

NEIL ABERCROMBIE
GOVERNOR



DWIGHT TAKAMINE
DIRECTOR

JADE T. BUTAY
DEPUTY DIRECTOR

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

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March 11, 2014

To: The Honorable Mark Nakashima, Chair,
The Honorable Kyle T. Yamashita, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: Tuesday, March 11, 2014
Time: 9:30 a.m.
Place: Conference Room 309, State Capitol

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

**Re: S.B. No. 2923 S.D. 2 Relating to Workers' Compensation
Medical Fee Schedule**

I. OVERVIEW OF PROPOSED LEGISLATION

S.B. 2923 S.D. 2 proposes to amend Section 386-21(c), Hawaii Revised Statutes (HRS), to carry out the recommendations of the auditor's report no. 13-10, ***A Report on Methodology for the Department of Labor and Industrial Relations' Workers' Compensation Medical Fee Schedule***, pursuant to Act 97, Session Laws of Hawaii 2013. Act 97 required the state auditor to assist the director of labor and industrial relations in administratively adjusting the workers' compensation medical fee schedule and identifying a methodology for conducting surveys.

The DLIR appreciates the assistance provided by the State Auditor and strongly supports the Auditor's recommendations provided that sufficient funding is appropriated to support the annual fee schedule rule-making process.

S.B. 2923 S.D. 2 proposes the following:

1. Require the director to update the medical fee schedule annually instead of every three years;

2. Allow the annual establishment of a maximum allowable fee ceiling higher than one hundred ten percent of Medicare for evaluation and management codes;
3. Appropriate funding for 2 full-time positions to include one research statistician III and one office assistant IV position to support the annual fee schedule rule-making process;
4. Conduct a trend analysis of this Act's cost impact and on workers' compensation claimants' access to appropriate treatment and appropriate funding to conduct the trend analysis; and
5. Repeal this measure on June 30, 2019 and reenact section 386-21(c), HRS, to the form in which it existed on the day prior to the effective date of this Act.

II. CURRENT LAW

Currently, Section 386-21(c), HRS, specifies that the liability of the employer for medical care, services, and supplies shall be limited to charges up to 110 percent of the federal Medicare fee schedule applicable to Hawaii. The director may also establish an additional fee schedule if charges under Medicare are considered unreasonable or if a medical treatment, service, accommodation, or product is not covered by Medicare.

This additional fee schedule is referred to as the Workers' Compensation Supplemental Medical Fee Schedule, or Exhibit A. The law also requires the director to update the fee schedules at least once every three years. The primary guideline for establishing prevalent charges is a schedule of all maximum allowable medical fees provided to the director by prepaid health care plan contractors.

III. COMMENTS ON THE SENATE BILL

The Department supports this measure to follow the auditor's recommendations for an annual review of the workers' compensation medical fee schedule, to refine the methodology of developing the medical fee schedule, and to establish a second maximum allowable fee ceiling for Evaluation and Management (E/M) medical services to improve access to medical treatment in workers' compensation cases.

The State Auditor reported that there was initial, positive feedback among affected stakeholders that these E/M codes should be reimbursed at a higher rate and treated

differently from other codes because they are the codes that represent the entry point for medical treatment in workers' compensation cases. Increasing the allowable charges for these entry point codes has the potential to both draw more physicians to accept injured workers and to retain physicians currently treating injured workers.

The State Auditor also noted that the reimbursement costs for Medicare have gone down while costs have risen for health care providers, "This growing differential supports our proposal to narrow the gap by providing an incentive to doctors to treat workers' compensation cases by establishing a higher maximum allowable fee ceiling for qualified E/M codes." Greater reimbursement for the E/M codes will improve the access to medical treatment for injured workers.

Access to medical treatment for injured workers is critical, especially on the Neighbor Islands where there are fewer doctors and few doctors willing to do workers' compensation cases. This can provide barriers to the purpose of the workers' compensation law, to return workers back to work as soon as possible, especially where geographic distances can be greater. The result of delays and barriers to access to medical care include higher costs to employers for workers' compensation.

