

HB 2584 HD1

Measure Title: RELATING TO PERSONAL INJURY PROTECTION BENEFITS.

Report Title: Motor Vehicle Insurance; Personal Injury Protection Benefits; Reimbursement; Drugs

Description: Specifies reimbursement requirements for prescription drug claims concerning motor vehicle insurance personal injury protection benefits. Effective July 1, 2112. (HB2584 HD1)

Companion: SB2494

Package: None

Current Referral: CPN, WAM

Introducer(s): MCKELVEY (Introduced by request of another party)



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 SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2014

Friday, March 14, 2014
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 2584, H.D. 1 – RELATING TO PERSONAL
INJURY PROTECTION BENEFITS.**

TO THE HONORABLE ROSALYN H. BAKER, 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 opposes the bill, and submits the following comments:

This bill proposes to conform charges by health care providers for drug prescriptions associated with covered motor vehicle injuries to those reimbursable under prepaid health care plans.

Under HRS §431-10C-308.5, the motor vehicle insurance fee schedule adopts the workers' compensation supplemental fee schedule, which governs the charges and frequency of treatments and their reimbursements. Personal injury protection ("PIP") benefits are, therefore, intimately and uniformly linked to the motor vehicle insurance and workers' compensation supplemental medical fee schedules which already place limitations on charges.

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



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Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Rosalyn H. Baker, Chair
Senator Brian Taniguchi, Vice Chair

Friday, March 14, 2014
9:00 a.m.

HB 2584, HD1

Chair Baker, Vice Chair Taniguchi, 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 supports the intent of this measure. Amendments made in House Draft 1 make the language in this draft similar to that in another bill, SB 2365. However, we believe SB 2365, SD2, HD1 contains more comprehensive language and includes workers' compensation claims since both motor vehicle insurance and workers' compensation insurance reimbursement for drugs are tied together by Section 431:10C-108.5, Hawaii Revised Statutes, and Section 386-21, Hawaii Revised Statutes, respectively.

If this bill is not held in lieu of SB 2365, SD2, HD1 we ask that the substantive language of the bill be inserted into the motor vehicle insurance statute of this bill. Thank you for the opportunity to testify.

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Hawaii State Legislature
Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

March 13, 2014

Filed via electronic testimony submission system

RE: HB 2584, HD 1, Personal Injury Protection Benefits - NAMIC's Written Testimony for Committee Hearing

Dear Senator Rosalyn H. Baker, Chair; Senator Brian T. Taniguchi, Vice Chair; and members of the Senate Committee on Commerce and Consumer Protection:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the March 14, 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 supports HB 2584, HD 1, as a reasonable and balanced pro-insurance consumer and pro-consumer protection legislative proposal. HB 2584, HD 1, will facilitate the creation of thoughtful and appropriate pharmaceutical cost-containment controls that are necessary to prevent the ever-increasing cost of medications from adversely impacting the affordability of Personal Injury Protection insurance coverage for auto insurance consumers.

NAMIC believes that the proposed legislation fairly balances the needs of all stakeholders, by allowing for reasonable retail price markups, providing for the use of a reasonable and reliable objective pricing standard, and setting forth clear guidelines for how to address pricing caps for repackaged/re-labeled drugs and compound drugs.

Although NAMIC believes that the original version of the proposed legislation provides consumers with more comprehensive medication cost-containment protections that will help consumers get the best value out of their motor vehicle Personal Injury Protection coverage benefits, NAMIC still supports HB 2584, HD 1, as a meaningful pro-insurance consumer bill.

HB 2584, HD1, is also necessary and appropriate from a consumer fraud-prevention standpoint, because it will make it less profitable for those who want to “game the system” and reap unconscionable profits by relabeling, repackaging, and/or compounding drugs so that they can circumvent standard medical pricing of medications that are in place to protect consumers from medication pricing fraud.

In closing, NAMIC respectfully requests that the Senate Committee on Commerce and Consumer Protection “**vote yes**” on HB 2584, HD 1, because it is a reasonable and appropriate pro-insurance consumer and pro-medication pricing fraud prevention measure.

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,



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



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COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator Brian T. Taniguchi, Vice Chair

DATE:

Friday, March 14, 2014

TIME:

9:00am

PLACE:

Conference Room 229

FROM: Hawaii Medical Association

Dr. Walton Shim, MD, President

Dr. Linda Rasmussen, MD, Legislative Co-Chair

Dr. Ron Kienitz, DO, Legislative Co-Chair

Dr. Christopher Flanders, DO, Executive Director

Lauren Zirbel, Community and Government Relations

Re: HB 2584

Position: Comments in support of this HD 1 but opposition to original proposed language in HB 2584

This measure specifies reimbursement requirements for prescription drug claims concerning motor vehicle insurance personal injury protection benefits.

