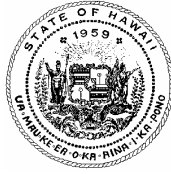


NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
DIRECTOR

LEILA A. KAGAWA
DEPUTY DIRECTOR

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

January 28, 2013

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

For Hearing on Tuesday, January 29, 2013
9:00 a.m., Conference Room 309

BY

BARBARA A. KRIEG
DIRECTOR

House Bill No. 152
Relating to Workers' Compensation Medical Fee Schedules

TO CHAIRPERSON MARK NAKASHIMA AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on H.B. 152.

The purpose of H.B. 152 is to increase the maximum allowable medical fees under workers' compensation to 130% of the Medicare Resource Based Relative Value Scale.

The Department of Human Resources Development (DHRD) has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds. **In that regard, DHRD appreciates the intent of this bill, but is concerned about its significant cost implications on State funds appropriated for workers' compensation.**

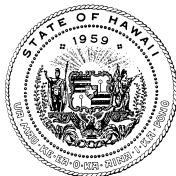
We are aware that more physicians and medical providers are opting not to accept workers' compensation patients due to a variety of factors, including the limits on payments allowed under the statute and the administrative burdens of providing treatment to a claimant. This bill would provide a financial 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 even greater increase in our appropriation to pay claims under Chapter 386. Our budget request for the next fiscal biennium already requests an increase of \$457,000 for FY14 and \$545,000 for FY15 to cover additional anticipated costs, even without taking into account an 18% increase in the fee schedule.

We note that Section 386-21, HRS, authorizes the Director of the Department of Labor and Industrial Relations (DLIR) 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 DLIR be given the time and latitude 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.

We are also in accord with the DLIR's February 3, 2012 testimony to the House Committee on Labor and Public Employment which suggested the Legislature provide some relief attached to a comprehensive study of the long-term fiscal impact that a similar bill in that session (H.B. 2152) would have had on the overall medical costs of the workers' compensation system as an alternative to an across-the-board increase in the Medicare reimbursement rates.



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

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January 28, 2013

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Mark J. Hashem, Vice Chair,
and Members of the House Committee on Labor & Public Employment

Date: Tuesday, January 29, 2013
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

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

Re: H.B. No. 152 Relating to Workers' Compensation Fee Schedules

I. OVERVIEW OF PROPOSED LEGISLATION

HB152 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, 2014.

The department supports immediate relief in the form of a percentage increase over the Medicare Resource Based Relative Value Scale as this is consistent with the intent of the statute, which states in part, "The rates or fees provided for in this section shall be adequate to ensure at all times the standard of services and care intended by this chapter to injured employees." §386- 21

The insufficient reimbursement for the services and care of injured workers is contributing to the shortage of doctors and healthcare service providers in many areas of the state, especially in rural areas.

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. The Department may adjust reimbursement rates through Exhibit A of the Workers' Compensation Medical Fee Schedule Administrative Rules when surveys indicate that Medicare plus 10% is not sufficient reimbursement for health care treatment.

III. COMMENTS ON THE SENATE BILL

1. ACT 234, effective June 29, 1995, amended Section 386-21 to provide that charges for services shall not exceed 110% of Medicare Resource Based Relative Value Scale system. Act 234 was implemented in response to physician's concerns that reimbursement rates were too low. Over time, the reimbursement rates of providers have failed to keep pace with the higher costs of medical care, leading some physicians to opt out of providing treatment to injured workers in the workers' compensation system.

Hawaii Medical Fee Supplemental Schedule Average & Change in CPT¹ 1995-2012²

CPT Sections	1995 Medicare Average	2012 Medicare Average	Percentage Change	CPI-U ³ Change 1995-2011	CPI-U Medical Costs ⁴ 1995-2011
Surgery	\$522.38	\$548.17	5%	45%	55%
Radiology	\$208.60	\$171.00	-18%		
Medicine	\$178.89	\$133.62	-25%		
Eval & Mgmt	\$50.07	\$51.92	4%		
All CPT	\$355.25	\$347.36	-2%		

