



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

1415 L Street, Suite 670, Sacramento, CA 95814-3972

To: The Honorable Clayton Hee, Chair
Senate Committee on Judiciary and Labor

From: Mark Sektnan, Vice President

Re: **SB 2845 – Relating to Medical Benefits Under the Workers’ Compensation Law**

Date: Friday, February 17, 2012
10:00 a.m., Conference Room 016

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

The Property Casualty Insurers Association of America (PCI) is opposed to SB 2845 as currently drafted. Existing law grants to the director of Director of the Labor and Industrial Relations Department the authority to resolve disputes between an employee and the employer or the employer's insurer regarding the proposed treatment plan or whether medical services should be continued. SB 2845 would eliminate the requirement that the director hold a hearing to settle medical disputes pending before the director.

This bill would also present barriers to employers since there will not be sufficient time to solicit a supporting medical opinion to counter unreasonable and unnecessary medical treatment requests. Employers are often forced to rebut unproven medical treatments commonly found on the internet. While it would be beneficial to have standard guidelines that require the use of evidence based medicine, often times the treatment suggested is not appropriate, and is in fact sometimes dangerous for injured workers. Employers should have the right, and adequate time, to challenge these unproven medical treatments to ensure the safety of injured workers.

The hearing process allows both parties the opportunity to share additional information with the director to ensure the director’s decision is based on the most comprehensive information available. Elimination of the hearing would deprive the director of a complete record on which to make the decision on the whether a proposed treatment plan or medical service is both appropriate and effective for the injured worker. We do, however, understand there may be situations where neither party feels a hearing is necessary and the director may proceed with the decision making process. We would suggest that SB 2845 be **amended** to allow the hearing to be waived “upon mutual consent of both parties.” With this amendment, the process can be made more efficient without sacrificing the benefit of complete information.

For these reasons, PCI asks the committee to amend this bill.

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February 17, 2012

Committee on Judiciary and Labor

SB 2845 Relating to Medical Benefits Under the Workers' Compensation Law

I am here to testify in support of SB 2845. This bill allows the Director of Labor and Industrial Relations to make a decision on disputes regarding treatment plans and continued medical services without a hearing but requires the decision to be rendered within thirty days.

I believe by allowing the Director of Labor and Industrial Relations to make a decision without a hearing will give the Director the ability to meet the thirty day deadline in issuing treatment plan and medical decisions.

I ask for your passage of this legislation.

George Waialeale

Larry Geller
Honolulu, HI 96817

SB2845
JDL
Friday, February 17, 2012
10:00 a.m.
Room 016

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

February 16, 2012

Re: HB2845—Workers' Compensation Medical Treatment; Decisions; Denial of

In Opposition

Dear Sen. Hee, Sen. Shimabukuro, and members of the Committee:

The workers' comp system was designed to move disputes out of the court system, and for better or for worse, it has done that. The disputes themselves continue to plague the system.

To the extent that this bill **takes away due process remedies from the ill or injured employee**, it should be rejected, and I urge you and the Committee to do that.

The bill requires the Director of DLIR to make a summary judgment on a treatment plan. This is the due process issue.

It tilts the scales toward the employer because the person affected will have a hard time getting judicial review. There would be no evidentiary hearing, no finding of facts, and no record.

Please consider the effect on employees and reject this bill.

Larry Geller



Testimony to the Senate Committee on Judiciary and Labor
Friday, February 17, 2012
10:00 a.m.
State Capitol – Conference Room 016

Aloha Chair Hee, Vice Chair Shimabukuro, and members of the committee. We are Ryan Kusumoto and Lisa Kracher, the Legislative Committee co-chairs for the Society for Human Resource Management – Hawaii Chapter (SHRM Hawaii). SHRM Hawaii represents nearly 1,000 human resource professionals in the State of Hawaii.

We are writing to adamantly oppose to SB 2845 which amends section 386-21(c), Hawaii Revised Statutes, by requiring the Director of Labor and Industrial Relations to make a decision on disputes regarding treatment plans and continued medical services without a hearing.

Human resource professionals are keenly attuned to the needs of both employers and employees. We are the frontline professionals responsible for businesses' most valuable asset: people. We truly have our employers' and employees' best interests at heart. We adamantly oppose this measure for significantly altering the manner in which workers' compensation claims are handled and resolved to the satisfaction of all parties and the likely unintended consequences and costs associated therewith.

Our most significant concerns are:

1. Most treatment plans resulting from a workers' compensation claim are approved. In cases where the treatment plan is denied, it is due to whether the treatment plan is reasonable and necessary. Employers should be given the opportunity to review the proposed treatment by using a physician of its choosing to determine if it is reasonable and necessary. This medical examination is a critical component of the employer's discovery process and to ensure that the injury was work related. If it is not reasonable and necessary, the employer should be given the opportunity to present such evidence at a hearing. By not having a hearing, the Director will not have all the necessary evidence and stated facts to make an informed decision on the case.
2. Existing law requires continuation of medical treatment while the attending physician deems necessary so as not to allow the injured worker's condition to deteriorate. This is sufficient to ensure the injured worker is still receiving appropriate medical treatment while the issue of a denied treatment plan is reviewed and resolved. This will ensure that medical needs of the employee are attended to whether or not this is later deemed work related.
3. Allowing the Director to issue a decision within 30 days without a hearing does not allow the employer time to seek review by a physician of its choosing. The Director could issue such decisions within hours or days. The intent is not to extend the determination

period unnecessarily, but to insure that sufficient review has taken place to determine if the treatment is reasonable and necessary.

This bill will encourage the submission and approval of unreasonable and unnecessary treatment plans to maximize the revenue of attending physicians and related providers/entities. The cost of medical care, services, and supplies will rise dramatically thereby driving up premium costs. This will ultimately adversely impact all businesses especially in a challenging economy and thereby impacting business who are struggling to stay afloat. Also, the treatment rendered, including surgeries and significant narcotic drugs, to the injured worker may be harmful and result in greater disability/addiction.

We continue to review this bill and its serious consequences. We request the bill not be advanced and, if it is advanced, the opportunity to discuss these issues further. Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: phil_ingalls@msn.com
Subject: Testimony for SB2845 on 2/17/2012 10:00:00 AM
Date: Thursday, February 16, 2012 11:39:52 PM

Testimony for JDL 2/17/2012 10:00:00 AM SB2845

Conference room: 016
Testifier position: Oppose
Testifier will be present: No
Submitted by: Philip E. Ingalls
Organization: Individual
E-mail: phil_ingalls@msn.com
Submitted on: 2/16/2012

Comments:

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: cloudia.charters@gmail.com
Subject: Testimony for SB2845 on 2/17/2012 10:00:00 AM
Date: Thursday, February 16, 2012 4:54:29 PM

Testimony for JDL 2/17/2012 10:00:00 AM SB2845

Conference room: 016
Testifier position: Oppose
Testifier will be present: No
Submitted by: Cloudia Charters
Organization: Individual
E-mail: cloudia.charters@gmail.com
Submitted on: 2/16/2012

Comments:

Please do not erode the already tenuous position of Hawaii's workers! This proposal is blatantly anti-worker and denies established best-practices. Very Bad Bill!