DLIR notes that the purpose of the appropriation in Section 4 is to carry out the State Auditor's recommendation [pg. 28(c)] for the legislature, "Providing sufficient resources to the department to hire one or more contractors to perform an on-going trend analysis of the impact the methodology may have on access." The Department does not have the expertise or resources in house to perform this function, and if enacted and appropriated, intends to contract out this portion of the recommendations as suggested. The Department recommends the sum of \$150,000.00 be appropriated to conduct the trend analysis.

The Department recommends the appropriation of \$72,600.00 or so for the establishment of two full-time positions as noted in Section 3 for one Research Statistician III position and one Office Assistant IV position to support the annual fee schedule rule-making process. The DLIR notes that the SD2 provides these personnel without regard to chapter 76, HRS, and is unsure why this provision was inserted.

The Department supports this measure provided that sufficient funding is appropriated for the two additional positions to assist in the annual review process and for the trend

S.B. 2923 S.D. 2
March 11, 2014
Page 4

analysis and its passage does not adversely affect the funding priorities as identified in the executive supplemental budget.

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

March 10, 2014

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

For Hearing on Tuesday, March 11, 2014
9:30 a.m., Conference Room 309

BY

BARBARA A. KRIEG
DIRECTOR

Senate Bill No. 2923, S.D. 2
Relating to Workers' Compensation Medical Fee Schedule

WRITTEN TESTIMONY ONLY

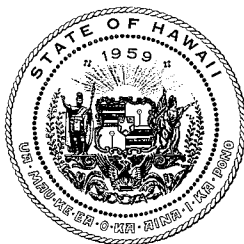
TO CHAIRPERSON MARK NAKASHIMA AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on S.B. 2923, S.D. 2.

The purpose of S.B. 2923, S.D. 2, is to require the Department of Labor and Industrial Relations (DLIR) to update the workers' compensation medical fee schedule annually; and authorize DLIR to establish a workers' compensation medical fee ceiling that exceeds 110% of the fees prescribed in the Medicare Resource Based Relative Value Scale for Hawaii.

The Department of Human Resources Development (DHRD) submits the following comment on this bill.

To the extent any annual changes to the medical fee schedule would increase our costs for the State's self-insured workers' compensation program; DHRD will have to request additional appropriations from the Legislature. Workers' compensation is a mandatory benefit for injured employees under Chapter 386, Hawaii Revised Statutes.



**TESTIMONY OF JAN K. YAMANE, ACTING STATE AUDITOR,
ON SENATE BILL NO. 2923, SENATE DRAFT 2,
RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULE**

House Committee on Labor and Public Employment

March 11, 2014

Chair Nakashima and Members of the Committee:

Thank you for the opportunity to testify in support of this bill, with suggested amendments, the purpose of which is to carry out the recommendations made in our Report No. 13-10, *A Report on Methodology for the Department of Labor and Industrial Relations' Workers' Compensation Medical Fee Schedule*.

As you are aware, Act 97, Session Laws of Hawai'i 2013, tasked my office with assisting the Department of Labor and Industrial Relations (DLIR) to create a methodology for administratively adjusting the State's workers' compensation medical fee schedule. The purpose of defining such a methodology was to identify health care services for which fee adjustments are needed and help ensure injured employees have better access to treatment.

Senate Bill 2923 is the companion bill to House Bill 1974. We prefer the House bill; our reasons follow. While both versions require the department to provide a trend analysis of the effect the new methodology has on workers' compensation claimants' access to appropriate treatment, the

Senate bill in section 4 also includes an analysis on cost impact. We believe this is unnecessary as the DLIR's current procedures call for a cost impact analysis from the Department of Commerce and Consumer Affairs (DCCA) whenever the medical fee schedule is adjusted. In addition, the National Council on Compensation Insurance (NCCI) also submits a cost impact analysis. These actuarial assessments are intended to comply with the Small Business Impact Statement requirements under Sections 201M-2 and 201M-3, Hawai'i Revised Statutes.

Any future adjustments to the fee schedule would include such cost impact analyses in order to comply with the previously mentioned statutes. Therefore, the inclusion of a cost impact element in this bill duplicates work already performed by DLIR, DCCA, and NCCI. We recommend that this language on page 5, line 21—~~[cost impact and]~~—be stricken from the bill.

