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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2014

Wednesday, February 12, 2014
2:10 p.m.

**TESTIMONY ON HOUSE BILL NO. 2584 – RELATING TO PERSONAL INJURY
PROTECTION BENEFITS.**

TO THE HONORABLE ANGUS L.K. McKELVEY, 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 and not to the individual reimbursement tables of multiple health plans.

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

TESTIMONY OF MICHAEL TANOUE

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Rep. Angus L.K. McKelvey, Chair
Rep. Derek S.K. Kawakami, Vice Chair

Wednesday, February 12, 2014
2:10 p.m.

HB 2584

Chair McKelvey, Vice Chair Kawakami, and members of the Committee on Consumer Protection and Commerce, my name is Michael Tanoue, counsel for the Hawaii Insurers Council, 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** this bill. The bill adds a new section regarding the reimbursement of drugs, supplies, and materials under the personal injury protection benefits part of the motor vehicle insurance law in order to contain costs, prevent overprescribing, and prevent price gouging.

We believe by implementing this process, there will be a clear understanding by all involved in the prescribing, delivery, and payment of drugs, supplies, and materials of what is allowed and the rate of reimbursement. This measure will benefit consumers because the minimum statutory personal injury projection limit is \$10,000 and by containing the cost of drugs, supplies, and materials, there will be more benefits available to the injured for other types of treatment.

Thank you for the opportunity to testify.

kawakami3-Benigno

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 10, 2014 8:22 PM
To: CPCtestimony
Cc: geesey@hawaii.edu
Subject: Submitted testimony for HB2584 on Feb 12, 2014 14:10PM

HB2584

Submitted on: 2/10/2014

Testimony for CPC on Feb 12, 2014 14:10PM in Conference Room 325

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

Comments: Aloha Committee Members; Please consider including advanced practice registered nurses as persons able to approve auto PPI benefits. Authorizing advanced practice registered nurses will modernize this statute because we are already treating and writing prescriptions--but in these instances we do the assessment, and then have to find a physician colleague to "treat the paperwork." mahalo! Yvonne Geesey, JD Advanced Practice Registered Nurse

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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LATE

Dear Chairman McKelvey and Distinguish House Members:

As President of the Work Injury Medical Association of Hawaii (WIMAH) and the only fulltime physician in Windward Oahu who regular cares for our Hawaii residents injured in motor vehicle accidents, we **strongly oppose** HB2584.

WIMAH represents the remaining doctors in our state that a hanging on in spite of the aggressive tactics used by the Auto Insures in our state to maximize profits and deny legitimate care to these unfortunate Hawaii resident throughout the islands. My primary concern is the guaranteed result that this bill **will further reduce the number of physicians caring for these patients** when the numbers are critical and have been for the past 5 years.

The bill is terribly flawed because it blindly refers to the “Pre Paid Health Care Plans” drug costs as the basis to determine costs for PIP medications. This is absolutely not possible. **There are no such charges** set by the pre paid healthcare plans. This was supported by HMSA’s own testimony, and I do believe they should know this to be true. As a Family Physician who has treated patients under the pre paid plans in our state for 25 years, an individual plan like HMSA may have different rates within it’s own plans. The costs are constantly changing, as new manufactures produce medications and brand meds become generic.

Second, it places the administrative burden on the provider’s office to certify a charge that does not exist. What HMSA pays for medications compared to UHA may be completely different. Both are plan certified by the state under the pre paid act. The contract HMSA has with CVS may be different then the contract with the local Times pharmacies or even Walgreens.

Ultimately, an **office will just give up caring for these patients if another impossible and ambiguous requirement is added** to a process that increasingly now favors the Auto insurers attempts to deprive our citizens of care they deserve and usually have paid for many times over in their premiums.

I will be present to testify.

Thank you for opposing this flawed bill.

Sincerely,

Scott J Miscovich MD
President Work Injury Medical Association of Hawaii
And
Family Physician, Kaneohe

WIMAH

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



MAULI OLA
THE POWER OF HEALING

FEBRUARY 12, 2014

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

HOUSE BILL 2584 RELATING TO PERSONAL INJURY PROTECTION BENEFITS

ENSURES PERSONAL INJURY PROTECTION BENEFITS REMAIN CONSISTENT WITH PREPAID HEALTH CARE PLANS BY CLEARLY SPECIFYING REQUIREMENTS FOR THE REIMBURSEMENT OF DRUGS, SUPPLIES AND MATERIALS.

