



**COMMENTS**

**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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**LATE TESTIMONY  
LATE TESTIMONY**

January 26, 2012

To: The Honorable Clayton Hee, Chair, Maile S. L. Shimabukuro, Vice Chair  
and Members of the Senate Committee on Judiciary & Labor

Date: Thursday, January 26, 2012

Time: 2:30 p.m.

Place: Conference Room 229, State Capitol

From: **Dwight Y. Takamine, Director**  
Department of Labor and Industrial Relations

**Re: S.B. No. 2204 Relating to Workers' Compensation**

**I. OVERVIEW OF PROPOSED LEGISLATION**

Senate Bill 2204 proposes to amend section 386-21, Hawaii Revised Statutes (HRS), by increasing the charges for medical care, services and supplies to not exceed one hundred thirty (130%) percent of fees prescribed in the Medicare Resources Based Relative Value Scale System applicable to Hawaii, effective January 1, 2013.

The Department of Labor & Industrial Relations ("Department") supports the intent of this bill. We believe low reimbursement rates to providers adversely affect the number of physicians willing to treat Hawaii's injured workers.

**II. CURRENT LAW**

Section 386-21, HRS, allows for charges for medical care, services and supplies to not exceed one hundred ten percent (110%) of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii.

Section 386-21, HRS, also allows the director to increase fees for specific services, if the fees provided under Medicare are not reasonable. Through Exhibit A of the Workers' Compensation Medical Fee Schedule Administrative Rules the department may adjust reimbursement rates when surveys indicate that Medicare plus 10% is not sufficient reimbursement for health care treatment.

LATE TESTIMONY

THE SENATE  
TWENTY-SIXTH LEGISLATURE, 2012  
STATE OF HAWAII

COMMITTEE ON JUDICIARY AND LABOR

Sen. Clayton Hee, Chair  
Sen. Maile S.I. Shimabukuro, Vice Chair

Date: Thursday, January 26, 2012  
Time: 2:30 p.m.  
Place: Conference Room 229, State Capitol

TESTIMONY OF ILWU LOCAL 142  
RE: SB 2204, RELATING TO WORKERS' COMPENSATION

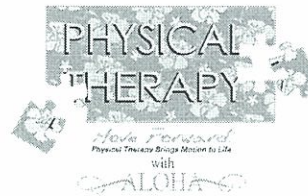
Chair Hee, Vice Chair Shimabukuro, Members of the Committee:

Thank you for the opportunity to present testimony regarding SB 2204. We support this bill.

Access to quality medical care is perhaps the single most important factor in the successful functioning of our workers' compensation system. Effective medical care enables injured workers to resume productive lives or to make the necessary adaptations to transition to other occupations. Sound medical treatment also permits employers and insurers to minimize their expenses in paying for lengthy temporary or permanent disability.

At present, effective medical care is not available to all injured workers because the level of compensation received by those physicians willing to take workers' compensation is below that paid for regular prepaid health insurance. When the lower rate of reimbursement is coupled with the administrative requirements for claims documentation and the added time this entails, many medical providers are simply refusing to accept workers' compensation patients. The result is that injured workers can go untreated or cannot access quality care. Our best and busiest physicians can build successful practices without workers' compensation patients and thus they are often the least available to care for injured workers.

SB 2204 would go far to correct the inadequate compensation of medical providers in the workers' compensation arena by increasing the base for compensation from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale. No significant adjustments in this compensation have been made for an extended time period, and thus, enhancement is justified merely to keep pace with inflation, if for no other reason.



Senate Judiciary and Labor Committee  
Thursday, January 26, 2012  
2:30 p.m.  
Room 229

**LATE TESTIMONY**

**RE: SB 2204 Relating to Workers' Compensation**

Good morning, Chair Hee, Vice- Chair Shimabukuro and members of the Judiciary & Labor Committee. On behalf of the Hawaii Chapter, American Physical Therapy Association ("HAPTA"), we are in **support** of SB 2204, relating to workers' compensation.

This measure increases 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 United States Department of Health and Human Services.

Access to care for injured workers has become difficult. Many physicians no longer accept workers' compensation patients. Straub reportedly has stopped seeing injured workers several years ago. Prior to the 50% reduction in workers' compensation fees, they had a large, busy Occupational Medicine department. Although no formal survey has been done, estimates are that more than 80% of physicians will no longer see workers' compensation patients. Patients who have had the same family physician for many years have to look for a new doctor if they are injured at work. This access to care problem delays treatment of injuries. Not only is it inconvenient for patients, but subjects them to needlessly suffering for days or weeks before care can be started.

We believe that this measure is an important step toward a more comprehensive solution to the issues affecting physician acceptance of workers' compensation payments.

HAPTA is a non-profit professional organization serving more than 250 member Physical Therapists and Physical Therapist Assistants. Our mission is to be the principal membership organization that represents and promotes the profession of Physical Therapy in the State of Hawaii.

Mahalo,

**Ann Frost, P.T.**

Legislative Committee Chair

DENNIS W. S. CHANG

ATTORNEY-AT-LAW

WORKER'S RIGHTS - LABOR LAW  
WORKER'S COMPENSATION  
SOCIAL SECURITY DISABILITY  
LABOR UNION REPRESENTATION  
EMPLOYEES RETIREMENT SYSTEM  
BODILY INJURIES

LATE TESTIMONY

January 26, 2012

VIA ELECTRONIC MAIL

TO: COMMITTEE ON JUDICIARY AND LABOR  
Senator Clayton Hee, Chair  
Hawaii State Capitol, Room 229

FROM: Dennis W.S. Chang  
Labor and Workers' Compensation Attorney

RE: Testimony In Support to SB 2204

Dear Honorable Chair Hee and Members of Committee:

A tragic illustration aptly demonstrates the compelling need to support SB 2204. I endorse SB 2204 and I am attending hearings off island today and cannot appear to give live testimony.

