



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

EVERETT KANESHIGE
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Thursday, January 26, 2012
2:30 p.m.

**TESTIMONY ON SENATE BILL NO. 2204 – RELATING TO WORKERS'
COMPENSATION.**

TO THE HONORABLE CLAYTON HEE, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"),
testifying on behalf of the Department of Commerce and Consumer Affairs
("Department"). The Department **takes no position** on this bill and offers the following
comments.

The purpose of this bill is to increase the fee schedule of compensation for
medical care, services, and supplies in workers' compensation cases from 110 percent
to 130 percent of the Medicare Resource Based Relative Value Scale applicable to
Hawaii as prepared by the U.S. Department of Health and Human Services.

Since we are currently seeing a slight increase in workers' compensation loss
costs, the Department has concerns that increasing the fee schedule to 130 percent, as
proposed in this bill, would compound future premium increases.

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

NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
INTERIM DIRECTOR

DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

January 25, 2012

TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY AND LABOR

For Hearing on Thursday, January 26, 2012
2:30 p.m., Conference Room 229

BY

BARBARA A. KRIEG
INTERIM DIRECTOR

Senate Bill No. 2204
Relating to Workers' Compensation

TO CHAIRPERSON CLAYTON HEE AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on SB 2204.

The purpose of SB 2204 is to increase the fee schedule of compensation for medical care, services, and supplies in workers' compensation cases from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale applicable to Hawaii.

The Department of Human Resources Development appreciates the apparent intent of this bill, but is concerned about its significant cost implications on State funds appropriated for workers' compensation.

We are aware that more physicians and medical providers are opting not to accept workers' compensation patients due to a variety of factors, including the limits on payments allowed under the statute and the administrative burdens of providing treatment to a claimant. This bill is apparently intended to provide a financial incentive for more providers to accept claimants as patients. We believe that having more physicians and medical providers participating in workers' compensation would lead to

more choices, better quality, and more timely provision of services to our injured workers.

However, the fiscal impact of the proposed 18% increase in the reimbursement for medical care, services, and supplies that fall under the Medicare fee schedule will be significant. Over the years, medical care has by far been the most expensive cost item in our workers' compensation program, consistently averaging at least 40% of our total costs. An across-the-board increase for services that fall under the Medicare fee schedule will drive our medical costs higher and will likely require an increase in our appropriation to pay claims under Chapter 386.

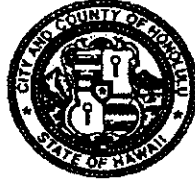
We note that Section 386-21, HRS, authorizes the Director of the Department of Labor and Industrial Relations to issue a supplemental fee schedule if the director determines that an allowance for a specific service under Medicare is not reasonable. As an alternative to this bill, we suggest that the Department of Labor and Industrial Relations be given the time and latitude to continue its ongoing and commendable efforts to gather the input of all workers' compensation stakeholders to address the many issues facing our current system--including the number of participating physicians. Should the DLIR believe any allowances need to be adjusted, all stakeholders would have the opportunity to provide their input.

DEPARTMENT OF HUMAN RESOURCES

CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET 10TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5583 • INTERNET: www.honolulu.gov/hr

PETER B. CARLISLE
MAYOR



NOEL T. ONO
DIRECTOR
ROBIN CHUN-CARMICHAEL
ASSISTANT DIRECTOR

January 26, 2012

The Honorable Clayton Hee, Chair
and Members of the Committee on
Judiciary and Labor
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Hee and Members:

Subject: Senate Bill No. 2204
Relating to Workers' Compensation

The Department of Human Resources **opposes** Senate Bill No. 2204, amending Section 386-21 (c), Hawaii Revised Statutes (HRS), by increasing the reimbursement rate for medical providers from 110% to 130% of the Medicare Resource Based Relative Value Scale for Hawaii. In 1995, the Legislature amended this section of the law to reduce excessive reimbursement rates and establish a comprehensive, nationally recognized system of charges. The law further established procedures for the Director of the Department of Labor and Industrial Relations to adjust the schedule to ensure reasonable allowances for reimbursement.

