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JAMES K. NISHIMOTO
DIRECTOR

CINDY S. INOUE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

March 30, 2016

TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY AND LABOR

For Decision Making on Friday, April 1, 2016
9:30 a.m., Conference Room 016

BY

JAMES K. NISHIMOTO
DIRECTOR

House Bill No. 2017, H.D. 1, S.D. 1
Relating to Workers' Compensation Treatment Plans

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON KEITH-AGARAN, VICE CHAIR SHIMABUKURO AND MEMBERS
OF THE COMMITTEE:

Thank you for the opportunity to provide comments on H.B. 2017, H.D. 1, S.D. 1.

The purposes of H.B. 2017, H.D. 1, S.D. 1, are to: 1) allow physicians to submit workers' compensation treatment plans to employers by certified mail or facsimile; 2) beginning January 1, 2021, allow physicians to submit workers' compensation treatment plans to employers by certified mail, facsimile, secure web portal, or secure electronic mail; and 3) specify requirements for receipt and acceptance of treatment plans.

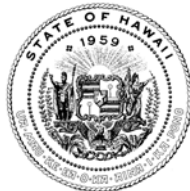
The Department of Human Resources Development ("DHRD") has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds. In that regard, we submit the following comments on this bill.

First, the 2015 Legislature adopted H.C.R. 168, H.D. 2, S.D. 1, and H.R. 104, H.D. 2, to convene a working group of interested parties who participate in the workers' compensation system to streamline the State's workers' compensation process. The

group is headed by the Director of Labor and Industrial Relations (“Director”) and involves a full array of employers, insurers, attorneys who represent injured workers, health care providers, and other entities who are most knowledgeable of the intricacies of the existing system and are in the ideal position to know what statutory, regulatory, or operational changes would have the most positive impact for all stakeholders in the system. Significantly, one of the working group’s specific tasks is to consider converting the workers’ compensation claims filing process to a computerized system. Therefore, we respectfully recommend deferring any new legislation until the working group presents its report to the 2017 Legislature of its findings and recommendations, including any proposed legislation.

Second, one of the express purposes of this bill is to “improve the efficiency of Hawaii’s workers’ compensation system by permitting options for the transmittal of treatment plans, including facsimile and electronic means.” We are fully in accord with the intent but note that the Director has promulgated administrative rules in Title 12, Chapter 15, Workers’ Compensation Medical Fee Schedule (“WCMFS”), which prescribe very specific and comprehensive requirements governing the submittal, approval, and denial of treatment plan requests by physicians and other providers of service. Notwithstanding the latest amendments, this measure still does not address issues raised in testimonies submitted by the Director and other parties, including: 1) whether this new measure applies to all forms of treatment requests, office visits, request for consultations, surgery, concurrent care, and therapies, or just to service provided by physicians; and 2) the propriety of imposing a seven-day deadline. We note that the Senate Commerce, Consumer Protection, and Health Committee report specifically acknowledges “certain concerns raised in testimony before your Committee may warrant further discussion” and that “the Department of Labor and Industrial Relations has indicated a willingness to continue discussions on this amended measure with interested stakeholders.” As indicated above, we believe the ideal forum for these further discussions is in the working group of well-informed participants in the system, representing all the interests involved. The working group would be in the best position to recommend changes to the Legislature that would improve the efficiency of Hawaii’s

workers' compensation system and modernize the entire system.



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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April 1, 2016

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,
The Honorable Maile S.L. Shimabukuro, Vice Chair, and
Members of the Senate Committee on Judiciary and Labor

Date: Friday, April 1, 2016

Time: 9:30 a.m.

Place: Conference Room 016, State Capitol

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. 2017 H.D.1 S.D.1 Relating to Workers' Compensation Treatment Plans

I. OVERVIEW OF PROPOSED LEGISLATION

HB2017 HD1SD1 proposes to add a new section in chapter 386, Hawaii Revised Statutes (HRS), to allow physicians to submit treatment plans of injured workers to employers by certified mail or facsimile to an address or facsimile number as directed by an employer. Beginning January 1, 2021, physicians will also be allowed to submit the workers' compensation treatment plans to employers by secure web portal, or secure electronic mail, in addition to certified mail and facsimile numbers to an address, facsimile number, or electronic mail address as directed by an employer. This proposal also specifies requirements for receipt and acceptance of treatment plans.

