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GOVERNOR

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To: The Honorable Josh Green, M.D., 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: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. No. 2101 Relating to the Tricare Program

The Department of Taxation (Department) supports S.B.2101.

This measure repeals the sunset date for Act 70, Session Laws of Hawaii 2009, which is scheduled to take effect on December 31, 2013. The purpose of this measure is to remove the sunset date and to make the exemption permanent.

Tricare is a program established by the United States Department of Defense to provide managed medical care to military members and their dependents. Act 70, Session Laws of Hawaii 2009, provided an exemption to Tricare from the general excise tax on amounts received from the Department of Defense but that are paid to third party service providers. That measure, however, has a sunset date for the exemption of December 31, 2013.

Thank you for the opportunity to provide comments.



Hawaii Chapter, MOAA  
P.O. Box 1185  
Kailua, Hawaii 96734-1185

**Testimony of Thomas Smyth**

**Military Officers Association of America, Hawaii Chapter**

**Before the Senate Committee on Health**

**Friday, February 10, 2012, 2:45 pm, Room 229**

**SB 2101 Relating to the TRICARE Program**

**Chair Green, Vice Chair Nishihara and Committee Members**

**Our chapter of more than 400 retired and currently serving officers of the Uniformed Services strongly supports SB 2101 that removes the 2013 sunset for the GET exclusion for TRICARE in Hawaii from Act 70/SLH 2009.**

**There are three TRICARE programs that are a very essential element of military compensation: TRICARE For Life is relied on 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.**

**As I am sure you are aware, Hawaii is the only state that has a tax like the General Excise Tax on income of for-profit health care service providers. The western regional TRICARE managed care support contractor does not have to pay a similar tax in the other 20 states in this region. And that is true for the other two regional contractors across the United States and the three who provide support around the world. Bid competition for TRICARE contractors often results in contract challenges. It is essential that our contractor be able predict costs going forward.**

**Allowing the GET exemption to end would significantly increase costs for our service members, past and present, living in Hawaii. It is only fair to remove the sunset provision, allowing costs to remain stable.**

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

**Testimony to the House Committee on Public Safety and Military Affairs  
Friday, February 10, 2012  
1:30 AM  
Conference Room 229**

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

**Chair Green, Vice Chair Nishihara, 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, 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.

We recommend that the bill be approved.

Thank you very much for the opportunity to testify.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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**TO:** Senator Josh Green  
Chair, Committee on Health  
*Via Email: HTHtestimony@capitol.hawaii.gov*

**FROM:** Gary M. Slovin

**DATE:** February 9, 2012

**RE:** **S.B. 2101 – Relating to the TRICARE Program**  
**Hearing Date: February 10, 2012 at 2:45 p.m.**

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Dear Chair Green 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, Relating to the TRICARE Program.**

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.

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).

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**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. This is best illustrated in the attached PowerPoint slide.

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 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

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hundred sixty-five thousand, not one hundred fifty thousand as the bill currently states on page 1, lines 9-10.

We thank you for the opportunity to testify in support of this measure.



US Department of Defense  
Military Health System



**REIMBURSEMENT**

*For Medical Services*

*Provided to*

*Hawaii-based TRICARE beneficiaries  
by Hawaii medical providers/hospitals*

*\$45 million*

**ADMINISTRATIVE FEES**

\$13.4 million/FY 2011

\$604,000 in GE Taxes/FY 2011

*Act 70, SLH 2009  
amends HRS §237-24  
to clarify that the  
reimbursements are  
not taxable amounts*



*Managed care support contractor*

*aka Third-Party Administrator or "TPA"*

*• Claims Processing, Enrollment,*

*Utilization and Disease Management*

*and Network Building*

**Network Health Care Providers**

Medical services and supplies



**Soldiers, Sailors, Airmen, Dependents, Retirees**

165,000 Beneficiaries in Hawaii

# 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 2101 – Relating to the Tricare Program**

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

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of SB 2101.

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 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 163,000 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.

Sincerely,

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

Jennifer Diesman  
Vice President  
Government Relations