does not require an employer to pay vacation or personal time upon separation providing that there is a written agreement, policy or practice in place.

Accordingly, the UPW is in support of HB 2577.

Thank you for the opportunity to testify on this measure.

yamashita2 ----Aulii

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 01, 2012 2:41 PM
To: LABtestimony
Cc: Lardizabal@local368.org
Subject: Testimony for HB2152 on 2/3/2012 9:00:00 AM

Testimony for LAB 2/3/2012 9:00:00 AM HB2152

Conference room: 309
Testifier position: Comments Only
Testifier will be present: No
Submitted by: Al Lardizabal
Organization: Hawaii Laborers' Union
E-mail: Lardizabal@local368.org
Submitted on: 2/1/2012

Comments:

There is concern about the decreasing availability of physicians willing to treat injured workers due to the low reimbursement rates. This is exacerbated by the previous administration failure to regularly update the Medical Fee Schedule. We agree with the DLIR proposal to conduct a long-term fiscal impact study of an adjustment.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

"Building Better Communities"

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Castle & Cooke Homes Hawaii, Inc.

Testimony to the House Committee on Labor & Public Employment
Friday, February 3, 2012
9:00 a.m.
State Capitol, Room 309

RE: H.B. 2152, Relating to Workers Compensation

Good morning Chair Rhoads, Vice Chair Yamashita, and members of the Committee:

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, BIA-Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

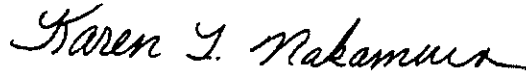
BIA-Hawaii is opposed to H.B. 2152, which proposes to increase the fee schedule of compensation for medical care, services, and supplies in workers' compensation cases from 110 percent to 130 percent of Medicare.

BIA-Hawaii believes this bill is unnecessary since the Director of Labor and Industrial Relations already has the authority to increase the fee schedule if he determines that the existing fees for medical care and services are not adequate.

Furthermore, the bill will most likely result in an increase in workers compensation insurance rates and motor vehicle insurance rates, since the workers compensation fee schedule also forms the basis for medical care costs in motor vehicle insurance. Therefore, by arbitrarily increasing physician compensation rates, H.B. 2152 will also likely push up the cost of motor vehicle insurance for everyone in Hawaii.

For the foregoing reasons, BIA-Hawaii is **opposed** to H.B. 2152.

Thank you for the opportunity to testify.



EVP/CEO
BIA-Hawaii

Testimony of
American Insurance Association
1015 K Street, Suite 200
Sacramento, California 95814 - 3803

TO: Representative Karl Rhoads
Chair, Committee on Labor & Public Employment
Via Facsimile: 586-6331

DATE: February 1, 2012

RE: **H.B. 2152 – Relating to Workers’ Compensation**
Hearing: Friday, February 3, 2012 at 9:00 a.m.
Room 309

The American Insurance Association (AIA) respectfully opposes H.B. 2152, Relating to Workers’ Compensation.

AIA is the leading property-casualty insurance trade organization, representing approximately 300 insurers that write more than \$100 billion in premiums each year. AIA member companies offer all types of property-casualty insurance, including personal and commercial auto insurance, commercial property and liability coverage for small businesses, workers' compensation, homeowners' insurance, medical malpractice coverage, and product liability insurance.

H.B. 2152 would increase the workers’ compensation fee schedule for medical care, services, and supplies from 110 percent to 130 percent of the United States Department of Health and Human Services Medicare Resource Based Relative Value Scale (RBRVS) applicable to Hawaii.

Our concern is based on the fact that additional costs in the workers’ compensation system ultimately must be borne by employers and other system payors. In the current economic environment, and with medical cost inflation, an additional upward pressure on medical costs should be avoided.

For the reasons stated above, we respectfully ask that you hold H.B. 2152. Thank you for the opportunity to submit testimony.

Steven Suchil
Assistant Vice President/Counsel
State Affairs
Western Region



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

1415 L Street, Suite 670, Sacramento, CA 95814 Telephone 916-449-1370 Facsimile 916-449-1378 www.pciaa.net

To: The Honorable Karl Rhoads, Chair
House Committee on Labor & Public Employment

From: Mark Sektan, Vice President

Re: **HB 2152- Relating to Workers' Compensation**
PCI Position: Oppose

Date: Friday, February 3, 2012
9:00 a.m.; Conference Room 309

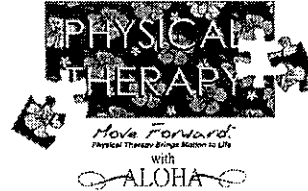
Aloha Chair Rhoads and Committee Members,

The Property Casualty Insurers Association of American (PCI) is opposed to HB 2152 which would increase the workers' compensation fee schedule from 110 percent of the Medicare fee schedule for Hawaii to 130 percent of the Medicare fee schedule for Hawaii.