Section 3 – Additional DLIR staff

Section 3 of the bill addresses our recommendation 3(b) to fund additional DLIR personnel by appropriating an amount to establish two FTE positions at the DLIR, a Research Statistician III and an Office Assistant IV. As noted in our report on pages 19 and 20, these two positions would require an appropriation of at least \$72,600 and as much as \$111,000. The salary range for each position is: Research Statistician III (\$43,800 to \$64,900); Office Assistant IV (\$28,800 to \$46,100). DLIR has communicated to us that setting the salary range to the lower end would limit its ability to recruit more qualified candidates, including those who are already employed within the department. We ask that your committee carefully consider these salary ranges when allocating funding for these positions.

Section 4 – Assessment of impact on access to medical care

Section 4 of the bill addresses our recommendation 3(a)(iii) that DLIR be asked to assess the impact on access by performing a trend analysis that includes data both prior to and after implementation of the methodology. This section appropriates moneys to hire a consultant to produce such a report.

In Act 97, SLH 2013, my office was appropriated \$150,000 to use at our discretion for the purposes of developing a new workers' compensation medical fee schedule methodology. We have already committed to the Director of Labor that we would apply our \$150,000 appropriation to consultant services.

We are poised to issue a Request for Proposals (RFP) for this trend analysis. Based on our timetable, the deadline for the submission of proposals would be in mid-April, with evaluations of the proposals by the end of April. We have planned to issue the notice of award and finalize the contract by the end of May, with a contract start date of June 1st.

In the event we are unable to encumber the money before it lapses at the end of fiscal year 2013-2014, moneys appropriated in this bill would replace those funds and would not require an additional commitment of moneys from the Legislature. Thus, we request on page six, line 2 that the appropriation of \$150,000 be inserted in the bill. Finally, in the event proposals received exceed our \$150,000 appropriation, we may need to request that the amount be increased.

As always, thank you for the opportunity to testify in support of Senate Bill 2923, SD2, with amendments. I am available to answer any questions you may have.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONO
ASSISTANT DIRECTOR

March 11, 2014

The Honorable Mark M. Nakashima, Chair
and Members of the Committee
on Labor and Public Employment
House of Representatives
State Capitol, Room 309
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members of the Committee:

**SUBJECT: Senate Bill No. 2923, SD2, Relating to Workers' Compensation
Medical Fee Schedule**

The purpose of S.B. 2923, SD2, is to carry out recommendations of the State Auditor's Report No. 13-10 by (1) requiring that the Department of Labor and Industrial Relations' (DLIR) Director update the medical fee schedule on an annual basis and (2) authorizing DLIR to establish a maximum allowable fee ceiling for certain services that is higher than 110% of the fees prescribed in the Medicare Resource Based Relative Value Scale applicable to Hawaii for evaluation and management (E/M) medical services as defined by the American Medical Association's Current Procedural Terminology codes. The City and County of Honolulu offers the following comments with respect to the measure.

Although the City appreciates the intent of S.B. 2923, SD2, the Committee should be aware that Hawaii Revised Statutes (HRS) Section 386-21(c) already provides the DLIR Director with the authority to update the medical fee schedule annually if he or she deems it necessary. As a result, the amendment to the third paragraph of the statute is unnecessary.

The same holds true with respect to the portion of S.B. 2923, SD2, which seeks to provide the DLIR Director with the ability to establish a higher medical fee ceiling. HRS Section 386-21(c) specifically states that **"[t]he rates or fees provided in this section shall be adequate to ensure at all times the standard of services and care**

The Honorable Mark M. Nakashima, Chair
and Members of the Committee
on Labor and Public Employment
March 11, 2014
Page 2

intended by this chapter to injured employees.” The section goes on to provide that “[i]f the director determines that an allowance under the medicare program **is not reasonable . . . the director, at any time, may establish an additional fee schedule or schedules** not exceeding the prevalent charge for fees for services actually received by providers of health care services, to cover charges for that treatment, accommodation, product, or service.”

While the current version of S.B. 2923 places the proposed amendment in a more appropriate part of HRS Section 386-21(c), the additional language S.B. 2923, SD2 seeks to include in the section is unnecessary. The Office of the State Auditor has recommended a methodology which consists of an annual review of all transacted medical codes regarding workers’ compensation cases over a three year period. The recommended methodology also calls for creating a separate maximum allowable fee ceiling for E/M codes which would, in turn, create an incentive for health care providers to treat workers’ compensation patients. However, nothing in HRS Section 386-21(c) prevents said methodology from being implemented at this time. To the contrary, the current statutory language already specifically authorizes an annual review and the establishment of additional fee schedules as warranted.