The department respectfully requests that the Committee defer the measure.

II. CURRENT LAW

Sections 12-15-32, 12-15-40, 12-15-42 and 12-15-51, Hawaii Administrative Rules (HAR), provide the rights of the employer to file an objection within a specific time period. Sections 12-15-32 & 12-15-34, HAR, provide for a process where the employer is responsible for payment of treatments provided under a complete treatment plan until the date the objection is filed with the director.

The Disability Compensation Division (DCD) is currently undertaking a comprehensive review of the Workers' Compensation (WC) laws and systems

through a Business Process Optimization Analysis and Case System Modernization Study (the 2015 legislature appropriated \$905,000 to conduct the study).

In addition, the department was directed (HCR No. 168 HD2 SD1) by the 2015 Legislature to convene a working group to review the workers' compensation processes. This review is currently underway with a report due to the 2017 Legislature.

Another bill currently under consideration by the legislature would conduct a closed claims study to identify cost drivers and processing delays in the Workers Compensation system.

Furthermore, the department has been working with the various stakeholder groups to address WC treatment plans. To date some resolution has been reached; however, the various groups are not in full consensus.

III. COMMENTS ON THE HOUSE BILL

Although the department appreciates the intent of this proposal to improve the efficiency of the Hawaii workers' compensation system by allowing the transmittal of treatment plans through electronic media, the department respectfully asks that this measure be deferred until the results of the studies and the work of the working group are completed. This will allow the department to complete a holistic review of the WC system with all the stakeholders in a cohesive manner and report back to the 2017 Legislature.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONO
ASSISTANT DIRECTOR

April 1, 2016

The Honorable Gilbert S.C. Keith-Agaran, Chair
and Members of the Committee
on Judiciary and Labor
The Senate
State Capitol, Room 016
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members of the Committee:

**SUBJECT: House Bill No. 2017, HD1, SD1
Relating to Workers' Compensation Treatment Plans**

The City and County of Honolulu opposes H.B. 2017, HD1, SD1. While the amendments to the measure by the Senate Committee on Commerce, Consumer Protection and Health attempt to address the concerns we have with the proposal, there are still significant problems with the bill.

The City specifically opposes the portion of the bill which provides that a treatment plan is automatically deemed accepted if an objection is not filed within seven business days following receipt. Section 12-15-32 of the Medical Fee Schedule currently provides that an employer is responsible for payment of treatments provided for under a complete treatment plan until the date an objection is filed with the Director of Labor and Industrial Relations. That requirement is fair to all parties and should not be modified by the proposed legislation, especially since the stated purpose of the bill is solely to improve the efficiency of Hawaii's workers' compensation system by permitting options for the transmittal of treatment plans, including facsimile and electronic means.

We note that during the 2015 session, the Legislature adopted H.C.R. 168, H.D. 2, S.D. 1, and H.R. 104, H.D. 2, requiring the Department of Labor and Industrial Relations to convene a working group of parties who participate in the workers' compensation system to streamline the State's workers' compensation process. The group is also tasked with considering converting the workers' compensation claims filing process to a computerized system.

The Honorable Gilbert S.C. Keith-Agaran, Chair
and Members of the Committee
on Judiciary and Labor
The Senate
April 1, 2016
Page 2

The Working Group will be presenting its findings and recommendations no later than twenty days prior to the convening of the 2017 Regular Session. Given the work that is being performed, the City respectfully requests that HB 2017, HD 1, SD 1, be deferred at this time. This will enable the stakeholders to review the recommendations of the Working Group and enact the changes necessary to convert the processing of workers' compensation claims, including treatment plans, to an electronic system that is more efficient for all concerned.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in blue ink that reads "Carolee C. Kubo". The signature is written in a cursive style with a large, stylized initial 'C'.

