



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON HUMAN SERVICES

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2014

Thursday, January 30, 2014
10:00 a.m.

TESTIMONY ON HOUSE BILL NO. 1718 – RELATING TO LONG-TERM CARE.

TO THE HONORABLE MELE CARROLL, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department takes no position on this bill which mandates any long-term care insurance policy or certificate issued in the state to provide coverage for adult residential care homes under chapter 321, expanded adult residential care homes under chapter 321, and community care foster family homes under chapter 321. Adult residential care homes and extended care adult residential care homes are already possible coverage options for qualified group long term care policies pursuant to HRS section 431:10H-301.

While mandating coverage may help some people, it will also result in increased premiums to all policyholders due to increased utilization.

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

LATE TESTIMONY

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN OPPOSITION TO HOUSE BILL 1718,
RELATING TO LONG TERM CARE INSURANCE

January 30, 2014

LATE

Via e mail: capitol.hawaii.gov/submittestimony

Honorable Representative Mele Carroll, Chair
Committee on Human Services
State House of Representatives
Hawaii State Capitol, Conference Room 329
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Carroll and Committee Members:

Thank you for the opportunity to testify in opposition to HB 1718, relating to Long Term Care Insurance.

Our firm represents the American Council of Life Insurers (“ACLI”), a Washington, D.C., based trade association with approximately 300 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers’ products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums. Two hundred twenty-five (225) ACLI member companies currently do business in the State of Hawaii; and they represent 92% of the life insurance premiums and 90% of the annuity considerations in this State.

HB 1718 proposes to amend Chapter 431:10H of Hawaii’s Insurance Code to require all long-term care insurance plans issued in this State to provide benefits to cover the cost of care provided to the insured “. . . at adult residential care homes under Chapter 321, expanded adult residential care homes under Chapter 321 and community care foster family homes under Chapter 321.” The care homes enumerated in the proposed bill are individually referred to as the “care home” and collectively as the “care homes”.

ACLI opposes HB 1718 for the reasons set forth below.

First and most importantly, the proposed bill does not specifically identify the requirements for the care homes, and as set forth in HRS Section 431:10H-201(b): “. . . all providers of services . . . shall be defined in relation to the services and facilities required to be available and the licensure, certification, registration or degree status of those providing or supervising the services.” In the present case, HB 1718 does not define the kinds of services to be provided by the care home, who is to perform these services and their “credentials”.

If additional services will be required, there will be additional cost for this, and the

proposed bill will make long-term care policies in Hawaii more costly and, therefore, less affordable. Today, consumers who should be buying long-term care coverage are unable to do so because of the cost which they believe is prohibitive. At a time when regulators and industry are focused on developing comprehensive solutions to make the funding of long-term care coverage more affordable, HB 1718 would make long-term coverage in Hawaii *less affordable*, a consequence that will not benefit Hawaii consumers.

Second, long-term care plans must satisfy the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") to be eligible for tax qualified status – this means that benefits paid to consumers would not be subject to federal income taxes, and in most cases, as in Hawaii, state income taxes. Under HIPAA, the payment of qualified long-term care benefits is conditioned on a determination of the insured's ability to perform activities of daily living (ADL) and on cognitive impairment – these are the benefit triggers. For purposes of tax-qualified long-term care insurance plans, as defined in Section 7702B of the Internal Revenue Code of 1986, as amended, "benefit trigger" shall include a determination by a licensed health care practitioner that an insured is a chronically ill individual. These requirements are addressed in the NAIC Long-Term care Insurance Model Act (#640) and related NAIC Long-term Care Insurance Model Regulation (#641) which have been adopted by Hawaii and is governed by Article 10H of Hawaii's Insurance Code. Accordingly, the care home benefits that are the subject of this bill would only be payable if insureds were determined to be ADL impaired or cognitively impaired. If this is not the case, the long-term care plan would lose its tax qualification status. The proposed bill needs to specify this condition for payment.

Third, the proposed bill does not specify if the new requirements apply to new plans, existing plans, or both. Since long-term care plans are guaranteed renewable, existing plans cannot be amended to add coverage. Consequently, the proposed bill should clarify that it would apply only to new plans issued on or after the bill's effective date.

Lastly, the addition of the coverage contemplated by the proposed bill would require form and rate filings. Adequate lead time is needed for insurance companies to develop the required language/rates, to file these with the Insurance Division, secure its approval, update administrative systems to reflect the additional coverage, update advertising and producer training, as applicable, and implement the availability of the new coverage. The proposed effective date is July 1, 2014. This does not afford an insurer with sufficient time to bring the mandated plan to market.

ACLI would respectfully request that more specificity be included regarding the licensure of the care homes, , services to be provided, the conditions for payment (ADL deficiency or cognitive impairment as defined in Section 7702B of the Internal Revenue Code), that the bill applies to plans issued on or after the effective date of the bill, and that the effective date of the bill be changed to February 1, 2015, or a date thereafter , to allow companies the time needed to implement the bill's provisions on a more realistic and practical time-table.

Again, thank you for the opportunity to testify in opposition to HB 1718, relating to Long Term Care Insurance.

LAW OFFICES OF
OREN T. CHIKAMOTO
A Limited Liability Law Company

A handwritten signature in black ink, appearing to read "O.T. Chikamoto". The signature is fluid and cursive, with the first name "Oren" and last name "Chikamoto" clearly distinguishable.

Oren T. Chikamoto
1001 Bishop Street, Suite 1750
Honolulu, Hawaii 96813
Telephone: (808) 531-1500
Facsimile: (808) 531-1600
E mail: otc@chikamotolaw.com

LATE TESTIMONY

HOUSE COMMITTEE ON HUMAN SERVICES

January 30, 2014

House Bill 1718 Relating to Long-Term Care

Chair Carroll and members of the House Committee on Human Services, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm).

State Farm suggests the inclusion of "state licensed" to clarify the section.

"§431:10H- Long-term care facilities. Any long-term care insurance policy or certificate delivered or issued for delivery in this State shall cover the care provided to the insured or claimant at ~~state-licensed~~ adult residential care homes under chapter 321, expanded adult residential care homes under chapter 321, and community care foster family homes under chapter 321."

Thank you for the opportunity to present this testimony.