As a result, the lone roadblock to effectuating the State Auditor’s recommendations and preferred methodology appears to be a lack of adequate resources in DLIR. The City accordingly supports Section 3 of the bill which appropriates funding for two full time positions in the department to assist with the implementation of medical code review and rulemaking processes.

Thank you for allowing us the opportunity to testify on this measure.

Sincerely,



ck Carolee C. Kubo
Director



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Labor and Public Employment
Tuesday, March 11, 2014 at 9:30 A.M.
Conference Room 309, State Capitol**

**RE: SENATE BILL 2923, SD2 RELATING TO WORKERS' COMPENSATION
MEDICAL FEE SCHEDULE**

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

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** SB 2923, SD2 Relating to Workers' Compensation Medical Fee Schedule.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 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 a higher level of Medicare will raise workers' compensation costs and increase premiums paid by business. While we understand some of the concerns from the Auditor's report we believe that the workers compensation system already allows for reimbursement adjustments and this existing system has helped to maintain costs.

We ask that this bill be held. Thank you for this opportunity to express our views.



HAWAII MEDICAL ASSOCIATION

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

DATE: ~~DATE: Tuesday, March 11, 2014~~ ~~DATE: Tuesday, March 11, 2014~~ March 11, 2014
TIME: ~~9:30 AM~~ 9:30 AM
PLACE: ~~Conference Room 309~~ Conference Room 309

TO:

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Mark M. Nakashima, Chair

Rep. Kyle T. Yamashita, Vice Chair

FROM: Hawaii Medical Association

Dr. Walton Shim, MD, President

Dr. Linda Rasmussen, MD, Legislative Co-Chair

Dr. Ron Kienitz, MD, Legislative Co-Chair

Dr. Christopher Flanders, DO, Executive Director

Lauren Zirbel, Community and Government Relations

Re: SB 2925 Relating to Workers' Compensation Medical Fee Schedule

Position: Strongly Support

The Hawaii Medical Association is submitting testimony in strong support of this measure as a means to address fair increases to the workers' compensation medical fee schedule. This legislation creates a reasonable process to evaluate issues affecting access to care for workers' compensation patients.

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

Officers

President - Walton Shim, MD President-Elect – Robert Sloan, MD

Secretary - Thomas Kosasa, MD Immediate Past President – Stephen Kemble, MD

Treasurer – Brandon Lee, MD Executive Director – Christopher Flanders, DO

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. 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.

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.

Hawaii State Legislature
House Committee on Labor and Public Employment
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

March 9, 2014

Filed via electronic testimony submission system

RE: SB 2923, SD 2, Workers' Compensation Medical Fee Schedule - NAMIC's Written Testimony for Committee Hearing

Dear Representative Mark M. Nakashima, Chair; Representative Kyle T. Yamashita, Vice Chair; and members of the House Committee on Labor and Public Employment:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the March 11, 2014, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

The 1,400 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$196 billion in annual premiums, accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market. NAMIC has 69 members who write property/casualty and workers' compensation insurance in the State of Hawaii, which represents 30% of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC's members appreciate the importance of having a medical fee schedule that is fair and commensurate with reasonable medical costs. However, the very purpose of a medical fee schedule is to act a cost-containment mechanism to prevent the ever-rising cost of medical care from adversely impacting the cost of workers' compensation insurance coverage and auto

insurance coverage. NAMIC is concerned that the proposed legislation will act as an insurance rate cost-driver, because it will create political pressure on the Director to maintain or increase CPT codes at levels that may not be necessary or appropriate. SB 2923, SD 2, could be detrimental to the entire workers' compensation insurance system in the State of Hawaii and could adversely impact the affordability of auto insurance coverages, including Personal Injury Protection, Uninsured/Underinsured Motorist Coverage, and Bodily Injury Liability Coverage, which are directly affected by medical fee schedules.

NAMIC respectfully tenders the following concerns with SB 2923, SD2:

1) The proposed amendment Section 386-21(c), Hawaii Revised Statutes will create needless administrative work for the Director and increase the political pressure on the department to continually increase the medical fee schedule ceiling

SB 2923, SD2, would require the Director to update the medical fee schedule annually, whether a revision is needed or not. Current law provides the Director with discretion to update the medical fee schedule "every three years or annually, as required."

