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

FROM: Gary M. Slovin

DATE: March 20, 2012

RE: **S.B. 2101, SD1,HD1 – Relating to the TRICARE Program**
Hearing Date: Wednesday, March 21, 2012 at 11:00 a.m.
Conference Room 309

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 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.

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.

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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

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

We would respectfully request that the Committee pass this bill unamended. We thank you for the opportunity to testify in support of this measure.

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

March 21, 2012

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

House Committee on Public Safety & Military Affairs

Re: SB 2101 SD1 HD1 – 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 SB 2101 SD1 HD1.

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. SB 2101 SD1 HD1 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 165,000 current and former military personnel and their family members who reside in Hawaii.

Thank you for the opportunity to testify in support of SB 2101 SD1 HD1.

Sincerely,

A handwritten signature in cursive script that reads "Mark Oto".

Mark Oto
Director
Government Relations

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SUBJECT: GENERAL EXCISE, Make TRICARE exclusion permanent

BILL NUMBER: SB 2101, HD-1

INTRODUCED BY: House Committee on Health

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 3/19/12

**Testimony to the House Committee on Public Safety
and Military Affairs
Wednesday, March 21, 2012
11:00 AM
Conference Room 309**

RE: SENATE BILL NO. 2101, SD1, HD1, 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 Senate Bill No. 2101, SD1, 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 government 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.