We respectfully urge your committee to file Senate Bill No. 2204. We do not believe that there is a need to change the reimbursement rate for the entire workers' compensation medical fee schedule by any amount. With proper justification from the medical community, the Director of Labor and Industrial Relations, under Section 386-21 (c), HRS, can increase allowances for medical care and services that are not considered reasonable or adequate.

Thank you for the opportunity to testify.

Yours truly,

A handwritten signature in cursive script, appearing to read "Noel T. Ono".

Noel T. Ono
Director



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

Thursday, January 26, 2012

2:30 P.M.

Conference Room 229

To: COMMITTEE ON JUDICIARY AND LABOR
Sen. Clayton Hee, Chair
Sen. Maile S.L. Shimabukuro, Vice Chair

From: Hawaii Medical Association
Dr. Roger Kimura, MD, President
Linda Rasmussen, MD, Legislative Co-Chair
Dr. Joseph Zobian, MD, Legislative Co-Chair
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: SB 2204 RELATING TO WORKERS COMPENSATION

In Support

Chairs & Committee Members:

Hawaii Medical Association **supports** this measure.

In 1995, a comprehensive package of legislative proposals was made to reform workers' compensation in response to rising insurance premiums. The Legislature couldn't agree on the more fair and meaningful reforms, so the medical fee schedule was arbitrarily slashed by 54%, basing reimbursement on Medicare plus 10%. Hawaii's medical fee schedule fell to fifth lowest in the nation, 18% below the national median. Counter-intuitively, costs per case continued to rise and soon exceeded pre-1995 levels.

The probable reason for this is the impact that inadequate reimbursement had on restricting access to care. A critical element in treating workers' compensation cases is immediate access to comprehensive medical care and management. Any delays tend to make the injury more costly, even to the extent of permanent impairments and disabilities. This also affects the time period the employee is off work, creating greater costs to employers for temporary disability payments.

The legislature must recognize that the practice of medicine is also a business and therefore follows the same economic rules under which any business operates. In short, no business or profession can exist if they are forced to take a loss on sales or services. In addition to taking a loss on services physicians taking workers compensation are forced to deal with an increasingly

OFFICERS

PRESIDENT - ROGER KIMURA, MD, PRESIDENT ELECT - STEVE KEMBLE, MD
IMMEDIATE PAST PRESIDENT - MORRIS MITSUNAGA, MD, SECRETARY - THOMAS KOSASA, MD, TREASURER -
WALTON SHIM, MD, EXECUTIVE DIRECTOR - CHRISTOPHER FLANDERS, DO

unmanageable level of administrative burdens. Predictably, there has been a steady exodus of physicians willing to treat injured workers. Because no-fault automobile injuries are reimbursed according to the workers' compensation fee schedule, these patients also have been having an increasingly difficult time receiving care for their injuries. The situation has finally reached crisis proportion as demonstrated by a Hawaii Medical Association survey indicating that over 65% of doctors that had previously taken these cases now refuse to do so. It is now extremely common that physicians refuse care of these injuries even to their established patients. Straub Hospital and Clinic is perhaps the largest example of this.

We have come to the legislature regularly to correct this problem since Act 234 was passed in 1995 asking for recognition that injured workers and their families are suffering as a result of low reimbursements impeding access to medical care. We hope that now the legislature finally understands this to be true and takes action to correct the situation.

Thank you for the opportunity to provide this testimony.

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN SUPPORT OF S.B. NO. 2204**

January 25, 2012

To: Chairman Clayton Hee and Members of the Senate Committee on Judiciary and
Labor:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the
Hawaii Association for Justice (HAJ) in support of S.B. No. 2204, relating to workers'
compensation.