Since current law already allows for an annual update of the fee schedule if one is needed, what is the public policy rationale for mandating an annual medical fee schedule update? If there isn't clear and reliable data that supports the need for an update of the medical fee schedule, why should the Director be *required* to use limited department resources to update the medical fee schedule annually? In effect, the proposed legislation will subject the department to special-interest group political pressures each and every year to adjust the medical fee schedule to address their particular financial interests.

2) NAMIC is also concerned that the proposed effective date is impractical and unworkable

Since insurers are required to file rate adjustments for regulatory approval, a July 1st effective date is administratively impractical and unworkable. NAMIC would recommend a January 1st effective date.

In closing, NAMIC is opposed to SB 2923, SD 2, because the proposed legislation is unnecessary and likely to adversely impact the affordability of workers' compensation insurance for employers/workers and auto insurance for consumers.

If the House Committee on Labor and Public Employment feels compelled to pass SB 2923, SD 2, NAMIC believes that it would make sense to exclude auto insurance from the purview of the proposed legislation, so that the effect of the annual medical fee schedule review may be thoroughly evaluated by the State of Hawaii as an insurance rate cost-driver before it is allowed to impact the cost of state mandated auto insurance coverage.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC's written testimony.

Respectfully,

A handwritten signature in black ink, appearing to read "Christian John Rataj". The signature is written in a cursive style with a large initial "C".

Christian John Rataj, Esq.
NAMIC Senior Director – State Affairs, Western Region



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

Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
Representative Mark Nakashima, Chair
Representative Kyle Yamashita, Vice Chair

Tuesday, March 11, 2014
9:30 a.m. room 309

SB 2923, SD2

Chair Nakashima, Vice Chair Yamashita, 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 one third of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** this measure as it affects motor vehicle insurance costs as well as workers' compensation insurance costs. Although this measure was introduced as a recommendation by the Legislative Auditor's Office, we believe that the focus of the Auditor was on accessibility to physicians who treat those injured under workers' compensation insurance rather than motor vehicle accidents. However, any change to Section 386-21 in the workers' compensation law would also impact all motor vehicle insurance claims and could increase Personal Injury Protection costs and other related costs including UM, UIM, and BI.

As the Auditor testified in prior hearings, they are supporting increases in EM codes, which are office visits. Office visits are not limited to workers' compensation cases and would automatically increase motor vehicle insurance costs as well.

An ongoing concern is whether the Department has the resources and expertise to properly analyze the medical fee schedule on an annual basis and whether doing so will result in steady increases to the medical fee schedule putting pressure on rates in both motor vehicle insurance and workers' compensation insurance. One of the primary cost drivers in both motor vehicle insurance and workers' compensation insurance when premiums were unaffordable in the 1990's was the high level of medical reimbursement. This bill could serve to quickly erode this cost containing provision in the law and lead to high premiums once again.

A floor of 110% of Medicare will in addition, ensure that certain CPT codes are kept at this level, whether warranted or not. This may add unnecessary costs to both lines of insurance. If this bill is to move forward, we respectfully ask the committee to consider a legislative carve-out for motor vehicle insurance so that medical cost increases will not automatically increase for that line of insurance. We are happy to provide language to the committee, however, the title of this bill and its companion, SB 2923 may be too narrow.

Finally, an effective date of July 1 is not feasible as insurers must file rate adjustments if necessary, therefore we would recommend a January 1 effective date should this measure move forward.

Thank you for the opportunity to testify on this measure.

The Twenty-Seventh Legislature
Regular Session of 2014



HOUSE OF REPRESENTATIVES
Committee on Labor and Public Employment
Rep. Mark M. Nakashima, Chair
Rep. Kyle T. Yamashita, Vice Chair
State Capitol, Conference Room 309
Tuesday, March 11, 2014; 9:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 2923, SD2
RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULE**

The ILWU Local 142 supports S.B. 2923, SD2, which requires the Department of Labor and Industrial Relations (DLIR) to update the workers' compensation medical fee schedule annually and authorizes DLIR to establish a workers' compensation medical fee ceiling that exceeds 110% of the fees prescribed in the Medicare Resource Relative Value Scale for Hawaii. The measure sunsets on 6/30/19.

