

DAVID Y. IGE
GOVERNOR



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

February 19, 2016

**TESTIMONY TO THE
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

For Hearing on Monday, February 22, 2016
2:30 p.m., Conference Room 325

By

JAMES K. NISHIMOTO
DIRECTOR

House Bill No. 2017
Relating to Workers' Compensation Treatment Plans

CHAIRPERSON McKELVEY, VICE CHAIR WOODSON AND MEMBERS OF THE
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE:

Thank you for the opportunity to provide comments on H.B. 2017.

The purposes of H.B. 2017 are to allow physicians to submit workers' compensation treatment plans to employers by facsimile, the Internet, or secure electronic mail; and require employers to accept electronically submitted treatment plans and provide an electronic receipt of the submission.

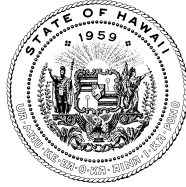
The Department of Human Resources Development ("DHRD") has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds.

The Director of the Department of Labor and Industrial Relations ("Director") already has promulgated administrative rules in Title 12, Chapter 15, Workers' Compensation Medical Fee Schedule ("WCMFS"), which prescribes very specific and comprehensive requirements governing the submittal, approval, and denial of treatment plan requests by physicians and other providers of service. If the intent of this measure is to expedite this process through the use of electronic means, we would recommend

that these changes be made to Title 12, Chapter 15, via the Director's Chapter 91, HRS, rule-making powers, in lieu of a new statutory section. The rule-making process would allow all interested stakeholders to address the practical and operational issues raised in the 2015 legislative session in testimony on an identical measure, S.B. 809. These issues include, but are not limited to: 1) whether the measure applies to providers of service other than physicians and requests for concurrent treatment, consultations, and surgery; 2) the designation of specific electronic addresses for transmitting and receipt of treatment plans; 3) clarification of receipt dates due to the proposed seven-day objection deadline; 4) the propriety of the proposed seven-day deadline; and 5) security of electronically transmitted information.

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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February 20, 2016

To: The Honorable Angus L. K. McKelvey, Chair,
The Honorable Justin H. Woodson, Vice Chair, and
Members of the House Committee on Consumer Protection & Commerce

Date: February 22, 2016
Time: 2:30 p.m.
Place: Conference Room 325, State Capitol

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

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

I. OVERVIEW OF PROPOSED LEGISLATION

HB2017 proposes to add a new section in chapter 386, Hawaii Revised Statutes (HRS), to allow physicians to electronically submit treatment plans of injured workers to employers. It will also require the employer to accept these electronically filed treatment plans and provide an electronic receipt. The bill further specifies that a treatment plan will be deemed accepted if an employer fails to file an objection to the plan within seven calendar days.

The department supports the intent of the measure, but opposes the electronic receipt of treatment plans without further clarification as it is unclear whether the measure applies to all forms of treatment requests as well as the automatic acceptance of a treatment plan if the employer fails to respond within seven days.

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 & 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.

III. COMMENTS ON THE HOUSE BILL

The department offers the following comments on this measure:

1. It is unclear whether this measure applies to all forms of treatment requests, office visits, request for consultations, surgery, concurrent care, therapies, or just to services provided by the Physician per section 12-15-32, HAR.
2. The department supports the intent of HB2017 allowing the electronic filing of treatment plans. In compliance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rules, the department recommends that a security protocol be included in the requirement to safeguard the transmittal of electronic health information.
3. The department has concerns on the requirement that mandates acceptance of a treatment plan if the employer fails to file an objection to the plan within seven days. This timeframe could affect the employer's ability to properly evaluate a treatment plan to the detriment of the injured worker.
4. It is unknown if the stakeholders have the proper systems in place for electronic receipts. The department's systems are not currently set up to comply with this measure.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 10TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONO
ASSISTANT DIRECTOR

February 22, 2016

The Honorable Angus L.K. McKelvey, Chair
and Members of the Committee
on Consumer Protection & Commerce
The House of Representatives
State Capitol, Room 325
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair McKelvey and Members of the Committee:

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

The City and County of Honolulu opposes H.B. 2017 which would authorize physicians to submit workers' compensation treatment plans to employers by facsimile, the Internet, and other electronic media and require employers to accept electronically submitted treatment plans and provide an electronic receipt of the submission. The measure further provides that if the employer fails to file an objection to the treatment plan within seven calendar days following receipt, the treatment plan shall be deemed accepted.

The City opposes the measure for three different reasons. The first is the lack of specificity in the measure. While the term "the Internet" is referenced numerous times throughout the measure, there is no accompanying definition to allow interested parties to determine how treatment plans could be submitted via the Internet and objected to should the bill become law.