¹ Current Procedural Terminology

² Data by DLIR's Research and Statistics Office

³ Consumer Price Index, Bureau of Labor Statistics (BLS), U.S. Department of Labor (USDOL)

⁴ Consumer Price Index, Medical Care Costs Only, BLS, U.S. DOL

2. The Department is aware that any increase in reimbursement to medical providers may result in additional cost and higher insurance fee premiums for employers. The Department notes that from 2005 - 2010, Workers' Compensation premium levels have cumulatively decreased by 63%. This trend of decreasing premiums may be reversing, however, as evidenced by the slight rise in premium costs last several years and the approval by the Insurance

Commissioner for a 5.2% increase this year. DLIR notes that an analysis by the National Council on Compensation Insurance estimated the impact of increasing the reimbursement rate to 130% in 2012 would have increased overall costs in the workers' compensation by 3.2%

3. The Department believes a reimbursement of 110% of Medicare to medical providers who treat injured workers is inadequate. The Department, however, has some concerns that health care providers who are already adequately compensated for their services would receive an increase in allowable charges if the ceiling for charges were raised to 130% of Medicare.

The Department can and has adjusted reimbursement rates based upon surveys of prevalent charges when the surveys indicated reimbursement rates were higher than Medicare. Changes to reimbursement rates are made to the Department's Supplemental Fee Schedule known as Exhibit A of the Medical Fee Schedule Administrative rules. The Department is currently in the process of updating parts of the Medical Fee Schedule.



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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KEALI'I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013

Tuesday, January 29, 2013
9 a.m.

WRITTEN TESTIMONY ONLY

**TESTIMONY ON HOUSE BILL NO. 152 – RELATING TO WORKERS’
COMPENSATION MEDICAL FEE SCHEDULES.**

TO THE HONORABLE MARK NAKASHIMA, 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 version of the bill and submits the
following comments.

The purpose of this bill is to amend Hawaii Revised Statutes (“HRS”) § 386-21(c)
by increasing the fee schedule of compensation for medical care, services, and supplies
in workers' compensation cases from 110 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 (“Medicare fee schedule”).

The intent of this bill is to improve access and availability of medical providers to
treat workers' compensation claimants. The Department notes that this bill will also
likely result in an increase in workers compensation insurance premiums and may
impact motor vehicle insurance rates.

Under current law, the fee schedule for motor vehicle insurance cases are tied to the workers' compensation supplemental fee schedule, per HRS § 431:10C-308.5. This was intended to reduce motor vehicle insurance premiums and to provide administrative efficiency.

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

Testimony of
John M. Kirimitsu
Legal & Government Relations Consultant

Before:

House Committee on Labor & Public Employment
The Honorable Mark M. Nakashima, Chair
The Honorable Mark J. Hashem, Vice Chair

January 29, 2013
9:00 am
Conference Room 309

Re: HB 152 Relating to Workers' Compensation Medical Fee Schedule

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on HB 152 providing for an increase in the fee schedule for medical services in workers' compensation cases.

Kaiser Permanente Hawaii supports this bill.

This issue of increasing the medical services reimbursement for workers' compensation cases has a long standing history before the Hawaii legislature. In 1998, the Hawaii legislature requested a study to determine if the 110% ceiling on the workers' compensation medical fee schedule based on the Medicare-RBRVS should be adjusted. In that study, the Legislative Reference Bureau recommended an increase in the 110% medical fee schedule, and attributed the low medical fee schedule for the trend in health care providers not accepting new patients for workers' compensation cases. The complete Legislative Reference Bureau report and its findings may be viewed at <http://hawaii.gov/lrb/rpts98/fee.pdf>.

Traditionally, workers' compensation fee schedules do not properly recognize and reimburse physicians who go beyond traditional medical services and perform the extra work required to promote an employee's rapid return to work. It is well documented that workers' compensation cases require more physician time in caring for and educating the patient, increasing the cost of delivering workers' compensation services compared with routine health care. As a result, low

fee schedules can discourage the participation of qualified physicians and have a consequential negative impact on access through a reduction of available physicians. On the other hand, an appropriate fee schedule promotes the development of quality occupational health programs and services, which in turn ensures higher quality of health care and increased access to injured workers without passing on higher costs to employers and insurers.

