

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
INSURANCE DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI'I S. LOPEZ
DIRECTOR
GORDON I. ITO
INSURANCE COMMISSIONER

TO THE SENATE COMMITTEE ON HEALTH

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Friday, February 10, 2012
1:30 p.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON SENATE BILL NO. 2018 – RELATING TO DENTAL SERVICES

TO THE HONORABLE JOSH GREEN, M.D., CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department takes no position on this bill which amends Chapter 432, 432D, and 448D by prohibiting mutual benefit societies, health maintenance organizations, and dental service organizations from requiring dentists who provide services to their subscribers to accept fees set by a plan for any services, except for covered services.

The Department does not regulate or oversee the contractual provisions or requirements between dental insurers and dental service providers.

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

Hawaii State Legislature
State Senate
Committee on Health

State Senator Josh Green, M.D., Chair
State Senator Clarence K. Nishihara, Vice Chair
Committee on Health

Friday, February 10, 2012, 2:45 p.m. Room 229
Senate Bill 2018 Relating to Dental Services

Honorable Chair Josh Green, M.D., Vice Chair Clarence K. Nishihara and
members of the Senate Committee on Health,,

My name is Russel Yamashita and I am the legislative representative for the Hawaii Dental Association and its 960 member dentists. I appreciate the opportunity to testify in support of SB 2018 Relating to Dental Services. The bill before you today would prohibit health and dental insurance companies from setting fees for dental services not subject to insurance company contracts. This bill is based on the model legislation from the National Conference of Insurance Legislators (NCOIL) which was approved and adopted last October.

Health and dental insurance companies are now including clauses in their contracts with participating dentists which state that non-covered services are subject to a fee schedule dictated by the insurance companies. Such price fixing and restraint of trade by these insurance companies harm not only the consumer, but in some cases will also cause patients with insurance to be turned away from their dentist due to these onerous clauses.

For instance, if an insurance company stipulates there is no reimbursement or coverage for a particular procedure, such as a crown. The insurance contract provision would prohibit a participating dentist from charging a fee for that service. Such a provision would require the patient to seek a non-participating dentist who is not bound by a contract, to perform the procedure. This absurd result clearly demonstrates how unintended consequences would result when boiler plate provisions are included in contracts of adhesion by insurance companies.

Additionally, should a patient with insurance seek the services of their family dentist for a serious dental problem or disease, they could find that their trusted dentist is restricted or prohibited from providing full and complete professional services to their family due the onerous restrictions in such a contract .

In other states, the Delta Dental Plans Association's response to similar bills as HB 414 has been to attack these laws claiming that these contract provisions enable patients to benefit from a discounts on services **which are not provided or covered in the benefits under their insurance coverage.** The HDA not only disputes this assertion and wishes to point out that in many instances this would put the participating dentist into a losing proposition, especially on the neighbor islands where costs of doing business is much higher.

On the neighbor islands, patients will find that dentists will be unwilling to participate with the insurance companies where fee schedules and reimbursements are based on Honolulu pricing. The consequences of such a situation will further burden the limited number of participating dentists and may result in further access to care on neighbor islands and in remote or rural areas.

In one of its documents, Delta Dental raised the question, "What gives Delta the right to set fees you don't even cover?". The response was: "We believe every-one deserves access to affordable oral health care. Just as you must adjust service, techniques and material to remain competitive in your community, so must Delta Dental adapt to the evolving needs of our enrollees."

The real response is that this is price fixing, pure and simple. It makes is easier for all the insurance companies to then run the business of the dental professionals. Without a federal antitrust exemption that most health insurance companies enjoy, dental and medical professionals are at the mercy of the insurance companies, unable to effectively negotiate like a union for fear of an antitrust or restraint of trade law suit. The only response the individual dentist can do is to reject the contract or sign a contract of adhesion.

Such unique and coercive practices are only allowed through the statutory authority granted to the insurance companies in the regulatory environment in which they exist in the 50 states. As a result, 26 states have seen the necessity to implement similar statutory prohibitions as SB 2018 in the last 24 months in order to reign in the insurance industry's unfair and deceptive activities in this respect. Currently, similar legislation is now pending in over 13 states and the National Conference of Insurance Legislators (NCOIL) adopted a model act last October on which SB 2018 is based on.

This matter is not merely a matter of contractual relationships, the special and protected statutory environment which insurance companies enjoy, allow insurance companies virtual monopolistic power over many providers of a wide range of services. Only through legislative recourse can insurance companies be brought to answer for such over reaching actions such as SB 2018 is attempting to remedy.

Therefore, the HDA and its members urge your favorable consideration of this bill and I thank you for this opportunity to testify in support of this bill.