H.B. 2017 also requires that employers accept electronic submissions of treatment plans and provide an automatic electronic receipt upon such submission. The City simply does not have the technology to comply with this mandate. Even electronic receipt of requests received by facsimile would depend upon the sender programming its machine to provide such confirmation, rather than the recipient being able to do so automatically.

The Honorable Angus L.K. McKelvey, Chair
and Members of the Committee
on Consumer Protection & Commerce
The House of Representatives
February 22, 2016
Page 2

Finally, the City objects to a treatment plan being deemed accepted if an objection is not filed within seven 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.

In light of the foregoing, the City respectfully requests that H.B. 2017 be held in committee. Thank you for the opportunity to testify.

Sincerely,


for Carolee C. Kubo
Director

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 22, 2016 3:16 AM
To: CPCtestimony
Cc: mercers@hawaii.rr.com
Subject: Submitted testimony for HB2017 on Feb 22, 2016 14:30PM

HB2017

Submitted on: 2/22/2016

Testimony for CPC on Feb 22, 2016 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Fielding Mercer	HAPA	Support	No

Comments: HAPA supports passage of this bill intended to help facilitate medical providers efficiently submitting treatment plan requests for approval of fax & email. The intent should improve the delivery of medical care to injured workers and allows tracking of treatment plans. There have been far too many delays in approving treatment plans based upon reports that treatment plans sent via USPS have not been received. Fielding Mercer, PA-C Legislative Liaison Hawaii Academy of Physician Assistants

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Hawaii State Legislature
House Committee on Consumer Protection and Commerce
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 22, 2016

Filed via electronic testimony submission system

RE: HB 2017, Treatment Plans - NAMIC's Written Testimony in Opposition to Legislation

Dear Representative Angus L.K. McKelvey, Chair; Representative Justin H. Woodson, Vice-Chair; and honorable committee members:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 22, 2016, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

NAMIC is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies representing 40 percent of the total market. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers.

NAMIC member companies serve more than 170 million policyholders and write nearly \$225 billion in annual premiums. Our members account for 54 percent of homeowners, 43 percent of automobile, and 32 percent of the business insurance markets. NAMIC has 75 members who write property/casualty and workers' compensation insurance in the State of Hawaii, which represents 30% of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

The proposed legislation states:

(b) A treatment plan *shall be deemed received* by an employer when the plan is sent by facsimile, the Internet, or secure electronic mail with *reasonable evidence*, including automatic electronic receipt, showing that the treatment plan was received. (c) A treatment plan *shall be deemed*

accepted if an employer fails to file with the director by facsimile, the Internet, 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 calendar days after the employer's receipt* of the treatment plan. [Emphasis added]

NAMIC respectfully submits the following statement of concerns:

1) HB 2017 imposes on employers and insurers a required medium for communications (email or facsimile transmission) that may create needless administrative and IT problems for small businesses.

The proposed legislation states that “[a] treatment plan *shall be deemed received* by an employer when the plan is sent by facsimile, the Internet, or secure electronic mail . . .” NAMIC is concerned that this proposed requirement imposes a mandatory form of communication upon employers and insurers. Why shouldn't the employer or insurer have the right to request that the delivery of a confidential treatment plan be delivered via a medium that better conforms to the employer's or insurer's established internal administrative practices for receipt of treatment plans? If a specific treating physician or injured worker needs to deliver the treatment plan electronically or by facsimile they can work out the details of the communication with the employer or insurer directly. There is no public policy rationale for dictating a medium for communication when the parties have the ability to address their respective communications needs and limitations on a case by case basis.

2) NAMIC is concerned that the proposed legislation is likely to create legal disputes over when the insurer received receipt of the treatment plan.

First of all, there is no definition in the proposed legislation as to what is meant by “reasonable evidence”. This is likely to lead to needless litigation, whereas proof of receipt via a signed acceptance by the employer or insurer upon personal delivery or proof via certified mail, return receipt, is clear and well-established evidence of receipt. Additionally, the proposed legislation incorrectly assumes that all email systems generate an electronic receipt of delivery or that the email transmission was actually received by the employer or insurer and not collected in an automated junk mail folder or blocked by an email security firewall. Since the proposed legislation imposes a time deadline for filing a treatment plan objection, it doesn't make sense to mandate a communications medium that may not reasonably work for the employer or insurer, whose legal rights may be adversely impacted by a failed email transmission or facsimile transmission error.

3) NAMIC is concerned that the proposed legislation creates an unclear and inappropriate legal presumption of receipt of a treatment plan and acceptance of the treatment plan.

HB 2017 uses the phrase “shall be deemed”, but the proposed legislation doesn't define what is the precise legal meaning of the word “deemed”. Does it mean “rebuttably presumed” or “conclusively presumed”?

If the word “deemed” is intended to connote “conclusively presumed”, NAMIC is concerned that the proposed imposition of a legal presumption that denies the employer or insurer the right to offer evidence that the insurer did not, in fact, receive the treatment plan is patently unfair and is likely to lead to costly litigation and facilitate workers’ compensation fraud, which could adversely impact affordability of WC insurance.