Carolee C. Kubo
Director

HAPTA

HAWAII CHAPTER
AMERICAN PHYSICAL
THERAPY ASSOCIATION



**Chair Rhoads
Judiciary Committee**

**HB2017 Relating to Workers Compensation Treatment Plans
Friday, 4/1/2016
9:30am, Room 016**

Position: SUPPORT

Chair Rhoads and members of the Judiciary Committee,

HAPTA supports passage of HB 2017 which proposes to modernize the process of submitting Treatment Plans for care of injured workers.

We respectfully request that in addition to Physicians, the measure include all Non-Physician providers of care who are currently allowed to be reimbursed for care given to patients covered by the Worker's Compensation statute.

Current statute requires a physical therapist to submit treatment plans by USPS mail. The treatment plan is deemed approved if not denied by the insurer within 7 calendar days of the postmark date.

Some insurers deny receipt of treatment plans and smaller physical therapy offices who use postage stamps have no way to verify if and when the mail was actually received by the insurer. Most physical therapy offices use fax machines and computers which will effectively curtail this abuse, streamline the clerical process, and speed up the delivery of care to injured workers.

Privacy issues could easily be addressed at insurance companies by having dedicated fax machines, e-mail addresses, or websites for treatment plan submissions. The 7 day allowance for insurer response to treatment plans would actually be a benefit to them as the treatment plan would be received instantaneously instead of sitting in a mail truck while the clock runs.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 30, 2016 1:48 PM
To: JDLTestimony
Cc:
Subject: Submitted testimony for HB2017 on Apr 1, 2016 09:30AM

HB2017

Submitted on: 3/30/2016

Testimony for JDL on Apr 1, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas Moore	Hawaii Injured Workers Association	Support	No

Comments: Aloha: The Hawaii Injured Workers Association (HIWA) respectfully supports passage of this bill intended to help facilitate medical providers efficiently submitting treatment plan requests for approval in our modern age of fax & email. The intent should improve the delivery of medical care to injured workers and cut back on unnecessary disputes and delays, thus allowing improved medical rehabilitation. Improved medical rehabilitation of injured workers should return them to the workforce quicker which benefits employers as well. Mahalo for your support & passage.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

DENNIS W. S. CHANG

Attorney at Law, A Limited Liability Law Corporation

WORKER'S RIGHTS - LABOR LAW
WORKER'S COMPENSATION
SOCIAL SECURITY DISABILITY
LABOR UNION REPRESENTATION
EMPLOYEES RETIREMENT SYSTEM
BODILY INJURIES

THE SENATE
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

TO: COMMITTEE ON JUDICIARY AND LABOR
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

FROM: Dennis W. S. Chang, Attorney-at-Law

DATE: Friday, April 01, 2016

TIME: 9:30 a.m.

PLACE: Conference Room 016
State Capitol
415 South Beretania Street

**RE: HB 2017, HD 1, SD1
RELATING TO WORKERS' COMPENSATION TREATMENT PLANS**

I. INTRODUCTION.

Now, we have an excellent opportunity to prevent the endless delay of the delivery of essential medical care, services and supplies by ending the gamesmanship of trickery in the complicated treatment plan process. Injured workers and consequently their love ones (injured workers) have suffered too long. Consistent with the humanitarian purpose of the workers' compensation law, we have a proposed bill that will hopefully end the suffering and economic ruin of injured workers, prevent an overload of having hearings at the Disability Compensation Division (DCD) before the Director of Labor and Industrial Relations (Director) by a fair and balanced approach, which is supported by a number of recent Hawaii appellant decisions.

II. A FINAL DRAFT OF HB 2017.

STATE OF HAWAII
TWENTY-EIGHTH LEGISLATURE, 2016

A BILL FOR AN ACT

RELATING TO
WORKERS' COMPENSATION TREATMENT PLANS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

DILLINGHAM TRANSPORTATION BUILDING

SECTION 1. The legislature finds that Hawaii's current system for physicians to submit treatment plans in workers' compensation claims is in need of modernization given advancements in technology. The legislature further finds that allowing treatment plans to be faxed or emailed will greatly improve the efficiency of Hawaii's workers' compensation system.