PCI believes this bill is unnecessary. Title 21, Chapter 386 – 21 (c) of the Hawaii Revised Statutes already gives the Director of the Labor and Industrial Relations Department the authority to increase the allowance under the Medicare fee schedule to ensure "rates or fees provided for in this section shall be adequate to ensure at all times the standard of services and care intended by this chapter to injured employees." The director has exercised this authority and has increased reimbursement rates when those who are asking for the increase are able to justify the need. PCI believes it is appropriate to continue to allow the Director to assess the reimbursement needs and the cost implications of changes to the medical fee schedule to ensure that injured workers are protected and the costs to employers are kept reasonable. It is also important to note that the 110 percent is effectively the floor and not the ceiling for charges.

The medical fee schedule in Hawaii applies not only to workers' compensation but also to medical care provided under a personal auto policy and for medical care provided under a commercial personal injury policy. The bill could not only increase the costs of medical care in the workers' compensation system and hence drive up the cost of workers' compensation in Hawaii but it could also drive up the costs of medical care expenses for automobile insurance and therefore increase rates on Hawaii's consumers.

For these reasons, PCI asks the committee to hold this bill in committee.



House Labor & Public Employment Committee
February 3, 2012
9:00 a.m.
Room 309

RE: HB 2152 Relating to Workers' Compensation

Good morning, Chair Rhoads, Vice- Chair Yamashita and members of the committee. On behalf of the Hawaii Chapter, American Physical Therapy Association ("HAPTA"), we are in **support** of HB 2152, relating to workers' compensation.

This measure increases the fee schedule of compensation for medical care, services, and supplies in workers' compensation cases from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale applicable to Hawaii as prepared by the United States Department of Health and Human Services.

Access to care for injured workers has become difficult. Many physicians no longer accept workers' compensation patients. Straub reportedly has stopped seeing injured workers several years ago. Prior to the 50% reduction in workers' compensation fees, they had a large, busy Occupational Medicine department. Although no formal survey has been done, estimates are that more than 80% of physicians will no longer see workers' compensation patients. Patients who have had the same family physician for many years have to look for a new doctor if they are injured at work. This access to care problem delays treatment of injuries. Not only is it inconvenient for patients, but subjects them to needlessly suffering for days or weeks before care can be started.

We believe that this measure is an important step toward a more comprehensive solution to the issues affecting physician acceptance of workers' compensation payments.

HAPTA is a non-profit professional organization serving more than 250 member Physical Therapists and Physical Therapist Assistants. Our mission is to be the principal membership organization that represents and promotes the profession of Physical Therapy in the State of Hawaii.

Mahalo,

Ann Frost, P.T.
Legislative Committee Chair

TESTIMONY BEFORE THE HOUSE COMMITTEE ON

LABOR & PUBLIC EMPLOYMENT

Friday, February 3, 2012

9:00 a.m.

HB 2152

RELATING TO WORKERS' COMPENSATION

By Marleen Silva

Director, Workers' Compensation

Hawaiian Electric Company, Inc.

Chair Rhoads, Vice Chair Yamashita, and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **respectfully oppose H.B. 2152.** Our companies represent over 2,000 employees.

This bill proposes to amend Section 386-21, HRS automatically increasing across the board the fee schedule of compensation for medical care in workers' compensation cases from 110% to 130% of the Medicare Resource Based Relative Value Scale system applicable to Hawaii. We oppose it as being unnecessary and as overly broad in its approach.

The existing statutes already have a process in place to allow the Director of the Department of Labor and Industrial Relations to create an additional fee schedule, or adjust the allowable fees at any time. Health care providers can already also submit proposals, with supporting evidence, to the Director to review and determine if a change to their reimbursement rate is warranted.