Thank you for the opportunity to comment.

To: The Honorable Representative Mark M. Nakashima, Chair House Committee on Labor & Public Employment
The Honorable Representative, Mark J. Hashem, Vice Chair

Date: Tuesday, January 29, 2013

Time: 9:00am

Place: State Capitol, 415 S. Beretania Street, Conference Room 309

RE: HB 152 Relating to Workers' Compensation Medical Fee Schedules

Dear Honorable Chair Nakashima, Vice Chair Hashem, and members of the House Committee on Labor & Public Employment.

Thank you for the opportunity to present testimony regarding HB 152. My name is Frieda S. Takaki and I am writing on behalf of the 34 employee owners of CHART Rehabilitation in *STRONG SUPPORT* of HB 152.

CHART Rehabilitation of Hawaii, is an Employee Stock Ownership Plan (ESOP) organization that has been successfully providing physical and occupational therapy services in Hawaii since 1979.

We are in support of HB 152 for the following reasons:

1. The fee schedule for medical care for injured workers is based on a rate structure that is over a decade old. Access to effective medical services are not always available to all injured workers because the level of compensation received by physicians and other healthcare professionals has not kept pace with inflation and the increasing costs of medical care. In some cases, the reimbursable rates for certain medical procedures and services have actually gone down since 1995 when the 110% of Medicare fee schedule was enacted by our state. We support the increase in the fee schedule to 130% of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii to encourage physicians and other medical providers to provide much needed treatment to injured workers.

2. It is estimated that 70% to 80% of physicians in Hawaii will no longer see workers' compensation patients creating a major barrier to medical care for injured workers.
3. Although the Director of the Department of Labor and Industrial Relations and the Insurance Commissioner has the ability to increase reimbursements, no significant action has been taken in this area.
4. We believe that HB 152 will be a critical step towards a more comprehensive solution to the issues affecting injured workers so that they can return to work in a more expedient and safe manner, *thus saving costs for all parties involved.*

Thank you again for the opportunity to provide written testimony in support of HB 152. If you have any further questions regarding our testimony or the workers' compensation medical care environment, please feel free to contact me at 808-523-9043.

Sincerely,

Frieda S. Takaki,
President & CEO

HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Mark M. Nakashima, Chair
Rep. Mark J. Hashem, Vice Chair

Date: Tuesday, January 29, 2013
Time: 9:00 a.m.

Place: Conference Room 309, State Capitol

TESTIMONY OF ILWU LOCAL 142 RE: HB 152
RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULES

Chair Nakashima, Vice Chair Hashem, Members of the Committee on Labor & Public Employment:

Thank you for the opportunity to present testimony re: HB 152. We support this useful and constructive measure.

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 administrative requirements for claims documentation and the added time this entails, many medical providers are simply refusing to accept workers' compensation patients. This problem is often most acute on the neighbor islands, where health care providers, especially in certain medical subspecialties like neurology and neurosurgery is limited or non-existent.

The result is that injured workers then can go untreated or cannot access quality medical 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.

HB 152 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. Significant adjustments in medical care compensation have rarely been made, and thus,

enhancement is justified merely to keep pace with inflation, if for no other reason. It is also vital to recognize that overall insurance premium costs for workers' compensation have declined 69% between 2005-2010, according to statistics provided by the Director of the Department of Labor and Industrial Relations in testimony on March 20, 2012 before the Senate Committee on Health regarding HB 2152, HD 2, a proposal to achieve a similar medical fee increase. Thus, an increase of less than one-third of this decline should not be viewed as overly generous.

By approving HB 152, the legislature will not only increase the availability of quality medical care, but in the long run will ensure a more stable and economical system of workers' compensation medical coverage, and we therefore urge its passage.