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 10, 2012

The Honorable Josh Green, M.D., Chair
The Honorable Clarence K. Nishihara, Vice Chair

Senate Committee on Health

Re: SB 2018 – Relating to Dental Services

Dear Chair Green, Vice Chair Nishihara and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2018 which would prohibit health or dental plans from requiring dentists to accept a set fee for a service which was determined by the plan unless the service is covered under the member's plan. HMSA opposes this Bill.

Although the language of SB 2018 is seemingly benign, we believe that passage of this measure would set a dangerous precedent. When providers enter into contracts with plans these contracts represent negotiated terms which have been agreed to by both parties. The bill before the Committee today seems to be an attempt to address an issue some dentists have with the terms of a contract which they have already signed. SB 2018 would constitute the Legislature's direct involvement into a legal contractual relationship between two private entities.

Passage of legislation of this type could lead to many other aggrieved individuals seeking recourse from the Legislature when, after entering into a contractual agreement, they are unhappy with the terms.

Given the many issues surrounding SB 2018, we would respectfully request the Committee consider holding this measure today. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD' followed by a long horizontal stroke.

Jennifer Diesman
Vice President
Government Relations

Lyle Yanagihara
1441 Kapiolani Blvd. #1111
Honolulu, HI 96814-4406

February 5, 2012

HI Senate Health Committee

Dear HI Senate Health Committee:

I feel that Senate Bill 2018 is important for how I'm able to practice Dentistry in Hawai'i

The Senate Committee on Health
Friday February 10, 2012; 3:30 p.m.; Conference Room 229 Testimony in support of SB
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Prohibits dental service organizations, mutual benefit societies, and health maintenance organizations from requiring a dentist who provides services to its subscribers to provide services for a fee unless they are covered services.

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I try to offer my patients a good value for my services. Please don't let an outside organization dictate how I can practice dentistry. It is also telling that the Hawaii Insurance Commission was, in the past, supportive of this measure. I humbly ask for your consideration in allowing the passage of SB 2018. I believe that fair enforcement and reporting of license irregularities serves to enhance the business climate in Hawaii. Equitable treatment by third party payors also enables the effective provision of services to my patients. Thank you for your due consideration of these measures.

Mahalo for your support.

With aloha,

Lyle Yanagihara

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Wayne Leong
82 Puuhonu Pl Ste 201
Hilo, HI 96720-2010

February 5, 2012

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Mahalo for your support.

With aloha,

Wayne S H Leong
808 935-3552

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Glenn Okihiro
98-1648 Hapaki Street
Aiea, HI 96701-1734

February 5, 2012

HI Senate Health Committee

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I feel that Senate Bill 2018 is important for how I'm able to practice Dentistry in Hawai'i

The Senate Committee on Health


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Mahalo for your support.

With aloha,

Glenn Okihiro

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Ericson Ng
1741 Nuuanu Ave
Honolulu, HI 96817-3249

February 5, 2012

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Mahalo for your support.

With aloha,

Ericson Ng

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steven kumasaka
46-030 kamehameha highway
kaneohe, HI 96744-3714

February 5, 2012

HI Senate Health Committee

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Mahalo for your support.

With aloha,

steven kumasaka
808-247-2240

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steven kumasaka
46-030 kamehameha highway
kaneohe, HI 96744-3714

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steven kumasaka
808-247-2240

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Wilfred Miyasaki
1139 Bethel St
Honolulu, HI 96813-2207

February 6, 2012

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Mahalo for your support.

With aloha,

Wilfred Miyasaki
533-0000

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Kevin Ching
411 Hobron Ln. #914
Honolulu, HI 96815-1211

February 6, 2012

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Mahalo for your support.

With aloha,

Kevin Ching
808-946-0442

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Brad Ching
615 Piikoi St. Ste 1501
Honolulu, HI 96814-3142

February 6, 2012

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Mahalo for your support.

With aloha,

Dr. Brad Ching
8085968625

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Lisa Valderueda
94-229 Waipahu Depot Rd., #500
Wspipahu, HI 96797-3035

February 6, 2012

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With aloha,

Lisa Valderueda
808-676-5711

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Berwyn Ito
1600 Kapiolani Blvd. #1400
Honolulu, HI 96814-3807

February 6, 2012

HI Senate Health Committee

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With aloha,

Berwyn Y. Ito
8089478888

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Janice Lee
1519 Nuuanu Ave., #117
Honolulu, HI 96817-3757

February 6, 2012

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Mahalo for your support.

With aloha,

Janice Lee
8084888119

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Authentication ID: [ohheYHO1]

Steve Wilhite
2142 B Mauna Place
Honolulu, HI 96822-2500

February 6, 2012

HI Senate Health Committee

Dear HI Senate Health Committee:

I feel that Senate Bill 2018 is important for how I'm able to practice Dentistry in Hawai'i

The Senate Committee on Health

Friday February 10, 2012; 3:30 p.m.; Conference Room 229 Testimony in support of SB 2018 RELATING TO DENTAL SERVICES.