We recognize that reimbursement rates may have discouraged physicians in some medical specialty areas to treat work injuries, and that subsequently has had a direct impact on the pool of qualified physicians available in the workers' compensation system. However, the solution to this issue is not to take the broad brush approach to increase the medical fee schedule automatically and across the board. Instead, a study should be conducted to identify such medical specialty areas impacted and the degree to which impacted. The medical fee schedule could then be adjusted more appropriately to such area of identified need rather than raise the costs of workers' compensation as a whole unnecessarily and unfairly.

Also of note is that the bill's broad brush approach will similarly raise the costs of motor vehicle insurance for consumers. The workers' compensation fee schedule is also used to form the costs for motor vehicle insurance. Should the medical fee schedule be increased, consumers can similarly expect to see an increase in the costs of motor vehicle insurance even in already challenging economic conditions.

For these reasons, we respectfully oppose H.B. 2152 and request that this measure be held.

Thank you for this opportunity to submit testimony.



Alan Shintani INC.
GENERAL CONTRACTOR BC 13068

February 3, 2012

Rep. Karl Rhoads, Chair
Rep. Kyle Yamashita, Vice Chair
Members of the Committee on Labor & Public Employment
State Capitol, Room 309
Honolulu, Hawaii 96813

RE: HB 2152, Relating to Workers Compensation

Dear Chair Rhoads, Vice Chair Yamashita and Members of the Committee:

Alan Shintani, Inc. is opposed to H.B. 2152, which proposes to increase the fee schedule of compensation for medical care, services, and supplies in workers' compensation cases from 110 percent to 130 percent of Medicare.

I believe this bill is unnecessary since the Director of Labor and Industrial Relations already has the authority to increase the fee schedule if he determines that the existing fees for medical care and services are not adequate.

Furthermore, the bill will most likely result in an increase in workers compensation insurance rates and motor vehicle insurance rates, since the workers compensation fee schedule also forms the basis for medical care costs in motor vehicle insurance. Therefore, by arbitrarily increasing physician compensation rates, H.B. 2152 will also likely push up the cost of motor vehicle insurance for everyone in Hawaii. This will only cause an additional burden on Hawaii's already struggling companies when competing with mainland companies for jobs.

Thank you for the opportunity to testify.

Sincerely,

President
Alan Shintani, Inc.

yamashita2 ----Aulii

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 01, 2012 6:13 PM
To: LABtestimony
Cc: batfish@hawaii.rr.com
Subject: Testimony for HB2152 on 2/3/2012 9:00:00 AM

Testimony for LAB 2/3/2012 9:00:00 AM HB2152

Conference room: 309
Testifier position: Support
Testifier will be present: No
Submitted by: Dr. Gary Saito, DC
Organization: Hawaii State Chiropractic Assn.
E-mail: batfish@hawaii.rr.com
Submitted on: 2/1/2012

Comments:

The Hawaii State Chiropractic Association supports this measure because it believes that the work comp fee schedule should never have been linked to the Medicare fee schedule because medical reimbursements under Medicare are inadequate for the treatments of injured workers. Medicare was never set up to accommodate work injured individuals. Medicare, further, does not change its fee schedule annually to account for the rise in the cost of doing business. It has not followed the CPI in over a decade, thereby paying providers little more than it did ten years ago. It is the reason that so many doctors have been refusing to accept injured workers and auto injured individuals, leaving this population of people with fewer and fewer choices of providers. The 10% over Medicare fees is inadequate in compensating doctors for the time and expertise to develop clinical documentation for the care of injured workers.

yamashita2 ----Aulii

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 01, 2012 6:06 PM
To: LABtestimony
Cc: drbickford@ymail.com
Subject: Testimony for HB2152 on 2/3/2012 9:00:00 AM

Testimony for LAB 2/3/2012 9:00:00 AM HB2152

Conference room: 309
Testifier position: Support
Testifier will be present: No
Submitted by: Paul D. Bickford, D.C.
Organization: Bickford Chiropractic
E-mail: drbickford@ymail.com
Submitted on: 2/1/2012

Comments:
Please pass this bill HB2152.

Workers Comp takes more resouces from a doctor's office to process. It is getting very difficult for a doctor to justify accepting workers comp cases for that very reason. (The cost to operate an office, and the rising costs of doing business is driving doctors to analyze how to manage time.)

The patients end up having a risk of long term disability which in the long run costs the State of Hawaii more money than it would to help the patient recover from the initial injury. The big picture of how dollars are spent is very critical, when looking at this bill.