The purpose of this Act is to improve the efficiency of Hawaii's workers' compensation system by permitting options for the transmittal of treatment plans, including facsimile and electronic means.¹

SECTION 2. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§386- Treatment plans.

(a) Notwithstanding any law to the contrary, physicians and medical providers as broadly defined may transmit a treatment plan to an employer by facsimile, the Internet, or secured electronic mail.²

(a)b) [A p] Physician and medical provider as broadly defined may transmit a treatment plan to an employer by **[certified]** mail or facsimile; provided that a physician shall send a treatment plan to an address or facsimile number as directed by an employer.³

¹ **Comment:** Everyone is in agreement that we want efficiency in our so-called "broken workers' compensation system" to provide prompt vital medical treatment for a recovery so that injured workers can quickly return to some form of suitable and gainful employment. They have already suffered needlessly for far too long. In all three drafts, including HB 2017, HB 1, SD 1, the policy for rectifying the crisis has not changed.

² **Comment:** Subsection (a) as originally drafted should be reinserted. Perhaps this is only stylistic, but I sincerely believe that the original language in subsection (a) which has been removed in SD 1 should be reinserted. The removal of this language may seem innocuous, but may clearly breed additional litigation and overload the DCD. That subsection (a) clearly identifies that irrespective of any provision to the contrary contained in Chapter 386, that this proposed bill will prevail by preventing untoward litigation. Arguments could surely be made that this is inconsistent with other existing provisions and SD 1 removed the key proposal that this proposed bill does not take precedent over other provisions. I stress that this will only invite more unnecessary litigation, which in turn will cause needless and endless delays by preventing the delivery of critical medical treatment to treat an injured worker so that he can promptly return back to work. Of course, the bigger policy consideration is to prevent needless additional hearings at the Director's level, which this bill is also intended to promote efficiency and prevent.

³ **Comment:** As noted in my previous testimony, there should be some time given to everyone to transition to the use of secured web portal and emails. This is the balance for fairness that should be demanded from all. Note that each party, including the Director's office, is not NOW fully prepared to make an immediate transition, which if done prematurely would only lead to chaos, be impractical, and

([b]c) A physician may transmit a treatment plan to an employer by **[certified] regular** mail or facsimile; provided that a physician shall send a treatment plan to an address or facsimile number as directed by an employer. **The designated number for receipt of facsimiles shall be registered by the employer with the Director.**⁴

([b]d) Beginning January 1, 2021, an employer shall allow a physician to transmit a treatment plan to an employer by **[certified] regular** mail, facsimile, secure web portal, or secure electronic mail; provided that a physician shall send a treatment plan to an address, facsimile number, or electronic mail address as directed by an employer **or Director.**

([c]e) A treatment plan shall be deemed received by an employer when the plan is sent by **[certified] regular** mail or facsimile, or if applicable, secure web portal or secure electronic mail **[with reasonable evidence showing that the treatment plan was received:]and payments shall be paid for services rendered for the period following the seven days until such time an objection, which is not based on technical deficiencies:**⁵

result in unnecessary delays. That said, the “or electronic mail address as directed by an employer or Director” gives those with the requisite technological changes to engage in secured web portal or emails. The Director should be given the discretion to use an earlier date, at any time, but everyone is placed on notice that it shall be no later than January 1, 2021.