S.B. No. 2204 increases the workers' compensation fee schedule for medical
treatment and services rendered to injured workers. It has become increasingly difficult
to find doctors willing to accept patients covered by the workers' compensation fee
schedule because of the low reimbursement and increased paperwork associated with
processing workers' compensation claims. Many doctors do not have sufficient billing
staff and are unable to hire additional staff to handle workers' compensation billing given
the current level of reimbursement.

Often, injured workers cannot continue treatment with their family doctor who is
most familiar with their condition and other medical issues that should be best handled or
coordinated by a single provider. The result can be inconsistent or even conflicting
medical treatment and advice from a family doctor providing care under traditional health
insurance and another doctor providing care under workers' compensation. In some
cases, injured workers cannot find doctors to treat them under the workers' compensation
fee schedule and face critical delays in obtaining treatment or are unable to receive
treatment from appropriate specialists.

Hawaii has a much higher cost of living than most states and reimbursement levels commensurate with the cost of doing business and living in Hawaii are necessary to recruit and retain doctors and other healthcare providers. Increasing the workers' compensation fee schedule is an important factor in providing fair reimbursement for Hawaii's doctors, which in turn, provides better medical care for our injured workers.

Thank you very much for allowing me to testify in Support of this measure. Please feel free to contact me should you have any questions or desire additional information.

January 24, 2012

THE SENATE
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012
COMMITTEE ON JUDICIARY AND LABOR
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

RE: SB 2204: RELATING TO WORKERS' COMPENSATION


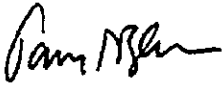

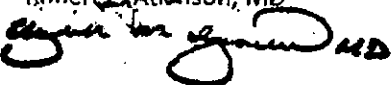
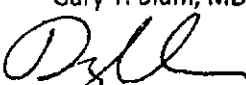



To Whom It May Concern:

This letter is in strong **support** of the bill referenced above. Act 234, passed in 1995, made several sweeping changes to Workers' Compensation Law, not the least of which was a change in the medical fee schedule to 110 percent of the Medicare Resource Based Relative Value Scale (RBRVS) system. Although there have been several "carve-out" code adjustments over the years, the current across-the-board rate of no more than 110% of Medicare RBRVS, while limiting employers' costs, also risks severely limiting access to care. That care for the work-injured patient requires significantly more time is unquestionable: The increased paperwork, reporting, monitoring of claims, and legal entanglement represent but a few of many examples in this regard.

The current fee schedule has caused many physicians to cease caring for these patients. As we all watch out for the next Congressional SGR fix, the time may be soon that accepting a Workers' Compensation case may be economically impossible. As the largest group of private Specialty Orthopedic Surgeons in the State of Hawaii, we strive to provide excellent care at appropriate cost, and although we feel that continuing to base reimbursements on a government-mandated fee schedule is not an appropriate long-term solution, the increase to 130% of the Medicare RBRVS represents a substantial move in the right direction.

Respectfully,

Orthopedic Associates of Hawaii, LLP, its partners:

 Robert E. Atkinson, MD	 Gary T. Blum, MD	 Jeffrey Kimo Harpstrite, MD
 Elizabeth M. Ignacio, MD	 Darryl M. Kan, MD	 Jay M. Marumoto, MD
 Daniel I. Singer, MD	 Sydney G. Smith, MD	

Linda J. Rasmussen, MD
Hawaii Orthopedic Association
Board of Councilor
30 Aulike St. #201
Kailua, HI 96734

Jan 24, 2011

RE: **Support** for SB 2204 Relating to increase in the work comp fee schedule

Dear Honorable Senator Clayton Hee and Committee members,

The current medical care for injured works is dismal. Most physicians no longer take injured workers due to inadequate fee schedule. The onerous paperwork requires additional staff and yet reimbursement is only 10% over Medicare. In Hawaii, you can not stay in business if you only treat injured workers. Physicians have to subsidize their practice with IME's and physicals for companies to be able to practice.