DENNIS W. S. CHANG

ATTORNEY-AT-LAW

WORKER'S RIGHTS - LABOR LAW
WORKER'S COMPENSATION
SOCIAL SECURITY DISABILITY
LABOR UNION REPRESENTATION
EMPLOYEES RETIREMENT SYSTEM
BODILY INJURIES

February 2, 2012

VIA ELECTRONIC MAIL

TO: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Karl Rhoads, Chair
Hawaii State Capitol, Room 309

FROM: Dennis W.S. Chang
Labor and Workers' Compensation Attorney

RE: Testimony In Support to HB 2152
(Hearing: 02/03/12 at 9:00 a.m.)

Dear Honorable Chair Rhoads and Members of Committee:

POSITION

I wholeheartedly support the passage of HB No. 2152 increasing payment of medical services from 110% to 130% of Medicare. The passage of the bill is step in the right direction, but there is more that needs to be done to justly compensate the minority of current devoted medical providers who deliver medical services to injured workers. I also submit that arbitrarily limiting the rate of increase to only 130% is merely a temporary fix to an already broken workers' compensation system. For the extent of arduous work that medical providers must endure the Legislature should increase the amount to 140% and find a method of removing payment for services without any link to Medicare. You can increase the percentage of the Medicare Value Scale but the Value Scale may be surreptitiously dropped come January 1, 2013. There must be a clean and total breakage from any linkage to Medicare.

CRISES

After practicing as a labor attorney for nearly 35 years with a heavy concentration in handling complex workers' compensation claims, I believe that I can speak from experience. I echo the testimony and endless complaints of physicians who are excessively taxed with the onerous administrative burdens under the workers' compensation statute and Medical Fee Schedule. To properly deliver services they must unwittingly walk into the treatment of injured workers not knowing whether or they will be paid. There is a waiting period for the submission of the WC-1 "Employer's Report of Industrial Injury" to determine whether claims are compensable. Then, they must eventually submit treatment plans which are routinely ignored. This places medical providers in the unenviable position of either proceeding with treatment or loss of income for the delivery of medical services. They are also often hampered by other recording and reporting requirement. Even more despicable is the fact that their fees are oftentimes unduly delayed and/or compromised. At other times, they go totally unpaid. Understandably, they are reluctant to treat injured workers without first having an adjudication of approval or written approval from self-insured employers and insurance carriers before the delivery of any services.

DILLINGHAM TRANSPORTATION BUILDING

735 BISHOP STREET ● SUITE 320 ● HONOLULU, HAWAII 96813 ● TELEPHONE: (808) 521-4005

It is ironic that the Hawai'i Supreme Court has repeatedly stated that provision for workers' compensation is a cost of doing business in the State of Hawai'i but medical providers are currently shouldering the onerous burden of the costs. Even the most devoted medical providers are reluctant to remain in the workers' compensation system in light of increasing overhead, unreasonable administrative burdens associated with treating injured workers and shrinkage or unpredictable payments for their vital medical services. It is no wonder that few, if any, new medical providers are willing to venture into the workers' compensation field.

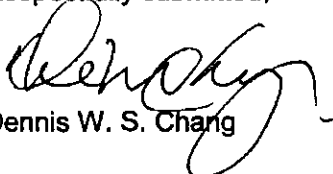
APT ILLUSTRATION OF REAL LIFE CONSEQUENCES IN SUPPORT OF PASSAGE OF HB 2152 AND CHANG

A tragic illustration aptly demonstrates the compelling need to support HB 2152 and removal of fees for medical providers from Medicare. One of my clients, who is clearly totally disabled, has been unable to locate a treating physician. Without access to a medical provider, she has been unable to get any certification of her ongoing disability and, consequently, has not received her rightful legal entitlement to wage loss benefits in the form of temporary total disability benefits and vital medical care. The clinic where she was going will not treat her since she has been disabled and has been unable to pay for a private health care plan. Even if she had a private health care plan, there should be no reason to shift payment for medical care from the employer and insurance carrier. After contacting more than fifteen (15) doctors and being rejected (told workers' compensation claims involve cumbersome administrative and intense paperwork), she got so frustrated and depressed that she gave up trying. In turn, this placed the onus on me to help her find a doctor, which has aggravated the situation since she is now incurring increasing attorney's fees. We have been unable to locate a physician to date. We are also now attempting to get her shifted to public assistance and become a ward of the State of Hawai'i. Legislators should be upset at this tragic situation and shifting of costs to the State since the obvious avoidable and needless suffering and economic ruin could have been avoided by simply increasing the reasonable fees for medical providers rather than slashing their fees in the mid 1990's (that was the beginning of the mass exodus of medical providers in the workers' compensation field).