⁴ **Comment:** Aside from inserting the original language to prevent the untoward litigation and redesignating the subsection to **(b)**, we need to remove “**certified**” and insert “**regular**”. **Regular mail** is what is now required by statute. By adding **certified** mail, we are making the process more onerous rather than efficient and economical throughout the bill. Regular mail was used when introduced and should be continued as physicians and medical providers, and employers, including insurance carriers, complete the transition of only using facsimiles (and rarely regular mail). Moreover, splitting the proposed subsection (c) and (d), the issue by regular mail and facsimile is most appropriate because increasing numbers of doctors and medical providers prefer the use of facsimile, which is also the preferred current method of the employer (inclusive of insurance carriers) as set forth in SD 1. See footnote 3. However, because the statute requires the use of regular mail, when the employer prefers, it will deny treatment plans on technical grounds that they were not mailed, a truly unfair practice. Finally, rather than having a designated telephone number by the employer, who may not return the telephone calls, the use of the designated facsimile number is required and should be mandated and placed on the website. Another required method to facilitate the transmittal of facsimiles includes filing that number with the Director’s office for easy retrieval by medical providers.

⁵ **Comment:** This section creates the balance needed to place everyone on notice that the Director will be moving forward with technological changes. Meanwhile, this bill calls for simplicity and should include fairness. We need to delete “**certified**” consistent with foregoing comment to encourage the use of developing technological changes. There should not be the additional onerous step of proof of receipt. The law assumes mailed and received once sent. The fact that there will be a published facsimile number, secure portal web or email, which will be published, facilitates where to send the treatment plan.

- (1) An objection to the treatment plan;
- (2) Any applicable documentary evidence supporting the denial; and
- (3) A copy of the denied treatment plan,

copying the physician and the injured employee, within seven business days after the employer's receipt of the treatment plan.

(e) After acceptance of the treatment plan, an employer may file an objection to the plan if new documentary evidence is received contrary to the accepted treatment plan."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect [on July 1, 2050] immediately.

III. CONCLUSION

We have our final attempt to remove one of the most consequential barriers in repairing our workers' compensation process for the benefit of injured workers and removal of wasteful hearings before the Director. As a group and going over all of the various drafts and testimony and legal precedent, the proposed changes are absolutely needed. This is not to say that drafting has been perfect. However, we are moving in the right direction.⁶ This bill is in line with HB 2740, HD 1, SD 1. Oftentimes, we are saving lives and preventing irreparable harm.

I respectfully submit that the amendments be adopted and be passed.

Unless explicitly stated as above, unless there is an objection on the merits, pursuant to the host of decisions issued by our appellate courts such as the recent Hawaii Supreme Court case of *BENJAMIN N. PULAWA, III vs. OAHU CONSTRUCTION CO., LTD.*, 136 Haw. 217; 361 P.3d 444; 2015 Haw. LEXIS 295 (11/4/15). See prior testimony on HB 2017, HD 1 and other testimony in support ("reasonable medical"), physicians should be paid along with medical providers. We need to move forward until there is a sincere objection on the merits based on newly documentary evidence will not allow an attempt to fight retroactively on technical deficiencies. Approval is an approval.

⁶ I ask that you review my prior testimony on HB 2017, HD1. See Appendix A.

APPENDIX "A"

DENNIS W. S. CHANG

Attorney at Law, A Limited Liability Law Corporation

WORKER'S RIGHTS - LABOR LAW
WORKER'S COMPENSATION
SOCIAL SECURITY DISABILITY
LABOR UNION REPRESENTATION
EMPLOYEES RETIREMENT SYSTEM
BODILY INJURIES

**THE SENATE THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016**

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Senator Rosalyn H. Baker, Chair
Senator Michelle N. Kidani, Vice Chair

FROM: Dennis W. S. Chang, Attorney-at-law

AMENDED NOTICE OF HEARING

DATE: Tuesday, March 22, 2016
TIME: 9:30am
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

Re: HB No. 2017 Relating to WC Treatment Plans

I. Introduction.

We have identified the clog in our "broken workers' compensation (WC) system." As a labor attorney practicing for nearly four decades with a heavy emphasis in the processing of WC claims, I wholeheartedly support HB No. 2017, HD1. Innumerable clients and unrepresented injured workers seeking representation inevitably have issues of long delayed medical care, services, and supplies. They are frequently told that there needs to be an approval from the self-insured employers and/or insurance carriers (employers) before medical providers can proceed with any medical treatment. Delays in securing vital medical care, services, and supplies go on indefinitely.