LEHUA PHYSICAL THERAPY AND REHAB

January 28, 2013

Committee on Labor and Public Employment
Hearing: Tuesday January 29, 2013
Conf. Room 309 State Capitol
415 Beretania Street

Support of HB 152

Dear Mr. Nakashima and Labor and Public Employment Committee Members:

I am a physical therapist in Hilo, Hawaii writing to encourage the committee to support HB 152 which would increase the worker's compensation fee schedule to a Medicare +30%. I have owned a private practice for the last 8 years and have seen my net revenues drop over the last few years due to decreased reimbursement and increase in practice expenses (rent, utilities, etc.). Congress just acted to keep the Medicare Physician Fee Schedule the same from January 1, 2013 through the end of this year. Every year, we wait to see what Medicare and Congress will do because it impacts that population (the elderly and disabled) of patients, but in Hawaii it also affects our WC and motor vehicle patients. Let me point out that these 2 groups of patients are very distinctly different, but yet WC fees are tied into Medicare. It is already increasingly difficult for patients to find doctors with a Medicare + 10% fee schedule, I can't imagine what will happen if Medicare makes any cuts (which they propose yearly). I have had patients call every doctor in the phone book and not one doctor would accept the case. I recently had a patient being seen by a physician until WC slowed his payments, at which time he decided not to see her as a patient anymore. This left the patient without anyone addressing her injuries. This makes it very difficult for a patient to return to work in a timely manner when they don't have a doctor. My own family physician will not see me should I get injured on the job.

Personally, I have also stopped taking certain WC cases due to declining reimbursement rates. Up until 2011 year I was doing Functional Capacity (which assists physicians determine return to work status and readiness) which takes 4 hours to do the exam and then another 2 hours of report writing. In the end I would spend 6 hours and WC does not reimburse me for the report writing time and the reimbursement is so low, I did better seeing private insurance patients. I was the only one of 2 clinics in Hilo that ran the test. After analyzing the reimbursement rates, I stopped running the tests. I currently have a complicated knee patient that needs surgery, but for the past 2 years has not been able to secure an orthopedic surgeon capable of doing his surgery that will take a WC claim. That leaves this patient waiting a very long time and he is unable to work due to his injuries. Increasing the fee schedule will at least insure patients have access to care.

Taira-Tokuuke Testimony
Page 1

The Director of Labor can adjust the fee schedule, but usually after “studying issues” and making adjustments, months have gone by and in the end the providers are the ones that suffer. We can’t adjust our rents when reimbursement goes down. We can’t adjust our electric rates when reimbursement rates go down.

This bill is a step to improving a very convoluted system. I strongly support this bill and hope that you will too.

Please contact me if you would like to discuss this further. Thank you for your time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patti Taira-Tokuuke PT".

Patti Taira-Tokuuke, M.S., PT
Phone (808) 969-3811
Fax: (808) 969-6630

DENNIS W. S. CHANG

Attorney at Law, LLLC

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

HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

January 28, 2013

VIA ELECTRONIC MAIL

TO: Honorable Mark M. Nakashima, Chair
Honorable Mark J. Hashem, Vice Chair
Members of House Committee on Labor & Public Employment

DATE: January 29, 2013
TIME: 9:00 a.m.
PLACE: Conference Room 309, State Capitol

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

**Re: HB 152 Relating to Workers' Compensation
(Support for Passage of HB 152)**

The Legislature Should Correct the Crisis

Throughout the early years of my professional career there was an ongoing dialogue over whether medical providers were the "drivers" in the cost of doing business in the workers' compensation process. By the passage of Act 234, which became effective June 29, 1995, in one sweeping stroke, the Legislature amended Section 386-21 and reduced charges for vital medical services by 54% of previously authorized routine charges. Medical charges were capped at not more than 110% of the Medicare Resource Based Relative Value Scale system.

No credence was given to the concern that many medical providers would be unable to maintain their businesses to treat injured workers. Some involuntarily but drastically reduced the number of injured workers in their practices. Others were forced to stop treating injured workers altogether. The passage of Act 234 as the genesis of the lack of access to critical quality medical care for injured workers is undeniable. Emboldened, the administrative process was used to aggravate the crisis by imposing stringent rules on both medical providers and injured workers. Medical providers were

DILLINGHAM TRANSPORTATION BUILDING

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

also required to spend a disproportionate amount of their time completing undue administrative paperwork and bureaucratic delay before they could treat injured workers unlike patients without work injuries.