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Mahalo for your support.

With aloha,

Steve Wilhite
808-256-4000

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Authentication ID: [10wcfxh7]

Gerald Kim
1441 Kapiolani Boulevard, Suite 1515
Honolulu, HI 96814-4407

February 6, 2012

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Mahalo for your support.

With aloha,

Gerald Kim, DDS, MSD

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Glenn Kadohiro
154 Papalaua Street, #200
Lahaina, HI 96761-1616

February 6, 2012

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Mahalo for your support.

With aloha,

Glenn Y Kadohiro DDS
8086677711

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Testimony to the Senate Committee on Health
SB 2018
Relating to Dental Services
By
Neil C. Nunokawa, D.D.S.
1885 Main Street, Suite 204
Wailuku, HI 96793

Senator Josh Green, M.D., Chair
Senator Clarence K. Nishihara, Vice Chair

Friday, February 10, 2012, 2:45 P.M.
Conference Room 229

Re: SB 2018, Relating to Dental Services

Honorable Chair Josh Green M.D., Vice Chair Clarence Nishihara and
Members of the Senate Committee on Health:

As the present President of the Hawaii Dental Association and a practicing dentist from the island of Maui for over 30 years, I wish to testify IN SUPPORT of Senate Bill 2018, Relating to Dental Services. This bill would prohibit health and dental insurance companies from setting fees for dental services not subject to insurance company contracts.

Presently, dental insurance companies limit the fees that a participating dentist may charge even though the procedure is a non-covered benefit under the insurance contract. This provision results in price fixing and restraint of trade that affects the entire dental profession in the State of Hawaii. This restriction is even more onerous considering the fact that Hawaii is so heavily insurance-oriented. To opt out of participating with any dental insurance company would be a heavy burden and possible economic suicide for many dentists.

Such limitations on fees for non-covered services are also harmful to consumers. If fees are set too low, a participating dentist would not offer certain services, resulting in the patient being forced to seek the services of a non-participating provider, thereby losing any benefit of the patient's earned insurance coverage.

Presently 26 states have implemented similar statutory prohibitions and similar legislation is now pending in over 13 states. In addition, the National Conference of Insurance Legislators (NCOIL) adopted a model act in October 2010 on which SB 2018 is based on.

The special and protected statutory environment that insurance companies enjoy provide for virtual monopolistic power over many providers. Senate Bill 2018 seeks to remedy this injustice.

Please pass Senate Bill 2018.

Sincerely,

Neil C. Nunokawa D.D.S

Luke Teruya
4211 Waiālae Ave. #405
Honolulu, HI 96816-5317

February 6, 2012

HI Senate Health Committee

Dear HI Senate Health Committee:

I feel that Senate Bill 2018 is important for how I'm able to practice Dentistry in Hawai'i

The Senate Committee on Health
Friday February 10, 2012; 3:30 p.m.; Conference Room 229 Testimony in support of SB
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Mahalo for your support.

With aloha,

Luke Teruya
8087351733

This message has been verified by CapwizXC as authentic and sent by this individual.
Authentication ID: [95qqiuz9]

Lawrence Fujioka
1441 Kapiolani Blvd.
Honolulu, HI 96814-4402

February 6, 2012

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Mahalo for your support.

With aloha,

Dr. Lawrence Fujioka
8089551510

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Carla Fukumoto
321 N. Kuakini St. #803
Honolulu, HI 96817-2362

February 6, 2012

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Mahalo for your support.

With aloha,

Carla C. Fukumoto, DDS
8085362196

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Authentication ID: [ggahGWZ9]

Bryan Tamura
1009 kapiolani blvd apt3107
Honolulu, HI 96814-2103

February 6, 2012

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Mahalo for your support.

With aloha,

Bryan Tamura

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Jacqueline S Brown DDS
1600 Kapiolani Blvd, Suite 518
Honolulu, HI 96814-3802

February 7, 2012

HI Senate Health Committee

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Mahalo for your support.

With aloha,

Jacqueline S Brown, DDS
808-949-5644

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Authentication ID: [FQF60LkI]

Wade Nobuhara
832 Hind Iuka Drive
Honolulu, HI 96821-1728

February 7, 2012

HI Senate Health Committee

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With aloha,

Wade Nobuhara

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Dean S. Arashiro DDS
135 S. Wakea Avenue, Suite 211
Kahului, HI 96732-1385

February 8, 2012

HI Senate Health Committee

Dear HI Senate Health Committee:

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Dean S. Arashiro DDS

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Authentication ID: [49yrlwg2]

Craig V. Nunokawa DDS
1885 MAIN ST STE 204
WAILUKU, HI 96793-1827

February 9, 2012

HI Senate Health Committee

Dear HI Senate Health Committee:

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With aloha,

Craig V. Nunokawa DDS
8082443986

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