My practice used consist of 40% injured workers in 1994, today it is closer to 1%. I just can not pay my overhead at the current reimbursement rate. The few patients I see out of compassion have been without a diagnosis or proper care for months following their injuries. Permanent injury results for lack of care. This results if more time off from work, increased emotional stress for the worker and the longer they are off work, the more difficult it is to return them to work.

It amazes me that you would link a fee schedule to Medicare. Medicare continues to decrease because it is broke, not because it costs less to provide care. Many surgical codes have decreased over 50% since the fee schedule was linked to Medicare in 1995.

Having competent doctors providing timely care of injured workers would cost the system much less in the long run. The fee schedule must be increased before providers can once again provide the care needed to those injured on the job.

Please pass SB 2204.

With Aloha,
Linda Rasmussen, MD

Wednesday, January 25, 2012, 2:30 pm, Conference Room 229

To: COMMITTEE ON JUDICIARY AND LABOR
Senator Clayton Hee, Chair

From: Dr. Joseph Zorian, MD

Re: SB 2204 RELATING TO WORKERS' COMPENSATION

In **Support**

Chairs & Committee Members:

I personally support SB 2204, RELATING TO WORKERS' COMPENSATION.

When injured, workers commonly have great difficulty finding a physician willing to take care of them. There are many reasons for this reluctance.

One factor is the poor reimbursements which do not adequately compensate for the increased paperwork burden these cases create.

Increasing the rate of reimbursement will almost certainly improve access of these patients to physicians.

January 25, 2012

Senator Clayton Hee
Chairman, Committee on Judiciary and Labor

Senator Maile S. L. Shimabukuro
Vice Chair, Committee on Judiciary and Labor

RE: Testimony in Support of SB2204, Relating to Workers' Compensation
Hearing, Thursday, January 26, 2012, 2:30 PM
Conference Room 229

FROM: James A. Pleiss, DC
2045 Main Street, Wailuku, Maui, Hawaii 96793
808-244-0312

Dear Chairman Hee and Vice Chair Shimabukuro:

Thank you for the opportunity to testify in **support** of SB2204.

Since the reform in workers compensation in the 1990's, the workers' compensation fee schedule has been tied to the Medicare fee schedule +110%. Since that time, because of the nature of Medicare, there has been no real increase in fees. In fact, some years the fees go down.

This has led to many healthcare providers to not accept workers' compensation insurance. It is extremely difficult to find healthcare providers, particularly on the neighbor islands who will take workers' compensation.

SB2204 which increases the fee schedule to 130% will help to draw more healthcare providers back into treating injured workers, making it easier for workers to get the care and diagnostic studies done to treat their injuries on a timely basis.

Thank you for allowing me to testify in support of SB2204.

James A. Pleiss, DC

hee9 - Mari

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, January 25, 2012 6:29 AM
To: JDLTestimony
Cc: bport4450@aol.com
Subject: Testimony for SB2204 on 1/26/2012 2:30:00 PM

Testimony for JDL 1/26/2012 2:30:00 PM SB2204

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Bernard Portner, MD
Organization: Individual
E-mail: bport4450@aol.com
Submitted on: 1/25/2012

Comments:

I have been providing medical services to injured workers in Hawaii for over 30 years and I am finding it more and more impossible to run my clinic on the present fee schedule, among the lowest in the nation. I have been force to consider limiting the number of work comp cases that I can accept, and have already laid off employees because of deficit months that I often suffer. Clinics are closing their doors to work comp cases, (e.g. Straub), and many doctors have "opted out" and I fear that I am next. The cost of providing the medical care, which is determined by the free market, often exceeds the current compensation, which is dictated by the government. Thank You!

hee9 - Mari

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, January 25, 2012 8:48 AM
To: JDLTestimony
Cc: everlinemd@yahoo.com
Subject: Testimony for SB2204 on 1/26/2012 2:30:00 PM

Testimony for JDL 1/26/2012 2:30:00 PM SB2204

Conference room: 229
Testifier position:
Testifier will be present: No
Submitted by: Clayton Everline MD
Organization: Individual
E-mail: everlinemd@yahoo.com
Submitted on: 1/25/2012

Comments:

·

Almost impossible to run a clinic on present fee schedule which is among the lowest in the nation.

