

Honolulu, Hawaii

APR 08 2016

RE: H.B. No. 2740
H.D. 1
S.D. 2

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

Sir:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 2740, H.D. 1, S.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 establish
preauthorization standards that shall apply to all health insurers
in the State, including health benefits plans under chapter 87A,
Hawaii Revised Statutes, including:

- (1) Requiring preauthorization requests for medical treatment or service to 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 for insurers that require preauthorization of a medical treatment or service;
- (3) Specifying that preauthorization shall not be required for delivery of emergency medical services;
- (4) 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 a health insurer's network;

- (5) Requiring complaints regarding preauthorization to be filed with the Insurance Commissioner and inquiries associated with preauthorization denial or undue delay disputes to be filed with the Medical Inquiry and Conciliation Panel;
- (6) Specifying that an insurer is not prohibited from implementing preauthorization and permitting insurers from meeting otherwise established requirements for preauthorization, as required under existing state or federal programs;
- (7) 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; and
- (8) Including a three-year sunset date for the preauthorization standards.

Your Committee received testimony in support of this measure from the Hawaii Medical Association, American College of Emergency Physicians of Hawaii, Hawaii Injured Workers Association, and six individuals. Your Committee received testimony in opposition to this measure from the Hawaii Medical Service Association and five individuals. Your Committee received comments on this measure from the Department of the Attorney General and Department of Commerce and Consumer Affairs.

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 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 and believes that preauthorization requests and decisions should be made in accordance with evidence-based appropriate-use criteria or guidelines. This measure establishes standards that must be met for preauthorization of medical treatment and services to ensure timely and accurate responses to preauthorization requests.

Your Committee has amended this measure by:

- (1) Condensing the preamble under section 1;
- (2) Deleting language that would have required inquiries associated with preauthorization denial or undue delay disputes to be filed with the Medical Inquiry and Conciliation Panel;
- (3) Adding language that requires licensed health care providers to be defended and indemnified by an insurer for civil liability for injury to a patient that was caused by the insurer's undue delays in preauthorization;
- (4) Adding language to establish that an insurer that fails to meet the standards is civilly liable for any injury that occurs to a patient due to undue delay in receipt of medical treatment or services; and
- (5) 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 Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2740, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2740, H.D. 1, S.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



GILBERT S.C. KEITH-AGARAN, Chair