One of my clients, who is clearly totally disabled, has been unable to locate a treating physician. As a result she has been unable to get any certification of her ongoing disability and, consequently, has not received her legal entitlement to wage loss benefits in the form of temporary total disability benefits and vital medical care. The clinic where she was going will not treat her since she has been disabled and has been unable to pay for a private health care plan. After contacting more than fifteen (15) doctors and rejected due to the cumbersome administrative paperwork in the workers' compensation system, she got so frustrated and depressed that she gave up trying. In turn, this placed the onus on me to help her find a doctor, which has aggravated the situation since she is now incurring increasing attorney's fees. We have been unable to locate a physician to date. We are also now attempting to get her shifted to public assistance and become a ward of the State of Hawai'i. Obvious avoidable and needless suffering and economic ruin must be addressed by the legislature.

This unfortunate situation violates the entire spirit of the humanitarian social policy of the workers' compensation statute. During the long course of my legal career practicing as a labor attorney for nearly thirty-five (35) years, I have represented

DILLINGHAM TRANSPORTATION BUILDING

735 BISHOP STREET ● SUITE 320 ● HONOLULU, HAWAII 96813 ● TELEPHONE: (808) 521-4005

TESTIMONY BEFORE THE SENATE COMMITTEE ON

JUDICIARY AND LABOR

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

SB 2204

RELATING TO WORKERS' COMPENSATION

By Marleen Silva

Director, Workers' Compensation  
Hawaiian Electric Company, Inc.

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **respectfully oppose S.B. 2204.** Our companies represent over 2,000 employees.

This bill proposes to amend Section 386-21, HRS increasing the fee schedule of compensation for medical care in workers' compensation cases from 110% to 130% of the Medicare Resource Based Relative Value Scale system applicable to Hawaii.

While we can appreciate the intent of the bill, we would not support an "across the board" increase in allowable charges as proposed. A majority of health care providers are already compensated adequately for their services. The existing statutes have a process in place to allow the Director of the DLIR to create an additional fee schedule, or adjust the allowable fees at any time. Health care providers can also submit proposals, with supporting evidence, to the Director to review and determine if a change to their reimbursement rate is warranted.

We recognize that reimbursement rates may have discouraged physicians in some medical specialty areas to treat work injuries, and that subsequently has had a direct impact on the pool of qualified physicians available in the workers' compensation system. However, any increase in the reimbursement rate to health care providers will have an equivalent increase to costs for employers.

For these reasons, we respectfully oppose S.B. 2204 and request that this measure be held.

Thank you for this opportunity to submit testimony.



LATE TESTIMONY

Pauahi Tower, Suite 2010  
1003 Bishop Street  
Honolulu, Hawaii 96813  
Telephone (808) 525-5877

**Alison Powers**  
Executive Director

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**TESTIMONY OF ALISON POWERS**

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SENATE COMMITTEE ON JUDICIARY AND LABOR  
Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

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

**SB 2204**

Chair Hee, Vice Chair Shimabukuro, and members of the committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council opposes SB 2204. This bill increases the medical fee schedule reimbursement from 110% of Medicare to 130% of Medicare. We believe this bill is unnecessary because both the Director of the Department of Labor and Industrial Relations and the Insurance Commissioner have the ability to increase reimbursements. In fact, in 2006, the Department of Labor and Industrial Relations adjusted fees for approximately 1,300 CPT codes. In addition, an across the board increase will adversely affect motor vehicle insurance costs. While the initial increase to personal injury protection (PIP) coverage may be small, PIP costs will drive higher bodily injury liability costs, uninsured motorist coverage costs, and underinsured motorist costs.

We respectfully request that SB 2204 be held.

Thank you for the opportunity to testify.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, January 26, 2012 12:52 PM  
**To:** JDLTestimony  
**Cc:** dennisblind@gmail.com  
**Subject:** Testimony for SB2204 on 1/26/2012 2:30:00 PM

LATE TESTIMONY

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

Conference room: 229  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Dennis B. Lind, M.D.  
Organization: Individual  
E-mail: [dennisblind@gmail.com](mailto:dennisblind@gmail.com)  
Submitted on: 1/26/2012

**Comments:**

I want to endorse that the fee schedule is quite low and does not compensate fairly for all the additional work required: letters, lots of phone calls to adjusters, voc rehab workers, lawyers, and then the endless correspondence involved with required treatment plans, copies of notes to adjusters, complaints from patients that medications were not approved in a timely way, etc. And then there are the supporting letters required when a plan is denied on a technicality or a whim of the attorney.

All in all, at present, there are minimal incentives to encourage physicians, especially psychiatrists to treat w/c patients. Very few of do so, and if the reimbursements don't improve, I will stop as well.

Another very big issue is that the current scheme is linked to Medicare, whose fee schedule is only going down, and does not reflect in the least the special requirements of our w/c patients and their administrative needs.

LATE TESTIMONY

George M. Waialeale  
910 Kapahulu Avenue #703  
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Phone: (808) 383-0436

January 25, 2012

SB 2204 Relating to Workers' Compensation

I am here to testify in support of SB 2204. With the increase in fee schedule there will be more physicians that will participate in the area of workers compensation injury. In Hawaii we are short over 600 physicians and in the area of workers' compensation that has been exacerbated.

I ask for your passage of this legislation.

George Waialeale