Today, medical providers are required to submit detailed treatment plans, send onerous medical reports and provide regular justification for disability. They are required to wait for approval before starting or resuming vital medical care. No compensation are allowed for all time spent performing these burdensome administrative tasks, which do not apply to non work related patients. Instead, they could be used as disincentives to the delivery of quality medical care to injured workers and to deny billings for such medical care. Moreover, they must be redone and resubmitted at the behest of employers and insurance carriers or their representatives. Time and time again these administrative burdens result in lost and billable charges. To comply, medical providers must carefully study and master the requirements contained in the Medical Fee Schedule.

As one physician recently informed me, it is absurd that his treatment plan was one day off for the proposed period of treatment and his plan was the denied. Under the Medical Fee Schedule a treatment plan is allowed for a period of 120 days. Unfortunately, he submitted a treatment plan for four months. This resulted in plan covering a period of treatment for 121 days. The treatment plan was denied for precisely this reason even though there was clear substantial compliance. He was forced to resubmit a treatment plan containing a period of treatment for exactly only 120 days. Worse, by starting treatment, the insurance carrier could also deny his charges for *bona fide* medical care because his medical care, however essential, occurred under a treatment plan which was not approved.

Similarly, charges of medical providers are routinely disputed. To collect, they are required to file a request for a fee dispute with the Department of Labor and Industrial Relations ("Department"). Then, they must attempt to negotiate an informal resolution. Failure to engage in negotiations could result in getting fined. During negotiations they are unlikely to be paid their full allowable charges. If negotiations fail, they must attend a hearing to address their disputed charges. Most medical providers must, as a practical matter, accept whatever is negotiated because proceeding to a hearing inevitably means more lost time than the charges for the delivery of true critical medical care.

These and other onerous administrative burdens imposed upon medical providers and associated delay in the workers' compensation process prevent injured workers from accessing quality medical care. When faced with the dilemma having to wait for approval or providing essential medical care, they oftentimes follow the Hippocratic oath. Later, they confront a myriad of insurmountable administrative burdens resulting in the loss of valuable time.

We need a game changer beginning with the passage of HB 152 by allowing a nominal increase in compensating current dedicated medical providers. At the

minimum, it will encourage their small group to continue in the workers' compensation process. Hopefully, others may decide to participate in our dysfunctional workers' compensation system. Without doubt, passage of HB 152 would also allow injured workers better access to quality medical care. A member of the committee merely needs to pickup the telephone book and to call a few medical providers to verify that most of them refuse to treat injured workers.

I respectfully submit that members of the legislature should fully endorse the passage of HB 152. There is ample justification. Consider the arbitrary slashing of 54% of routine charges by the passage of Act 234 in 1995. Consider the fact that approximately 67% of premiums were reduced in recent years as confirmed by the Director in his testimony during the 2012 Legislative session based on data assembled by his Department. Consider the fact that the Medicare based system has failed to keep pace with medical costs.

As I previously testified last session, there is the total disconnect in the current workers' compensation system. Medical providers and injured workers should not be shouldering the costs of doing business as eloquently articulated in a long line of unwavering cases issued by the Hawai'i Supreme Court. Consistent with the underlying humanitarian purpose of the workers' compensation statute, the Court stated that the "costs of doing business" are unequivocally and rightfully imposed on employers in our great State.

Passage of HB 152 will not cure the woes of the remaining current medical providers and inequitable nightmares of injured workers who are in dire need of accessing quality medical care. Increasing charges a nominal amount from 110% to 130% is most proper, necessary and a small step in the right direction. I wholeheartedly respectfully request that all of you fully endorse the passage of HB 152 without any reservations.

DWSC:ty



Property Casualty Insurers
Association of America

Advocacy. Leadership. Results.

To: The Honorable Mark M. Nakashima, Chair
House Committee on Labor & Public Employment

From: Mark Sektnan, Vice President

Re: **HB 152 – Workers’ Compensation Medical Fee Schedules**
PCI Position: OPPOSE

Date: Tuesday, January 29, 2013; 9:00 AM
Conference Room 309

Aloha Chair Nakashima and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is opposed to HB 152 which would increase the workers’ compensation fee schedule from 110 percent of the Medicare fee schedule for Hawaii to 130 percent of the Medicare fee schedule for Hawaii.

