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TO: Representative Ryan Yamane
Chair, Committee on Health
Via Email: HLTestimony@Capitol.hawaii.gov

FROM: Gary M. Slovin

DATE: March 11, 2012

RE: **S.B. 2101, SD1 – Relating to the TRICARE Program**
Hearing Date: Tuesday, March 13, 2012 at 9:00 a.m.
Conference Room 329

Dear Chair Yamane and Members of the Committee on Health:

I am Gary Slovin, testifying on behalf of TriWest Healthcare Alliance Inc. (“TriWest”), a Delaware corporation headquartered in Phoenix, Arizona. **TriWest supports S.B. 2101, SD1, Relating to the TRICARE Program**, which makes permanent the general excise tax exemption on 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 bill currently has a defective effective date of 7/1/2050.

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.

March 11, 2012

Page 2

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 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.

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

March 11, 2012

Page 3

to sunset on December 31, 2013. This measure would repeal the 2013 sunset date and make the clarifying legislation permanent.

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 would respectfully request that the committee remove the defective effective date of 2050 in the current version of the bill, and move this measure forward. We thank you for the opportunity to submit comments in support of this measure.

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SUBJECT: GENERAL EXCISE, Make TRICARE exclusion permanent

BILL NUMBER: SB 2101, SD-1

INTRODUCED BY: Senate Committee on Ways and Means

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, 2050

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 3/12/12



Hawaii Chapter, MOAA
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Testimony of Thomas Smyth

Military Officers Association of America, Hawaii Chapter

Before the House Committee on Health

Tuesday, March 13, 2012, 9:00 am, Room 329

SB 2101 SD 1 Relating to the TRICARE Program

Chair Yamane, Vice Chair Morikawa and Committee Members

Our chapter of 400 retired and currently serving officers of the Uniformed Services strongly supports SB 2101 SD1 that removes the 2013 sunset for the GET exclusion for TRICARE. This bill is the companion to HB 1723 that this committee previously heard and passed Unamended.

The three TRICARE programs are an 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.

There is currently strong debate in Washington on raising rates for all categories of TRICARE, some by hundreds of dollars. We do not support that approach, but are concerned if local taxes raise costs for those here.

Hawaii is the only state with a tax on revenues of for-profit service providers. The western regional TRICARE managed care support contractor does not have to pay a similar tax in the other 20 states in their region. Allowing the GET exemption to end would significantly increase the cost of care for our service members, who just happen to live in Hawaii. It is only fair to remove the sunset provision to allow these costs to stabilize and remain as they are now.

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

**Testimony to the House Committee on Health
Tuesday, March 13, 2012
9:00 AM
Conference Room 329**

RE: SENATE BILL NO. 2101, HD1, RELATING TO THE TRICARE PROGRAM

Chair Yamane, Vice Chair Morikawa, 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 Senate Bill No. 2101, HD1, Relating to The TRICARE Program.

The measure proposes to make permanent the general excise tax exemption on 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.

Thank you very much for the opportunity to testify in support of this measure.