HMA is grateful for amendments made to this bill in the prior committee. In its original form this bill attempted to control the prices paid for drugs and supplements paid by auto insurance by requiring providers to certify that drugs and supplements are required to treat the injury covered by MVA insurance benefits. Providers would also have to certify that the charges do not exceed amounts reimbursable under prepaid health care plans under HRS 393; and that if the drug is not reimbursable by health plans under HRS 393. The physician would then be forced to confirm in writing the amounts reimbursed, provide a justification, and jump through other hoops. This would be a tremendous burden and we are not sure physicians would be able to make this work and still get needed medications to their patients. If the intent of the original

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measure is to prolong access to needed medication then HMA strongly opposes that intent, as prolonging needed medical treatment only worsens injuries and illness.

Thank you for the opportunity to testify.



Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Members of the Committee on Commerce and Consumer Protection

DATE: Friday, March 14, 2014
TIME: 9:00am
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

COMMENTS ON HOUSE BILL 2584 HD1

Automated HealthCare Solutions (AHCS) submits the following comments **in support of this HD1, but in opposition to the original proposed language in HB 2584.**

Hawaii has a long-standing (1992) intent to tie personal injury protection benefits to workers' compensation schedules. As determined by the *Hawaii Providers Network* court:

The legislative intent [in adopting the Workers' Compensation fee schedule to govern the amount of payments to providers of no-fault benefits under motor vehicle insurance policies] was to "establish[] a medical fee schedule which limits charges and frequency of medical services and treatment [for purposes of no-fault coverage] by adopting, by reference, the workers' compensation fee schedule and guidelines." Sen. Conf. Comm. Rep. No. 161, in 1992 Senate Journal, at 826 (emphasis added). The Legislature also indicated that "medical cost containment . . . will be accomplished by adoption of a fee schedule modeled on the workers' compensation medical fee schedule." Hse. Stand. Comm. Rep. No. 1271-92, in 1992 House Journal, at 1391.

Id. at 365, 98 P.3d at 236; *see also id* at 369, 98 P.3d at 240 ("[T]he legislature, thus, adopted the workers' compensation fee schedule by reference *in order to implement* its intent to contain costs of motor vehicle insurance.").

By tying personal injury protection benefits to workers' compensation, not only is cost containment achieved but patient access to quality medical care is also ensured. For example,

HRS 386-21 states in part that “[t]he 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.” Although the forgoing provision directly references injured workers, the same holds true for personal injury protection patients in Hawaii today. This is to ensure that physicians continue to treat no-fault patients. Should reimbursement be unreasonably reduced or tied to health care plans with no easily ascertainable coverage, physicians will no longer treat personal injury protection patients and the patients will be the ones who ultimately suffer.

To the extent that HB 2584 and HB 2584 HD1 are primarily focused on cost containment of pharmaceuticals, AHCS believes that HB 2584 HD1 directly achieves the cost savings desired by various stakeholders. Furthermore, this Committee should be aware that there is another workers’ compensation bill pending in the House that further curtails reimbursement for medications dispensed to work comp patients. AHCS has been directly involved in the stakeholder negotiations of this bill and is hopeful legislation will be passed this session which achieves the additional cost containment measures sought by payors. To that end, many of the provisions in HB 2584 and HB 2584 HD1 will already be addressed.

Thank you for your consideration.

Jennifer Maurer, Esq.
Government Relations Director
Automated HealthCare Solutions, LLC

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO H.B. NO. 2584, HD1**

Date: Friday, March 14, 2014

Time: 9:00 am

To: Chairperson Rosalyn Baker and Members of the Senate Committee on Commerce and Consumer Protection:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in OPPOSITION to H.B. No. 2584, HD1.

The basic provisions in this bill should be addressed in the Medical Fee Schedule which is already part of our law. This proposal is similar to SB 2365, SD 2, which crossed over from the Senate and has been heard and passed by the House Labor Committee.

Consumers are increasingly finding that physicians will not accept patients who have been involved in automobile accidents. If we impose further statutory requirements - - essentially red tape and expense - - it will be even harder for consumers involved in accidents to find a physician who will treat them. Many physicians routinely refuse to see someone who has been involved in an automobile accident.

The Medical Fee Schedule, which is part of existing law for personal injury protection benefits, can easily and properly address the concerns.

Thank you for the opportunity to testify on this measure. Please feel free to contact me should there be any questions.

HB2584

Submitted on: 3/13/2014

Testimony for CPN on Mar 14, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
James Van Natta	Individual	Comments Only	No

Comments: To whom it may concern: I am a physician with an office in Maui. My practice regularly treats individuals with PIP/MVA claims. I continue to look forward to revised and simplified laws to ensure adequate care for my patients. I am in favor of HB2584 as it stands from the original House Draft 1.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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HB2584

Submitted on: 3/13/2014

Testimony for CPN on Mar 14, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Yvonne Geesey	Individual	Comments Only	No

Comments: Aloha Committee Members: please consider modernizing this statute to include Advanced Practice Registered Nurses (who are also prescribers) to section 431-10C. mahalo, Yvonne Geesey, MSN, JD Advanced Practice Registered Nurse

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