PCI believes this bill is unnecessary. Title 21, Chapter 386 – 21 (c) of the Hawaii Revised Statutes already gives the Director of the Labor and Industrial Relations Department the authority to increase the allowance under the Medicare fee schedule to ensure “rates or fees provided for in this section shall be adequate to ensure at all times the standard of services and care intended by this chapter to injured employees.” The director has exercised this authority and has increased reimbursement rates when those who are asking for the increase are able to justify the need. PCI believes it is appropriate to continue to allow the Director to assess the reimbursement needs and the cost implications of changes to the medical fee schedule to ensure that injured workers are protected and the costs to employers are kept reasonable. It is also important to note that the 110 percent is effectively the floor and not the ceiling for charges.

The medical fee schedule in Hawaii applies not only to workers’ compensation but also to medical care provided under a personal auto policy and for medical care provided under a commercial personal injury policy. The bill could not only increase the costs of medical care in the workers’ compensation system and hence drive up the cost of workers’ compensation in Hawaii but it could also drive up the costs of medical care expenses for automobile insurance and therefore increase rates on Hawaii’s consumers.

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

WIMAH

WORK INJURY MEDICAL ASSOCIATION OF HAWAII
91-2135 FORT WEAVER ROAD SUITE #170
EWA BEACH, HAWAII 96706

MAULI OLA
THE POWER OF HEALING

JANUARY 29, 2013

COMMITTEE ON LABOR AND PUBLIC EMPLOYEMENT

HOUSE BILL 152 RELATING TO WORKERS' COMPENSATION

INCREASES MAXIMUM ALLOWABLE MEDICAL FEE UNDER WORKERS' COMPENSATION TO 130% OF THE MEDICARE RESOURCE BASED RELATIVE VALUE SCALE.

WORK INJURY MEDICAL ASSOCIATION OF HAWAII STRONGLY SUPPORTS HOUSE BILL 152.

WORK INJURY MEDICAL ASSOCIATION OF HAWAII BELIEVES THIS IS A GOOD STEP. THIS WILL GET MORE PHYSICIANS TO PARTICIPATE IN HEALING THE INJURED WORKERS. THE PASSAGE OF THIS BILL WILL BENEFIT BOTH THE INJURED WORKER AND THEIR EMPLOYER.

YOUR PASSAGE OF THIS BILL WILL BE GREATLY APPRECIATED.

GEORGE M. WAIALEALE
EXECUTIVE DIRECTOR
WORK INJURY MEDICAL ASSOCIATION OF HAWAII



Randy Perreira
President

HAWAII STATE AFL-CIO

320 Ward Avenue, Suite 209 • Honolulu, Hawaii 96814

Telephone: (808) 597-1441
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The Twenty-Seventh Legislature, State of Hawaii
House of Representatives
Committee on Labor & Public Employment

Testimony by
Hawaii State AFL-CIO
January 29, 2013

H.B. 152 - RELATING TO WORKERS'
COMPENSATION

The Hawaii State AFL-CIO supports H.B. 152 which increases the maximum allowable medical fees under workers' compensation to 130% of the Medicare Resource Based Relative Value Scale.

We believe it is important to encourage more physicians to accept workers' compensation patients. Unfortunately, the current reimbursement rates result in fewer doctors willing to accept them. An increase to 130% would hopefully boost the number of doctors willing to examine and treat injured workers.

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira
President



HAWAII MEDICAL ASSOCIATION

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

Tuesday, January 29, 2013
9:00 a.m.
Conference Room 309

To: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Rep. Mark M. Nakashima, Chair
Rep. Mark J. Hashem, Vice Chair

From: Hawaii Medical Association
Dr. Steven Kemble, MD, President
Dr. 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: HB 152 RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULES

Position: Strongly Support

Dear Chair Nakashima, Vice Chair Hashem and the House Committee on Labor and Public Employment Members:

The Hawaii Medical Association is submitting testimony in strong support of HB 152.