CONCLUSION

I fully endorse HB 2152. This is wholly consistent with an unwavering line of appellate rulings by the Hawai'i Supreme Court which has stated that workers' compensation is a cost of doing business. Hopefully, increasing the current cap will keep current struggling medical providers in the workers' compensation system. Increasing it to 130% of Medicare allowances is insufficient to keep them in the system. More must be done, especially if we want access for all injured workers into accepting worthy patients like some of my current clients and many other untreated injured workers. We have a unique outrageous crisis in the shortage of physicians participating as medical providers, which can only be remedied by increasing the cap more and break the linkage to Medicare.

Respectfully submitted,


Dennis W. S. Chang

DWSCty

*Ronald L. Barozzi, Ph.D., Psy.D., LMT
47-234 Kamehameha Hwy
Kaneohe, HI 9674
Phone: 808-371-5839
Fax 808-356-0867
ronbarozzi@gmail.com*

Testimony

(HB 2152 and its companion SB 2204)

This bill proposes to increase the fee schedule of compensation for medical care, services, and supplies in workers' compensation cases from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale applicable to Hawaii as prepared by the United States Department of Health and Human Services.

As a practicing clinical psychologist I have treated Hawaii's injured workers for over 20 years. The provider pool for our injured workers has been shrinking over this time, and longer, because of many factors. A primary reason is that worker's compensation (WC) payments do not cover many services required by WC insurance carriers, such as additional recording and reporting (not required by HMSA), patient advocacy, and collaboration with treatment teams including case managers. A more recent disincentive to Hawaii providers has been a reduction in WC payment rates over this last year. Also, WC treatment codes (CPT codes) are not adequate to pay for services. For example, my initial evaluation session averages around three hours, with report. This service is pigeon-holed into a 90-minute code (CPT 90801), which means I get paid for half of what I provide. HB 2152 does not directly address this problem but would certainly be a step in the right direction to get paid at a higher rate to cover some of the necessary contingencies we are currently not getting paid for. My practice is dedicated to serving the injured workers of Hawaii. And I will continue. A vote for HB 2152 would be a recognition and affirmation of our work that would also reward those providers who have chosen to stay and continue to serve Hawaii's injured workers.

January 27, 2012

Representative Karl Rhoads
Chairman, Committee Labor and Public Employment

Representative Kyle T. Yamashita
Vice Chair, Committee on Labor and Public Employment

RE: Testimony in Support of HB2152, Relating to Workers' Compensation
Hearing, Friday, February 03, 2012 9:00 AM - 12:00 PM
Conference Room 309

FROM: James A. Pleiss, DC
2045 Main Street, Wailuku, Maui, Hawaii 96793
808-244-0312

Dear Chairman Rhoads and Vice Chair Yamashita:

Thank you for the opportunity to testify in support of HB2152.

Since the reform in workers compensation in the 1990's, the workers' compensation fee schedule has been tied to the Medicare fee schedule +110%. Since that time, because of the nature of Medicare, there has been no real increase in fees. In fact, some years the fees go down.

This has led to many healthcare providers to not accept workers' compensation insurance. It is extremely difficult to find healthcare providers, particularly on the neighbor islands who will take workers' compensation.

HB2152 which increases the fee schedule to 130% will help to draw more healthcare providers back into treating injured workers, making it easier for workers to get the care and diagnostic studies done to treat their injuries on a timely basis.

Thank you for allowing me to testify in support of HB2152.

James A. Pleiss, DC

NDZ132
Testifier position: Support
Testifier will be present: No
Submitted by: Alice Ogawa
Organization: Individual

1. Medicare was never intended as a healthcare system for the medical needs of injured workers. Therefore, Hawaii should never have adopted it as the system on which to base reimbursements for work injury care. It inadequately provides for the kind of treatments that injured workers require.
2. Because Medicare is federally mandated to be budget-neutral and must balance its budget based on its income annually, there is no assurance that the Medicare fee schedule will be able to keep up with the growing cost of doing business for healthcare providers. There is no accommodation for inflationary changes in the economy.
3. If Medicare reimbursements stay the same from year to year, but the cost of living and the cost of doing business increase every year, the reimbursements actually lose value year after year. If Medicare reimbursements go down, it exacerbates the crisis that healthcare providers face because of declining compensation for their work in an environment of rising costs.
4. The inability of the Medicare system to keep up with the cost of living increases is causing a proportional decline in the number of doctors willing to treat not only Medicare patients, but, in Hawaii, to treat work comp and auto injury patients as well. This leads to an underserved injured population that requires medical services.
5. The 10% over Medicare reimbursement currently paid to healthcare providers inadequately compensates them for the time and expertise of developing case clinical notes and documentation.