·

Straub's Occ. Med. Program collapsed several years ago and Kaiser's has been threatened by inadequate reimbursement insufficient to offset the high cost of taking care of injured workers.

·

Since fees were cut almost 50% in 1995 more than 90% of Hawaii's doctors have "opted out" of WC causes in severe access to care problem—especially on the neighboring islands.

·

Less than half of Hawaii's orthopedic specialist so important to WC have either quit seeing WC or restricted their service dramatically.

Jonna Oleniacz, PA-C
91-2135 Fort Weaver Rd.
#150
Ewa Beach, HI 96706

January 25, 2012

RE: **Support** for SB 2204

Dear Honorable Senator Clayton Hee and Committee Members,

I have recently moved from Washington state to Hawaii. I have handled worker's comp cases in both states. I was shocked to find how few doctors in Hawaii are willing to deal with these cases; once I became more familiar with the system here, I soon saw why. The system is very tedious to work within and lacks the needed support system for our many injured workers.

SB 2204 will allow us to maintain and even improve access to good medical care for our injured workers. Please support this bill – if one of your family becomes injured on the job, you want them to receive the best of care, and we want to be able to provide that for them.

Respectfully,

Jonna Oleniacz PA-C

Testimony of
American Insurance Association
1015 K Street, Suite 200
Sacramento, California 95814 - 3803

TO: Senator Clayton Hee
Chair, Committee on Judiciary and Labor
Via Email: JDLtestimony@capitol.hawaii.gov

DATE: January 25, 2012

RE: **S.B. 2204 – Relating to Workers’ Compensation**
Hearing: Thursday, January 26, 2012 at 2:30 p.m., Room 229

The American Insurance Association (AIA) respectfully **opposes** S.B. 2204, Relating to Workers’ Compensation.

AIA is the leading property-casualty insurance trade organization, representing approximately 300 insurers that write more than \$100 billion in premiums each year. AIA member companies offer all types of property-casualty insurance, including personal and commercial auto insurance, commercial property and liability coverage for small businesses, workers' compensation, homeowners' insurance, medical malpractice coverage, and product liability insurance.

S.B. 2204 would increase the workers’ compensation fee schedule for medical care, services, and supplies from 110 percent to 130 percent of the United States Department of Health and Human Services Medicare Resource Based Relative Value Scale (RBRVS) applicable to Hawaii.

Our concern is based on additional costs in the workers’ compensation system that ultimately must be borne by employers and other system payors. In the current economic environment, and with medical cost inflation, an additional upward pressure on medical costs should be avoided.

For the reasons stated above, we respectfully ask that you hold S.B. 2204. Thank you for the opportunity to submit testimony.

Steven Suchil
Assistant Vice President/Counsel
State Affairs
Western Region

hee9 - Mari

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 24, 2012 10:54 AM
To: JDLEstimony
Cc: debrab@financefactors.com
Subject: Testimony for SB2213 on 1/26/2012 2:30:00 PM

Testimony for JDL 1/26/2012 2:30:00 PM SB2213

Conference room: 229
Testifier position: **Oppose**
Testifier will be present: No
Submitted by: Debra Bringman
Organization: Individual
E-mail: debrab@financefactors.com
Submitted on: 1/24/2012

Comments:

I don't think it should state "requires". If an employee is a poor performer, I think the government should have the option of terminating the employee without being required to find another position in the system for that person. Maybe... if you say the employee can appeal to an appointing authority - and if they feel the employee is a good employee; just not the right fit - then look within the system to place that individual.