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

OFFICERS

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SECRETARY - THOMAS KOSASA, MD **IMMEDIATE PAST PRESIDENT - ROGER KIMURA, MD**
TREASURER - BRANDON LEE, MD **EXECUTIVE DIRECTOR - CHRISTOPHER FLANDERS, DO**

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. 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.

Mahalo for the opportunity to submit testimony on this important issue.



House Committee on Labor and Public Employment
Tuesday, January 29, 2013
9:00 AM
Room 309

RE: HB 152 Related to Workers' Compensation Medical Fee Schedules

Dear Honorable Chair Nakashima, Vice Chair Hashem, and members of the House Committee on Labor & Public Employment. On behalf of the Hawaii Chapter, American Physical Therapy Association (HAPTA), we are in **STRONG SUPPORT** of HB152, related to workers' compensation medical fee schedules.

Injured workers in Hawaii are having increasing difficulty accessing medial care. Many physicians no longer accept workers' compensation patients. Although no formal survey has been done, estimates are that more than 80% of physicians in Hawaii no longer see workers' compensation patients. The few physicians that accept workers' compensation patients often have a long waitlist to get an appointment. This access to care problem delays treatment, and formal studies have shown that reduction in the time it takes to receive treatment improves a patient's outcome and prognosis. Therefore, improving access to care may expedite a patient's return to work and reduce long term cost to insurers.

We believe that the proposed increase in the fee schedule from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale is an important step toward a more comprehensive solution to the issues affecting physician acceptance of workers' compensation patients.

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,

Elyse Nakama, PT
Legislative Committee Member

TESTIMONY BEFORE THE COMMITTEE ON
LABOR & PUBLIC EMPLOYMENT

Tuesday, January 29, 2013
9:00 a.m.

HB 152
RELATING TO WORKERS' COMPENSATION

By Marleen Silva
Director, Workers' Compensation
Hawaiian Electric Company, Inc.

Chair Nakashima, Vice Chair Hashem, and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **respectfully oppose H.B. 152.** Our companies represent over 2,000 employees throughout the State.

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. 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. A majority of health care providers are already compensated adequately for their services. The statutes allow health care providers to 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 both work-related injuries and motor vehicle injuries since they both use the same medical fee schedules. However, any increase in the reimbursement rate to health care providers will have an equivalent increase to costs for employers and consumers with higher motor vehicle insurance premiums.

We suggest that a study be done to examine the scope of the issues raised and adequacy of workers' compensation reimbursements in Hawaii to ensure healthcare providers are adequately compensated.

For these reasons, we respectfully oppose H.B. 152 and request that this measure be held.

Thank you for this opportunity to submit testimony.



Pauahi Tower, Suite 2010
1001 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877
Facsimile (808) 525-5879

Alison Powers
Executive Director

TESTIMONY OF JANICE FUKUDA

HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Mark M. Nakashima, Chair
Representative Mark J. Hashem, Vice Chair

Wednesday, January 29, 2013
9:00 a.m.

HB 152

Chair Nakashima, Vice Chair Hashem, and members of the Committee, my name is Janice Fukuda, Assistant Vice President, Workers' Compensation Claims at First Insurance, testifying on behalf 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** HB 152. 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. The National Council on Compensation Insurance (NCCI) has recently estimated that a similar bill from 2012 would increase workers' compensation costs by 3.4% overall or \$6.2 million (see attached).

For the past several years, workers' compensation premiums have dropped dramatically, to around 50% of what they were a few years ago. However, the trend has changed and loss costs are increasing. The Insurance Commissioner approved a 3.6% loss cost increase effective January 1, 2012 and another loss cost increase of 5.2% effective January 1, 2013. This means that pure losses for workers' compensation are increasing and there ore premiums are increasing. This bill will add costs to a system where decreasing trends are over.

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 uninsured motorist costs.

For these reasons, we respectfully request that HB 152 be held.

Thank you for the opportunity to testify.



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Representative Mark M. Nakashima, Chair
Representative Mark J. Hashem, Vice Chair

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Alison Powers
Executive Director

TESTIMONY OF JANICE FUKUDA

HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Mark M. Nakashima, Chair
Representative Mark J. Hashem, Vice Chair

Wednesday, January 29, 2013
9:00 a.m.

