

Honolulu, Hawaii

April 8, 2016

RE: S.B. No. 2668
S.D. 2
H.D. 2

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 2668, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Require prior disclosure of and limit a patient's liability for out-of-pocket medical costs for services not covered by the patient's health plan or provided by a nonparticipating provider; and
- (2) Establish a working group to evaluate the issue of balance billing in the State.

Lihue Pharmacy Group and an individual testified in support of this measure. Hawaii Pacific Health; Hawaii Medical Service Association; Hawaii American College of Emergency Physicians; Hawaii Emergency Physicians Associated; American Congress of Obstetricians and Gynecologists, Hawaii Section; The Queen's Health Systems; Emergency Medicine Physicians of Honolulu; America's Health Insurance Plans; Healthcare Association of Hawaii; University Health Alliance; Hawaii Medical Association; Kaiser Permanente Hawaii; and numerous individuals opposed this measure. The Department of Commerce and Consumer Affairs, Department of Health, Department of the Attorney General, Hawaii Coalition for Health, and an individual commented on this measure.



Your Committee notes that the task of the working group is to evaluate the issue of balance billing in the State. It is your Committee's intent that in evaluating the issue of balance billing, the working group should examine network adequacy with regard to air ambulances for geographically challenged areas specifically on the Neighbor Islands.

With regard to the requirement that the working group determine the appropriate amount that can be billed by a nonparticipating health care provider, your Committee notes the testimony of the Department of the Attorney General that this requirement could invite scrutiny or challenges by federal antitrust agencies under federal antitrust law because the working group could comprise active market participants.

To address potential preemption and federal antitrust concerns, your Committee has amended this measure by changing the task of the working group regarding billing by a nonparticipating health care provider to a patient, to require the working group to examine whether and to what extent an appropriate amount can or should be established for billings for services performed by a nonparticipating healthcare provider to a patient without prior or subsequent authorization from the patient's health care plan, including the amount that should be paid by an insurer to the nonparticipating healthcare provider.

Your Committee has also amended this measure by:

- (1) Deleting provisions relating to disclosure requirements for health care providers, health care facilities, and hospitals to patients and prospective patients about nonemergency services not authorized by patient health care plans and health insurance plans;
- (2) Deleting provisions relating to limits on the patient's responsibility for provider billing in excess of insurance payments or patient balances for services of an out-of-network provider;
- (3) Specifying the membership of the working group; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to



this report, your Committee is in accord with the intent and purpose of S.B. No. 2668, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2668, S.D. 2, H.D. 2.

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



ANGUS L.K. MCKELVEY, Chair



State of Hawaii
House of Representatives
The Twenty-eighth Legislature

HSOR 1679-16

Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: SB 2668 SD2 HD1	Committee Referral: HLT, CPC	Date: 4-6-16.		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	/			
2. WOODSON, Justin H. (VC)	/			
3. BELATTI, Della Au	/			
4. BROWER, Tom	/			
5. CREAGAN, Richard P.	/			
6. HAR, Sharon E.	/			
7. HASHEM, Mark J.	/			
8. KAWAKAMI, Derek S.K.	/			
9. LEE, Chris	/			/
10. NAKASHIMA, Mark M.	/			
11. OSHIRO, Marcus R.	/			
12. SAN BUENAVENTURA, Joy A.	/			
13. TAKAYAMA, Gregg	/			
14. YAMANE, Ryan I.	/			
15. FUKUMOTO CHANG, Beth	/			GM
16. McDERMOTT, Bob	/			GM
TOTAL (16)	14	0	0	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				