HB No. 2017, HD 1 is indisputably a step in the right direction to make that part of the WC process relating to treatment plans (TPs). This is particularly so when the current practice is wholly contrary to the public policy of prompt delivery of critical medical care, services, and supplies, consistent with the humanitarian purpose of the WC statute, and the case law to secure prompt determinations on TPs so that injured workers can return to gainful employment.

II. Current Practice.

The absurdity of the current practice in not responding is reflected by the argument that there is no need for a change because medical providers can proceed at their peril in the absence of a denial. That assumes that the employers will honor the payments and not object later by arguing that the TP was flawed. This is the current state of practice leading to a cottage industry of attorneys either picking apart a treatment plan or after the fact, litigating the treatment rendered and billings for treatment rendered. The current rule allows that a medical provider can proceed to treatment, but the employer has the opportunity to deny the claim at any time, and in actuality the medical provider may be unpaid even when the employers failed to object.

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WORKER'S RIGHTS - LABOR LAW
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EMPLOYEES RETIREMENT SYSTEM
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I have emphasized this point in previous testimony. In this regard, the employers are the cost drivers in the WC system because wage loss in the form of temporary total disability benefits (TTD) continue to be paid. Alternatively, the medical providers are hesitant to initiate necessary care beyond emergency care so the injured workers suffer needlessly and oftentimes end up with a stress claim. The injured workers are terminated from the employers' medical insurance plans and must then seek out medical benefits and become wards of the State, if they qualify. However, that is not obviously not the outcome injured workers desire or we all expected. Instead, We want an efficient system of the prompt delivery of medical treatment.

The absurdity in the current practice results in undue cost drivers in the WC system. recover and attempt an expeditious return to gainful employment. This outrageous practice was addressed as aptly illustrated in the recent Hawaii Supreme Court case of *BENJAMIN N. PULAWA, III vs. OAHU CONSTRUCTION CO., LTD.*, 136 Haw. 217; 361 P.3d 444; 2015 Haw. LEXIS 295 (11/4/15). See prior testimony on HB 2017, HD 1.

III. Discussion.

HB 2017, HD 1 is intended to greatly improve the efficiency of the Hawaii's WC system by modernizing the system based on advances in technology, which has been long overdue by utilizing the transmittal of TPs by facsimiles and other electronic media. Second, it requires a response in the form of an objection to TPs. There are a number of suggested changes, which I believe will greatly improve the proposed bill by making it simple. We need to be mindful that the pendulum has swung far to the right and what we really need is a fair workable process.

Opponents have indicated that the utilization of a secured email for the transmittal of TPs may be cost prohibitive. I disagree with that proposition, but believe that leaving in the requirement for the transmittal of TPs through electronic medium will be unworkable at least in the near future. You will need possibly encryption and keep a password. Every time a TP is transmitted by email it will undoubtedly be left without a response for possible fear of violation of HIPPA. We should be seeking a simple process that is workable. The current process does not allow for facsimiles (though increasing used), nor does it require a response within seven days and this is inconsistently used by some providers and employers. That has given the employers great latitude by ignoring the TPs.

Medical providers should be allowed to use facsimiles, which is a simple process. Making it into law will greatly improve the efficiency in the system in light of technical advances rather than relying on the potentially onerous process of emails. HB 2017, HD 1 is set forth in the pertinent parts in bold with suggested changes in all bracketed materials.

SECTION 1. The legislature finds that Hawaii's current system for physicians to submit treatment plans in workers' compensation claims is in need of modernization given advancements in technology. The legislature further finds that allowing treatment plans to be faxed and emailed will greatly improve the efficiency of Hawaii's workers' compensation system.

The purpose of this Act is to improve the efficiency of Hawaii's workers' compensation system by allowing the transmittal of treatment plans [ADD period and delete through electronic media.