Testifier position: Support
Testifier will be present: No
Submitted by: Ryoichi Ogawa
Organization: Individual

1. Medicare was never intended as a healthcare system for the medical needs of injured workers. Therefore, Hawaii should never have adopted it as the system on which to base reimbursements for work injury care. It inadequately provides for the kind of treatments that injured workers require.
2. Because Medicare is federally mandated to be budget-neutral and must balance its budget based on its income annually, there is no assurance that the Medicare fee schedule will be able to keep up with the growing cost of doing business for healthcare providers. There is no accommodation for inflationary changes in the economy.
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5. The 10% over Medicare reimbursement currently paid to healthcare providers inadequately compensates them for the time and expertise of developing case clinical notes and documentation.

yamashita2 ----Aulii

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 01, 2012 11:59 PM
To: LABtestimony
Cc: help@hendlinheath.com
Subject: Testimony for HB2152 on 2/3/2012 9:00:00 AM

Testimony for LAB 2/3/2012 9:00:00 AM HB2152

Conference room: 309
Testifier position: Support
Testifier will be present: No
Submitted by: Dr. Tim Hendlin
Organization: Individual
E-mail: help@hendlinheath.com
Submitted on: 2/1/2012

Comments:

1. Medicare was never intended as a healthcare system for the medical needs of injured workers. Therefore, Hawaii should never have adopted it as the system on which to base reimbursements for work injury care. It inadequately provides for the kind of treatments that injured workers require.
2. Because Medicare is federally mandated to be budget-neutral and must balance its budget based on its income annually, there is no assurance that the Medicare fee schedule will be able to keep up with the growing cost of doing business for healthcare providers. There is no accommodation for inflationary changes in the economy.
3. If Medicare reimbursements stay the same from year to year, but the cost of living and the cost of doing business increase every year, the reimbursements actually lose value year after year. If Medicare reimbursements go down, it exacerbates the crisis that healthcare providers face because of declining compensation for their work in an environment of rising costs.
4. The inability of the Medicare system to keep up with the cost of living increases is causing a proportional decline in the number of doctors willing to treat not only Medicare patients, but, in Hawaii, to treat work comp and auto injury patients as well. This leads to an underserved injured population that requires medical services.
5. The 10% over Medicare reimbursement currently paid to healthcare providers inadequately compensates them for the time and expertise of developing case clinical notes and documentation.

yamashita2 ----Aulii

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 01, 2012 4:37 PM
To: LABtestimony
Cc: drbroderson@gmail.com
Subject: Testimony for HB2152 on 2/3/2012 9:00:00 AM

Testimony for LAB 2/3/2012 9:00:00 AM HB2152

Conference room: 309
Testifier position: Support
Testifier will be present: No
Submitted by: Jesse Broderson
Organization: Individual
E-mail: drbroderson@gmail.com
Submitted on: 2/1/2012

Comments:

I am in support of this bill. Has a medical provider, it is imperative that my services rendered are reimbursed with rates able to support the cost of doing business in Hawaii. If not, as has been happening, I will be forced to discontinue service to Hawaii's injured workers. Please approve this bill. Mahalo

yamashita2 ----Aulii

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 4:00 PM
To: LABtestimony
Cc: drbool@aol.com
Subject: Testimony for HB2152 on 2/3/2012 9:00:00 AM

Testimony for LAB 2/3/2012 9:00:00 AM HB2152

Conference room: 309
Testifier position: Support
Testifier will be present: No
Submitted by: Linda Rowan MD
Organization: Individual
E-mail: drbool@aol.com
Submitted on: 1/30/2012

Comments:

I am writing to urge legislators to support HB2152. I am a physician that spends volumous hours working with patents to help them with their work related injuries. The time spent with the patient is only the tip of the ice berg in terms of the work physicians are asked to do to help the injured worker. The paperwork required is significantly more involved than with a non work related injury. I spend many hours communicating with insurance companies and adjustors, nurse case mangers, and often need to be involved with legal matters related to the case. I only see patients for half a day so that I can get all the administrative work done in hopes that patient outcomes will be in their best interests. Reimbursement for the services work comp physicians provide is imperative so that we can continue to provide quality services.

