

STAND. COM. REP. NO.

2468

Honolulu, Hawaii

FEB 19 2016

RE: S.B. No. 2668

S.D. 1

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

Sir:

Your Committees on Commerce, Consumer Protection, and Health and Judiciary and Labor, to which was referred S.B. No. 2668 entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish a dispute resolution process by which a dispute for a bill for emergency services or a surprise bill may be resolved;
- (2) Specify disclosure requirements for health care professionals and health care facilities, including estimated costs for health care services and information on participating provider networks;
- (3) Specify that an insured shall not be liable to a health care provider for any sums owed by an insurer;
- (4) Specify that an insurer who receives emergency services from a nonparticipating provider shall not incur greater out-of-pocket costs for the emergency services than the insured would have incurred with a participating provider;



- (5) Specify additional disclosure requirements for health insurance plans, including payment methodologies and updated participating provider directories; and
- (6) Require health insurance plans to provide at least one option for coverage of at least the usual and customary cost of each out-of-network health care service in inadequate network situations.

Your Committees received testimony in support of this measure from the Department of Commerce and Consumer Affairs and Kaiser Permanente Hawaii. Your Committees received testimony in opposition to this measure from the Hawaii Medical Association; Hawaii Medical Service Association; American Council of Life Insurers; American College of Emergency Physicians, Hawaii Chapter; and one individual. Your Committees received comments on this measure from the Healthcare Association of Hawaii and Hawai'i Pacific Health.

Your Committees find that consumers with health insurance who receive treatment from an out-of-network provider may receive a bill for the difference between an insurer's payments to a health care provider and the out-of-network provider's charges. These bills, known as balance bills or surprise bills, occur most often when consumers receive medical services from out-of-network providers. Out-of-network providers may not have a contracted rate with an insurer for services and therefore, the prices these providers could charge may be much greater than the price charged by in-network providers for similar services. Accordingly, this measure attempts to address concerns associated with balance billing.

According to testimony received by your Committees, consumers should not be subjected to balance billing by out-of-network providers, as the onus should be on health care providers and health care facilities to know which providers are covered under what insurance plan. Your Committees further find that insurer notification and disclosure about health care plans and services provided will help address some concerns associated with balance billing.

Your Committees have heard the concerns that certain components in this measure may be inconsistent with or duplicative to existing regulatory requirements and that the proposed language in this measure that requires health plans to accept assignment of



benefits may impair a health plan's ability to create and maintain networks, which may have an inadvertent negative impact on consumers. Your Committees have also heard the concerns that the independent resolution process established by this measure may be overly cumbersome for health care providers and health care plans.

Your Committees understand these concerns and note that interested stakeholders have been engaged in discussions regarding this measure and have come to a consensus with regard to specifying notice requirements, ensuring individual consumers are held harmless for any sums owed by an insurer, and requiring providers and facilities to be held to certain reimbursement rates. Amendments to this measure are therefore necessary to incorporate language agreed upon by interested stakeholders.

Accordingly, your Committees have amended this measure by:

- (1) Removing language that would have established a dispute resolution process for emergency service bills or surprise bills;
- (2) Clarifying the information a health care provider, health care facility, or hospital shall disclose in writing to a patient or prospective patient, prior to the provision of nonemergency services that are not authorized by a patient's health care plan, and updating associated definitions;
- (3) Removing language that required additional disclosure requirements for health care providers who are physicians;
- (4) Removing language that required certain information to be posted on a hospital's website and provided in registration or admission materials;
- (5) Specifying that the amount a nonparticipating provider may bill for services performed without prior or subsequent authorization from a patient's health care plan shall be no more than one hundred twenty percent of the amount Medicare would pay for the service;
- (6) Specifying that an insured who receives emergency services from a nonparticipating provider shall not incur greater out-of-pocket costs for the emergency



services than the insured would have incurred with a participating provider and updating associated definitions;

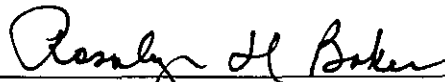
- (7) Removing language that required health insurance plans to provide at least one option for coverage of at least the usual and customary cost of each out-of-network health care service in inadequate network situations;
- (8) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (9) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection, and Health and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2668, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2668, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Commerce,
Consumer Protection, and Health
and Judiciary and Labor,



GILBERT S.C. KEITH-AGARAN, Chair




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:
SB 2668	CPH/JDL, WAM	2-17-16
<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		/
TOTAL	5	2
Recommendation:		
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
		
Distribution:		
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency
Goldenrod Committee File Copy		

*Only one measure per Record of Votes

