

SB 595

TAXBILLSERVICE

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SUBJECT: INCOME, Medicaid physician tax credit

BILL NUMBER: SB 595, SD-1

INTRODUCED BY: Senate Committee on Health

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a taxpayer licensed to practice medicine under HRS chapter 453 to claim an income tax credit provided that: (1) at least 15% of the physician's total patient case load consists of Medicaid patients; and the physician does not owe any delinquent state taxes, penalties, or interest.

The credit shall be 25% of the amount of the medical malpractice insurance premium paid by the taxpayer for the taxable year the credit is claimed. Tax credits in excess of income tax liability shall be refunded to the taxpayer provided such amounts are in excess of \$1. Allows the director of taxation to adopt necessary rules and forms pursuant to HRS chapter 91 to carry out this section. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year.

EFFECTIVE DATE: Tax years beginning after December 31, 2010

STAFF COMMENTS: This measure proposes a tax credit for taxpayers who are physicians who have a patient case load of which at least 15% are Medicaid patients. If this measure is adopted, it would merely result in a handout of state funds through the state tax system regardless of a taxpayer's need for tax relief. While the amount of the proposed credit is 25% of the amount of malpractice insurance premiums paid for a taxable year by the physician, apparently the sponsors of this measure believe that medical malpractice insurance is a key cost to such physicians. If, indeed, medical malpractice insurance premiums are a financial barrier to attracting physicians to treat Medicaid patients, then addressing the problem with a 25% rebate in the form of a tax credit is inane.

If lawmakers truly believe the cost of medical malpractice insurance deters physicians from treating Medicaid patients, then the attack should be on what causes the high insurance premiums. As the professional community has pointed out time and again, the high cost of medical malpractice begs tort reform with limits placed on how much can be sought in damages for various types of malpractice. With the sky is the limit approach for any litigation, how can one doubt the high cost of those premiums?

On the other hand, if lawmakers believe that their only alternative is to subsidize the cost of the premiums, then an outright subsidy of those premiums should be put in place staffed by persons who can verify the amount of insurance, the premium that is appropriate to subsidize, and to whom the subsidy should be granted based on the need for medical care throughout the state. Using the state tax system makes absolutely no sense, contributes to complexity of the system which, in turn, increases the cost of administration and compliance.

SB 595, SD-1 - Continued

This measure is a reflection of the lack of understanding on the part of lawmakers about the state's tax system, its purpose, functions and limitations. If adopted, the measure would result in a lack of accountability as there is no way to determine the cost of the credit to the state's revenue resources. This makes about as much sense as imposing a special tax on trial lawyers who bring such malpractice suits to fund the tax credit proposed in this measure.

Digested 2/23/11



HAWAII MEDICAL ASSOCIATION

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Thursday, February 24, 2011, 9:00am, Conference Room 211

To: COMMITTEE ON WAYS AND MEANS
Senator David Ige, Chair
Senator Michelle Kidani, Vice Chair

From: Hawaii Medical Association
Dr. Morris Mitsunaga, 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 595 RELATING TO PHYSICIANS

In Support

Chairs & Committee Members:

Hawaii Medical Association supports this measure as a means to encourage Physicians to take Medicaid patients. There is currently an especially bad access to care crisis for Medicaid patients because reimbursements do not come close to covering the cost of providing care (60% of Medicare) and the Managed Care Organizations responsible for approving payments and formularies for these patients are so intolerably restrictive and burdensome that most independent Physicians have been forced to stop taking Medicaid because they can not afford the extra full time staff person needed to fight with Medicaid insurance representatives all day every day.

This bill would help to make Hawaii a more "Physician Friendly" State. According to a workforce assessment recently conducted with additional money taken from Doctors licensing fees, the State of Hawaii is short 644 Doctors. That is a 23% shortage. The shortage is expected to increase to 50% in the next decade. Patients injured on neighbor islands often unnecessarily die or have lifelong medical issues due to our access to care crisis.

A truthful analysis of facts, as has been provided to the legislature multiple times by studies issued by the Insurance Commissioner, show that Malpractice reforms such as caps on non-economics damages would lower malpractice premiums by around 15%. This is likely why the state imposes caps for State Lifeguards.

OFFICERS

PRESIDENT - MORRIS MITSUNAGA, MD PRESIDENT-ELECT - ROGER KIMURA, MD
SECRETARY - THOMAS KOSASA, MD IMMEDIATE PAST PRESIDENT - DR. ROBERT C. MARVIT, MD TREASURER
- STEPHEN KEMBLE, MD EXECUTIVE DIRECTOR - CHRISTOPHER FLANDERS, DO

Reductions in frivolous lawsuits, which often leave doctors with posttraumatic stress disorder, have shown to flood states with applications for state licensure from Physicians. This solution would also reduce defensive medicine. The CBO estimated that caps on non-economic damages would reduce the federal deficit by \$54 billion over 10 years. Unfortunately, politics will not allow this solution to our problems to proceed.

As an alternative, the idea has been discussed to have the state simply pay for the cost of Malpractice insurance. This would be a step in the right direction and would help slow the onset of our state's impending Doctor shortage disaster. If nothing continues to be done, as has been the case for the past 20 years, we will witness a perfect storm of retiring doctors and baby boomers that require more medical care.

We would encourage the committee to amend the measure to include doctors who practice in rural areas, doctors who take 15% Medicare patients, and doctors who take emergency call.

Factors which make Hawaii unattractive to new physicians and have resulted in doctors leaving Hawaii for the past 20 include:

- Overhead that can be as high as 75% of gross income;
- Overhead includes high medical malpractice insurance premiums (premiums vary by medical specialty);
- Overhead includes increasing office staffing, office rent and other business expenses;
- Income is based on capped and often inadequate payment for services from private and public health plans; and
- For new physicians, typical student loan debt around \$160,000.

Thank you for the opportunity to testify.



Senate Ways and Means Committee
Sen David Ige, Chair

February 5, 2011

The Honorable Senator Ige and Committee members;

We would like to go on record as strong supporters of SB-595, and the assisting with malpractice insurance costs for providers who see Medicaid patients.

This subsidy would be a great incentive for physicians (and PAs, APRNs, CNMs, Dentists) to accept Medicaid clients.

Passage of SB-595 would, of course, do a great deal for the many Medicaid clients who now have difficulty in finding care in Hawaii.

It could also do a great deal to ease the financial burden on clinics who currently provide care to Medicaid clients on a regular basis, and who pay the large malpractice premiums for the physicians, Physician Assistants and APRNs employed at those clinics providing that care.

Not every clinic providing services to Medicaid clients is covered by federal insurance, as is the case with the FQHC/330 grant clinics in Hawaii. At Puna Community Medical Center, 70% of our clients are Medicaid, and we never turn a client away regardless of their ability to pay; that is a very expensive promise to keep. With some relief from the malpractice insurance burden, our continued ability to provide urgent care services to our underserved community would be assured.

We humbly suggest that the language of this bill **be amended to include malpractice insurance subsidies to CLINICS which employ Medicaid providers (physicians, PAs, APRNs), and which pay those expensive premiums for their providers.** That savings would encourage the employment of more Medicaid providers.

We thank you for this opportunity to support SB-595, and to suggest that this supplement for malpractice insurance be extended to clinics providing Medicaid services.

Sincerely,

Dan Domizio PA, MPH
Clinical Programs Director and CEO
Puna Community Medical Center