George M. Waialeale
910 Kapahulu Avenue #703
Honolulu, Hawaii 96816
Email: geedubbyou@aol.com
Phone: (808) 383-0436

February 3, 2012

Committee on Labor and Public Employment

HB 2152 Relating to Workers' Compensation

I am here to testify in support of HB 2152. More than majority of doctors who practice in the State of Hawaii refuse to take Workers' Comp patients because of the low fee schedule and the paperwork that is involved to get reimbursed. Doctors do want to help Worker's Comp patients but they are also in a business to make a reasonable living.

By increasing the compensation it will increase the amount of doctors who will take Workers' Comp patients and this will give more choices to Injured Workers.

I ask for your passage of this legislation.

George Waialeale

Testimony of Glenn Ida
Representing,
The Plumbers and Fitters Union, Local 675
1109 Bethel St., Lower Level
Honolulu, Hi. 96813

LATE

In Support of HB 2152

Before the House:
Committee on Labor
Friday, Feb. 3, 2012
9 AM, Conference Room 309

Aloha Chair Rhoads, Vice-Chair Yamashita and Members of the Committee,

My name is Glenn Ida; I represent the 1300 plus active members and about 600 retirees of the Plumbers and Fitters Union, Local 675.

Local 675, is in **Support of HB 2152**, which increases the fee schedule of compensation for medical care services and supplies in worker's compensation cases from 110% to 130% of the Medicare Resource Based Relative Value Scale applicable to Hawaii as prepared by the United States Department and Human Services.

The medical service providers are entitled to fair and timely compensation for the treatment of patients on workers' compensation. The availability of providers willing to take Workers' Comp. Patients may be adversely affected if their payments did not keep up with covering their costs of services and supplies thus making it difficult for the injured worker to get the proper treatment needed to heal and return to the work force.

Therefore, Local **675 Supports HB 2152**.

Thank you for this opportunity to testify.

Glenn Ida
808-295-1280

Governor, District 7 (HI, CA & NV, Guam, American Samoa & Commonwealth of Northern Mariana Islands)
Joseph G. Morelli, Jr., D.C., F.I.C.C.
94-050 Farrington Hwy., Ste. E1-1B
Waipahu, HI 96787-1841
T: (808) 671-2685
F: (808) 761-9368
e: crunch@aloha.net

To: Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair
COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

From: Joseph G. Morelli, Jr., D.C., F.I.C.C., District VII Governor,
American Chiropractic Association

Date: Friday, February 03, 2012
Time: 9:00 am
Place: Conference Room 309

Subject: **Support of HB 2152**

My name is Dr. Joseph G. Morelli, Jr., and I am a Doctor of Chiropractic in Hawaii, practicing here for the past 34 years. I currently hold the elected office as the District 7 Governor on the Board of Governors of the American Chiropractic Association. I represent the local Hawaii Doctors of Chiropractic and also represent all the Doctors of Chiropractic in California, Nevada, Guam, American Samoa and the Mariana Islands. The American Chiropractic Association is the largest Chiropractic professional representative organization in the world. I give this as testimony to voice our strong **support** to the content and intent of **HB 2152**. The proposed language in **HB 2152** updates and brings the Hawaii workers' compensation fee schedule much more in line with the cost of living and the cost of providing medical services to Hawaii's injured workers.

Unfortunately, the Medicare Medical Fee Schedule has not been able to keep up with the ever increasing costs of providing medical services. In fact, considering the cost cutting initiatives in the US Congress and being imposed on the Medicare system, it is likely that the Medicare Fee schedule may be significantly reduced this year, if Congress does not act to stabilize the schedule.

Considering the workers' compensation fees across the country that are set by state regulation, Hawaii's workers' compensation medical fee schedule is very much on the low side. This is in stark contrast Hawaii's much higher cost of living and cost of doing business in general compared to most other US states.

The increase of the fee schedule to 130% of Medicare from 110% of Medicare fees can significantly help mitigate the extreme high cost of providing Medical services here in the Aloha state.

Please pass **HB 2152** from your committee for the sake of the Hawaii injured workers, helping to insure that the medical/chiropractic care delivered in our islands is best that it can be, with ease of access.