

STAND. COM. REP. NO. 3086

Honolulu, Hawaii

MAR 24 2016

RE: H.B. No. 2740  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred H.B. No. 2740, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LIABILITY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit health insurance preauthorization requirements that cause undue delay in receipt of medical treatment or services; and
- (2) Specify that insurers, but not health care providers, are liable for civil damages caused by undue delays in preauthorization.

Your Committee received testimony in support of this measure from the Hawaii Medical Association; American Congress of Obstetricians and Gynecologists, Hawaii Section; Hawaii Academy of Physician Assistants; American College of Emergency Physicians, Hawaii Chapter; Hawaii Association for Justice; Hawaii Injured Workers Association; Hawaii Radiological Society; Kihei-Wailea Medical Center; and sixteen individuals. Your Committee received testimony in opposition to this measure from the University Health Alliance, Hawaii Medical Service Association, Hawai'i Association of Health Plans, UnitedHealthcare Community Plan of Hawai'i, Hawaii Dental Service, and three individuals. Your Committee received comments on this measure from the Department of Commerce and

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Consumer Affairs, Department of Human Services, American Council of Life Insurers, and one individual.

Your Committee finds that prior approval for medical services, also known as precertification or preauthorization, refers to health insurer requirements that certain physician-ordered treatments or services must be approved in advance by the insurer or by a medical review service contracted by the insurer before the insurer will provide final reimbursement or payment. Preauthorization can help contain costs and ensure authorized medical treatment and services are consistent with current standards of care. Preauthorization can also promote accountability and mitigate against the overutilization of costly, potentially harmful, medical treatments and services. Furthermore, federal programs such as Medicaid and Medicare have specific guidelines regarding preauthorization of certain medical treatment and services.

However, your Committee further finds that preauthorization requirements may also create gaps in necessary and often critical health care coverage. Your Committee has heard the concerns raised in testimony that overly burdensome preauthorization programs may create barriers to timely and appropriate patient care. Your Committee has also heard testimony regarding the importance of timely responses to preauthorization requests and the need to ensure that preauthorization requests and decisions are made in accordance with evidence-based appropriate-use criteria or guidelines. Your Committee concludes that establishing basic standards that must be met for preauthorization of medical treatment and services is appropriate. Amendments to this measure, which incorporate these basic standards, are therefore necessary.

Accordingly, your Committee has amended this measure by:

- (1) Specifying that any preauthorization request for medical treatment or service shall be consistent with known, published, and current evidence-based appropriate-use criteria or guidelines for the appropriate specialty or subspecialty for which the preauthorization is requested;
- (2) Specifying requirements that any insurer that requires preauthorization of a medical treatment or service must meet;



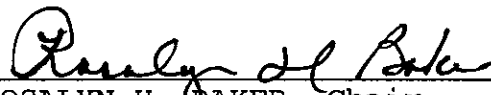
- (3) Clarifying that preauthorization shall not be required for delivery of emergency medical services;
- (4) Specifying requirements that a third party vendor, utilized by an insurer for preauthorization requests, must meet;
- (5) Requiring decisions on preauthorization requests to be made in accordance with nationally-accepted evidence-based appropriate-use criteria or guidelines and made publicly available to health care providers within an insurer's network;
- (6) Requiring complaints regarding preauthorization to be filed with the Insurance Commissioner and specifying that inquiries associated with preauthorization denial or undue delay disputes shall be filed with the Medical Inquiry and Conciliation Panel;
- (7) Clarifying that an insurer is not prohibited from implementing preauthorization;
- (8) Clarifying that an insurer shall not be disqualified from meeting established requirements for preauthorization, as required by the Department of Human Services' state Medicaid program or as required by federal plans or programs;
- (9) Defining "preauthorization";
- (10) Clarifying that the preauthorization standards established by this measure apply to all health insurers in the State, including health benefits plans under chapter 87A, Hawaii Revised Statutes;
- (11) Requiring the Insurance Commissioner to submit a report to the Legislature, no later than twenty days prior to the Regular Session of 2019, regarding the preauthorization standards established by this measure;
- (12) Deleting language that prohibited health insurance preauthorization requirements that cause undue delay in receipt of medical treatment or services;



- (13) Deleting language that specified that insurers, but not health care providers, are liable for civil damages caused by undue delays for preauthorization;
- (14) Deleting language that required a licensed health care provider to provide medical treatment or services without preauthorization when an unreasonable delay would cause the exacerbation or worsening of a health condition and that required an insurer that disputed this decision to show there was no reasonable belief to proceed without preauthorization;
- (15) Inserting an effective date of July 1, 2050, to encourage further discussion and inserting a sunset date of July 1, 2019; and
- (16) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2740, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2740, H.D. 1, S.D. 1, and be referred to your Committee on Judiciary and Labor.


Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Health,

  
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ROSALYN H. BAKER, Chair



The Senate  
 Twenty-Eighth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

Bill / Resolution No.:*	Committee Referral:	Date:
HB 2740, HD1	CPH, JDL	3-22-16
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310
<input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
	Nay	Excused
BAKER, Rosalyn H. (C)	/	
KIDANI, Michelle N. (VC)	/	
ESPERO, Will	/	
IHARA, Jr., Les	/	
NISHIHARA, Clarence K.		/
RUDERMAN, Russell E.	/	
SLOM, Sam		/
<b>TOTAL</b>	<b>5</b>	<b>2</b>
Recommendation:		
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
		
<b>Distribution:</b>		
Original	Yellow	Pink
File with Committee Report	Clerk's Office	Drafting Agency
		Goldenrod
		Committee File Copy

\*Only one measure per Record of Votes