DENNIS W. S. CHANG

Attorney at Law, A Limited Liability Law Corporation

WORKER'S RIGHTS - LABOR LAW
WORKER'S COMPENSATION
SOCIAL SECURITY DISABILITY
LABOR UNION REPRESENTATION
EMPLOYEES RETIREMENT SYSTEM
BODILY INJURIES

SECTION 2. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§386- Treatment plans. (a) Notwithstanding any law to the contrary, a physician [ADD, "which should be broadly defined to include any medical provider"] may transmit a treatment plan to an employer by certified mail or facsimile [Add. and delete the remainder "; provided that an employer may accept a treatment plan transmitted by secure web portal or secure electronic mail.]

(b) Beginning January 1, 2021 [ADD "immediately" because this is already in partial use in practice by many in the WC process and we are not using an onerous method of secured electronic emails and DELETE ", an employer shall allow a physician to transmit a treatment plan to an employer by facsimile, secure web portal, or secure electronic mail."]

(c) A treatment plan shall be deemed received by an employer when the plan is sent by certified mail or facsimile [ADD. and delete "or if applicable, secure web portal or secure electronic mail with reasonable evidence, including an automatic electronic receipt, showing that the treatment plan was received."]

(d) A treatment plan shall be deemed accepted if an employer fails to file with the director by certified mail, or facsimile [Add. and delete the remainder ", or if applicable, secure web portal, or secure electronic mail"]:

(1) An objection to the treatment plan;

(2) Any applicable documentary evidence supporting the denial; and

(3) A copy of the denied treatment plan, copying the physician and the injured employee, within seven business days after the employer's receipt of the treatment plan.

copying the physician and the injured employee , within seven business days after the employer's receipt of the treatment plan.

(e) Pursuant to subsection (a), employers shall accept the applicable electronic submissions of treatment plans and provide an automatic electronic receipt upon receipt of the submitted treatment plan.

(f) After acceptance of the treatment plan, an employer may file an objection to the plan if new documentary evidence is received contrary to the accepted treatment plan."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

The foregoing changes simplifies HB 2017, HD 1, are consistent with the humanitarian purpose of the law, modernize the WC process to improve efficiency in light of our rapid

technological developments and are consistent with the practice used by increasing parties today

III. CONCLUSION

HB 2017, HD1 accomplishes two primary goal by putting into practice what is used by

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many at different times, the transmittal and responses for TPs by facsimile. We should take away the onerous practice of using email as argued by opponents because there will be changes and a learning curve and much delay. Delay we cannot afford. Finally, the proposed bill makes it fair, if amended, by balancing the need for efficiency and allowance for objections.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2016 7:38 AM
To: JDLTestimony
Cc:
Subject: Submitted testimony for HB2017 on Apr 1, 2016 09:30AM

HB2017

Submitted on: 3/31/2016

Testimony for JDL on Apr 1, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
ANSON REGO	Individual	Comments Only	No

Comments: It is pretty clear that the medical treatment plan convoluted language causes substantial delays for medical providers to provide treatment and therefore causes claimants not to be given prompt medical treatment, unlike any other system in Hawaii. Moreover these delays are so long that the medical condition often worsens and the employer has to continue to make payments which costs insurance carriers and eventually employer's higher premiums. Any simple clear-cut remedy in language, especially allowing the use of faxes, will be 100% improvement since quite frankly, as a claimant's attorney, I spend hours each week discussing denials or lack of responses or technical issues regarding treatment plans. I'm sure the DCD and the Appeals Board both would have to admit that many of their cases pertains to treatment plans, and these hearings are held months later, and decisions made months after that. Therefore even the remedy...ie justice....is often delayed and therefor denied. The system does not work, is impractical, and needs to be simplified. Thank you for allowing me to testify although it is late. Anson Rego Waianae/Waipahu Attorney

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HB2017

Submitted on: 3/31/2016

Testimony for JDL on Apr 1, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
laurie hamano	Individual	Support	No

Comments:

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HB2017

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Submitted By	Organization	Testifier Position	Present at Hearing
Timothy McNulty	Timothy. P. McNulty, ALC	Support	No

Comments:

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