THE WORK INJURY MEDICAL ASSOCIATION OF HAWAII IS IN OPPOSITION TO THIS BILL AS WRITTEN. MANY OF OUR SUPPORTERS THAT ARE PHYSICIANS HAVE PATIENTS WITH PERSONAL INJURY. PHYSICIANS WILL NOT BE ABLE TO CARRY THE FINANCIAL BURDEN OF DELAYED PAYMENTS AND DENIAL OF PAYMENT FOR THESE INJURED PATIENTS. THIS WILL BRING ABOUT LESS PARTICIPATING OF PHYSICIANS IN THE AREA OF PERSONAL INJURY.

THIS WILL LIMIT OR ELIMINATE PHYSICIANS ESPECIALLY ON THE NEIGHBOR ISLANDS FROM PARTICIPATING,

WE ASK FOR YOUR SUPPORT TO OPPOSE THIS BILL AS WRITTEN.

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

EMAIL: WIMAHXDIR@AOL.COM PHONE: (808)-383-0436

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 11, 2014 8:16 PM
To: CPCtestimony
Cc: frankvannatta@hotmail.com
Subject: Submitted testimony for HB2584 on Feb 12, 2014 14:10PM

HB2584

Submitted on: 2/11/2014
Testimony for CPC on Feb 12, 2014 14:10PM in Conference Room 325

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

Comments: I am an outer island physician with many PIP/WC patients. A large number of these individuals rely on the ability of my clinic to directly dispense medications to them for several reasons, mainly the assurance that they will receive their medications without delay, not have to travel to other locations to pick up their prescriptions, and not having to pay out of pocket for medications and then wait to be reimbursed by their insurance carrier(certainly a long and arduous task). If the reimbursement for office based dispensing is decreased, my clinic along with others will not be able to continue this practice, greatly decreasing the availability of health care providers to this demographic.

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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LATE

February 12, 2014

Committee on Consumer Protection & Commerce

House Bill 2584 Relating to Personal Injury Protection Benefits

Dear Chairman McKelvey and Distinguish House Members:

I am writing in direct opposition to HB 2584 which will make it impossible to provide medications to patients as a dispensed item at the point of service. By drastically reducing reimbursement, this decades-old practice puts both patients and doctors at a distinct disadvantage.

It will cause a number of **negative effects on patients** including 1) reduced access to care from providers willing to participate, 2) reduced oversight of medication utilization and 3) additional paperwork for approval of medications which are currently readily available thru established law.

Doctors and their staffs, already in short supply especially on our neighbor islands, will 1) suffer financially with consequent reductions in staff pay and possible layoffs, 2) lose their ability to recruit and retain doctors and 3) suffer the loss of a time-honored ability to service the patient directly in their clinics.

The current global cost of dispensed medications is less than 15% of the premium dollar. Moreover, by restricting doctors' ability to dispense at the same time that pharmacies are opening their own medical clinics in direct competition, the concept of a "level playing field" for our beleaguered providers is undermined and will only add their short supply--to the detriment of the public.

Please say no to this bill which will only exacerbates our doctor shortage and access-to-care crisis by reducing the supply of physicians still willing to care for those injured on our streets and highways.

Sincerely,

Scott McCaffrey, MD

Workstar Injury Recovery Center

Queens West Oahu Campus

LATE



**To: Rep. Angus L.K. McKelvey, Chair
Rep. Derek S.K. Kawakami, Vice Chair
Members of the Committee on Consumer Protection & Commerce**

Date: Wednesday, February 12, 2014

Time: 2:10 PM

Place: Conference Room 325

State Capitol

415 South Beretania Street

COMMENTS ON HOUSE BILL 2584

Automated HealthCare Solutions (AHCS) submits the following testimony in opposition to House Bill 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 HB 2584 is focused on cost containment, this Committee should be aware that there are several workers’ compensation bills pending in the House and Senate that further curtail reimbursement for medications dispensed to work comp patients. AHCS has been directly involved in the stakeholder negotiations of these bills and is optimistic 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 will already be addressed without having to burden the system with additional disputes over reimbursements tied to a vast array of varying “prepaid healthcare plans.”

Thank you for your consideration.

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

LATE

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

Date: Wednesday, February 12, 2014

Time: 2:10 pm

To: Chairman Angus McKelvey and Members of the House Committee on Consumer Protection and Commerce:

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.

This bill imposes unrealistic statutory requirements for health care providers and should be addressed in the Medical Fee Schedule which is already part of our law.

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. HAJ feels that this is not the best means by which to correct the alleged problem.

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