



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor

February 10, 2012

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

Date: Friday, February 10, 2012
Time: 1:30 p.m.
Place: Conference Room 229, State Capitol

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

Re: S.B. No. 2091 Relating to Health Care

I. OVERVIEW OF PROPOSED LEGISLATION

The proposal amends Section 393-7(d), HRS, by:

- Allowing representatives from health care **provider** organizations to serve on the Prepaid health Care Advisory Council; and
- Increasing the number of members on the Council from seven to nine.

The department supports this measure to extent that the health care provider organizations are interpreted in a manner consistent with Sections 432E-1, HRS, and Section 393-7(d), HRS. DLIR has reservations about increasing the number of members on the council.

II. CURRENT LAW

The current statute provides for a Prepaid Health Care Advisory Council ("Council") to advise the Director of the Department of Labor and Industrial Relations on a health care plan's compliance with statutory benefit standards.

The Council **reviews** all health care plans (contractor plans as well as employer plans) offered to Hawaii employees to ascertain whether those plans contain the basic health benefits as required under the PHC law and other benefits as mandated in the state insurance law (Section 432:1, HRS). The PHC Advisory Council then recommends approval or disapproval to the Director on those plans reviewed.

The current PHC Advisory Council members (maximum seven) are appointed by the Director of Labor and Industrial Relations to represent the medical and public health

professions, consumer interests, and prepaid health care protection.

The Department notes that Section 393-7(d), HRS, was amended in 2003 (Act 206) to specifically disallow representation on the Council of **health care organizations**, health maintenance organizations (as defined in Section 432D, HRS), and mutual benefit societies (as defined in Chapter 432, HRS).

III. COMMENTS ON THE SENATE BILL

The department supports the proposal to allow representatives from health care **provider** organizations with the understanding that a "health care provider" organization is interpreted in a manner consistent with Section 432E-1, HRS, and Section 393-7(d), HRS.

- As defined in Section 432E-1, a "health care provider" means a "health care professional", which is further defined to mean an individual licensed, accredited, or certified to provide or perform specified health care services in the ordinary course of business or practice of a profession consistent with state law. A "health care provider organization" would then be an organization set up for licensed doctors, hospitals, anesthesiologists, chiropractors, psychiatrists, psychologists, etc. All these different professionals could have a health care provider organization, and the Department believes that the term "health care provider organization" should be used in this proposal, and not "health care organization." For example, it will not be one hospital but an association of hospitals where a representative could be drawn from.
- Section one of the proposal states the purpose of the measure is to include representation on the council from "health care organizations" that could provide the council with valuable perspectives on the design of health plan benefits. The use of the term "health care organizations" conflicts with the current statute that specifically disallows representation from **any health care organization, including health maintenance organizations and mutual benefit societies.**
- The department further notes that the primary function of the PHC Advisory Council is to **review** the health plans submitted to the Department to determine whether those plans contain the health benefits as required under the PHC law and the Insurance Code. The PHC Advisory Council does **not design** health plans or **create** certain health benefits for the health insurers or the self-insured employers.

The department is also concerned that increasing Council membership from seven to nine members will require more members (five) to constitute a meeting quorum. The Council has had difficulty attaining the current quorum of four members, as Council members are occasionally unavailable for meetings.