HB 152

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For these reasons, we respectfully request that HB 152 be held.

Thank you for the opportunity to testify.

Hawaii Injured Worker Association
715 South King Street
Suite 410
Honolulu, HI 96813

TESTIMONY RE: HB 152 RELATING TO WORKERS' COMPENSATION

To: The House Committee on Labor and Public Employment
Rep. Mark M. Nakashima, Chair
Rep. Mark J. Hashem, Vice Chair

Date: Tuesday
January 29, 2013

Time: 9:00 am

Place: Conference Room 309
State Capitol
415 S. Beretania St.

From: Derrick Ishihara
Vice President
Legislative Chair

Position: Support

Chair Nakashima, Vice Chair Hashem, and Members of the Committee,

Thank-you for the opportunity to present testimony regarding HB 152. We support this bill because access to timely, quality medical and rehabilitative care is important to individuals injured while working.

Access to this care has been impeded by the sharp drop in reimbursement in 1995 and the continued decline relative to increasing practice costs for medical providers. Ensuing years have seen more and more physicians electing not to treat workers' compensation cases and this has resulted in injured workers not getting care from the physicians of their choice in a

timely manner. Many of these physicians are the busiest, most experienced and knowledgeable in their fields. Many skilled Orthopedic and Neurosurgeons no longer participate. I'm sure that if one of these injured workers were a family member, you would want the best available to them.

Please pass HB 152 to increase choice of physicians for injured workers.

Sincerely,

Derrick Ishihara

**Testimony to the House Committee on Labor and Public Employment
Tuesday, January 29, 2013 at 9:00 A.M.
Conference Room 309, State Capitol**

**RE: HOUSE BILL 152 RELATING TO WORKERS' COMPENSATION
MEDICAL FEE SCHEDULES**

Chair Nakashima, Vice Chair Hashem, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** HB 152 Relating to Workers' Compensation Medical Fee Schedules.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber has concerns that the increase in the medical fee schedule from 110% to 130% of Medicare will raise workers' compensation costs and increase premiums paid by business.

The economic recovery is still fragile for many businesses and this will add an increased cost for business.

Thank you for this opportunity to express our views.

House Committee on Labor and Public Employment
Tuesday, January 29, 2013
9:00 am
Room 309

RE: HB 152 Related to Workers' Compensation Medical Fee Schedules

Dear Honorable Chair Nakashima, Vice Chair Hashem, and members of the House Committee on Labor & Public Employment. I, Lisa St. John, am in strong support of HB 152, related to workers' compensation medical fee schedules.

As an Occupational Therapist, I provide invaluable service to workers' compensation patients by providing work conditioning programs and functional capacity evaluations. Work conditioning enables injured workers, including chronic pain patients to return to work. Work conditioning combines traditional physical therapy with work specific strengthening, and training for the power and endurance needed to return to their specific job or job retraining. Education on body mechanics training along with encouraging healthy lifestyle changes help to prevent re-injury. Functional capacity evaluations provide the physicians, insurance companies, other rehabilitation professionals, and attorneys help move the case and treatment along by providing information on the patients work capabilities and indicates whether or not there are any other factors inhibiting the patient to return to work.

Over the years, I have noticed that Injured workers in Hawaii are having increased difficulty accessing medical care from physicians in particular. Many physicians, especially surgeons are refusing to accept workers' compensation patients due to the medical fee schedule and the paper work involved. These patients can only see a select number of physicians and have longer waiting periods to get appointments. The wait prolongs their disability and time off of work. It is well documented that the sooner a workers' compensation patient can return to a work environment, the faster the recovery. According to a study performed by The Hartford, employees out of work for more than 12 weeks with a work-related injury, have less than a 50% chance of returning to work. This can have a significant impact on the life of the worker, the employer, and the amount of the claim.

I believe that the proposed increase in the fee schedule from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale is an important step toward a more comprehensive solution to the issues affecting physician acceptance of workers' compensation patients. Thank you for your time.

Sincerely,

Lisa St. John, OTR
CHART Rehabilitation of Hawaii, Inc.