For almost two decades, medical fees for providers treating injured workers have been artificially suppressed to no more than 110% of the Medicare Resource Relative Value Scale for Hawaii. The change was enacted those many years ago to curb the rising cost of workers' compensation with the thought that providers were the source of the costs.

However, as a consequence of this drastic adjustment in fees, fewer and fewer physicians choose to treat injured workers today, particularly on the neighbor islands. Workers injured on the job are hard-pressed to find anyone who will offer treatment that will allow them to return to work in a timely manner. And, ironically, this serves to increase the cost of workers' compensation as more money is paid out in indemnity benefits to workers unable to return to gainful employment.

The proposal offered by the Legislative Auditor will allow the Department of Labor and Industrial Relations to set the ceiling for fees at an amount higher than the current ceiling. It also requires the Department to update fee schedules annually. Together, these two proposals will encourage more physicians and providers to enter the workers' compensation market, which will mean workers will get treatment they need to return to work and competition will improve the quality of care.

The only caveat is that this measure must be passed with an appropriation for the Department of Labor and Industrial Relations to have sufficient staff resources to carry out the requirements of the law. An unfunded mandate should not be permitted.

The ILWU urges passage of S.B. 2923, SD2. Thank you for considering our views.

LATE

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

From: Mark Sektnan, Vice President

Re: **SB 2923 SD2 – Workers’ Compensation Medical Fee Schedule**
PCI Position: OPPOSE

Date: Tuesday, March 11, 2014
9:30 a.m., Conference Room 309

Aloha Chair Nakashima, Vice Chair Yamashita and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is in opposition to SB 2923 SD2 which would require the Department of Labor and Industrial Relations (DLIR) to update the medical fee schedule annually and allow the DLIR to establish a fee schedule that exceeds 110% of the Medicare fee schedule.

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 individual 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 on an individual basis as needed and to consider 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.

Last year, the Legislature passed HB 152 which required the auditor to assist the DLIR in reviewing and updating the medical fee schedule. The auditor has completed this work and the new fee schedule is now effective. Pressure to update the schedule annually in the absence of any actual need could result in an increased workload for an understaffed department and result in a higher fee schedule.

The Legislature may also want to maintain its traditional role in approving blanket increases to the medical fee schedule. It is important to note that in Hawaii the medical fee schedule 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. Hawaii is already seeing increases in workers' compensation premiums. This year, the Commissioner approved an increase of more than 6%. This is the third straight year of increasing premiums which are the result of higher costs in the system. This bill could not only increase the costs of medical care in the workers' compensation system further driving up the cost of workers' compensation in Hawaii, but it could also drive up the costs of medical care expenses for automobile insurance. As a result, rates would increase for Hawaii's consumers.

For these reasons, PCI asks the committee to hold SB 2923 SD2.

WIMAH

LATE

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

MAULI OLA
THE POWER OF HEALING

MARCH 11, 2014

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SENATE BILL 2923 SD2
RELATING TO WORKERS' COMPENSATION MEDICAL FEE
SCHEDULE

REQUIRES THE DLIR TO UPDATE THE WORKERS' COMPENSATION MEDICAL FEE SCHEDULE ANNUALLY. AUTHORIZES DLIR TO ESTABLISH A WORKERS' COMPENSATION MEDICAL FEE CEILING THAT EXCEEDS 110% OF THE FEES PRESCRIBED IN THE MEDICARE RESOURCE RELATIVE VALUE SCALE FOR HAWAII. EFFECTIVE 07/01/50. SUNSETS 06/30/19. (SD2)

WORK INJURY MEDICAL ASSOCIATION OF HAWAII STRONGLY SUPPORTS SENATE BILL 2923 SD2.

WE BELIEVE THIS BILL WILL PROVIDE AN ACCURATE MEDICAL FEE SCHEDULE WHICH WILL ADDRESS FAIR INCREASES TO THE WORKERS' COMPENSATION MEDICAL FEE SCHEDULE.

YOUR PASSAGE OF THIS BILL IS GREATLY APPRECIATED.

GEORGE M. WAIALEALE
EXECUTIVE DIRECTOR
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