4) NAMIC is concerned that the proposed *seven calendar day* objection deadline from receipt of treatment plan could adversely impact an insurer’s ability to thoroughly evaluate a proposed treatment plan to the detriment of injured workers.

Providing injured workers with timely *and* appropriate medical treatment is of great importance to employers and insurers. NAMIC is concerned that the seven calendar day deadline could needlessly hinder insurers in their ability to properly and comprehensively evaluate medical treatment plans in cases involving a complex medical diagnosis and/or an extensive medical/rehabilitation treatment program. Therefore, NAMIC recommends that the bill sponsor and committee work with insurers to create a deadline that is practical and workable for all interested parties. NAMIC also suggests that the proposed legislation also specifically provide for a process by which an insurer may request a reasonable extension of time in cases where the injured worker’s medical treatment plan proposal requires additional medical review time. Finally, NAMIC respectfully requests that any deadline adopted be based upon the standard five *business days* work week that is customarily used for calculating filing deadlines.

5) The proposed legislation is unnecessary and overly restrictive.

Although NAMIC appreciates the importance of providing employers, insurers, treating physicians and injured workers with the option of being able to use modern technology to communicate and transmit information, we are opposed to mandates like the one proposed that unnecessarily limit freedom of choice.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC’s written testimony.
Respectfully,



Christian John Rataj, Esq.
NAMIC Senior Director – State Affairs, Western Region

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 22, 2016 5:57 AM
To: CPCtestimony
Cc: cflanders@hma-assn.org
Subject: *Submitted testimony for HB2017 on Feb 22, 2016 14:30PM*

HB2017

Submitted on: 2/22/2016

Testimony for CPC on Feb 22, 2016 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Christopher D. Flanders, D.O.	Hawaii Medical Association	Support	Yes

Comments:

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TESTIMONY OF ALISON UEOKA

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Angus L.K. McKelvey, Chair
Representative Justin H. Woodson, Vice Chair

Monday, February 22, 2016
2:30 p.m.

HB 2017

Chair McKelvey, Vice Chair Woodson, and members of the Committee on Consumer Protection & Commerce, my name is Alison Ueoka, President of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately thirty-six percent of all property and casualty insurance premiums in the state.

While Hawaii Insurers Council **supports** the intent of the bill to streamline the treatment plan process by allowing physicians to transmit electronically, we **oppose** the new requirement to mandate insurers submit denials including medical evidence within seven days after receipt of the treatment plan.

Specifically, if physicians are allowed to transmit treatment plans electronically, there needs to be safeguards to limit abuse. For instance:

1. The provider must use a correct email address as directed by the insurer/employer.
2. The treatment plan must contain information required by the intended recipient in order to generate the automatic electronic receipt.
3. What constitutes an electronic receipt? Is an out-of-office reply an electronic receipt?

We oppose the seven-day requirement as being unreasonable as it is often not enough time to obtain medical evidence to support a denial. If the seven-day denial period is unreasonably short, the result will be automatic approvals of 120-day treatment plans, even if inappropriate. Current Administrative Rules in Section 12-15-32 provide for a process where the employer must pay for treatments under a complete treatment plan until the date an objection is filed, which we believe is fair and adequate.

If the bill moves forward, we ask the Committee to include safeguards and specificity on electronic transmissions and to delete the seven-day denial requirement.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 20, 2016 1:03 PM
To: CPCtestimony
Cc: moore4640@hawaiiantel.net
Subject: Submitted testimony for HB2017 on Feb 22, 2016 14:30PM

HB2017

Submitted on: 2/20/2016

Testimony for CPC on Feb 22, 2016 14:30PM in Conference Room 325

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 of the bill should improve the quicker delivery of medical care to injured workers and cut back on unnecessary disputes & delays, thus allowing improved medical rehabilitation. Improved medical rehabilitation of injured workers should return them to the workforce more efficiently which benefits employers as well. Mahalo for your support & passage. Douglas Moore, HIWA President

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Chair Angus L.K. McKelvey
Consumer Protection & Commerce Committee

HB2017 Relating to Workers Compensation Treatment Plans
Monday, 2/22/2016
2:30pm, Room 325

Position: SUPPORT

Chair McKelvey and members of the Consumer Protection and Commerce 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: Saturday, February 20, 2016 6:18 AM
To: CPCtestimony
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for HB2017 on Feb 22, 2016 14:30PM*

HB2017

Submitted on: 2/20/2016

Testimony for CPC on Feb 22, 2016 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Armstrong	Individual	Support	No

Comments:

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

To: The Honorable Angus L.K. McKelvey, Chair,
The Honorable Justin H. Woodson, Vice Chair, and
Members of the Committee On Consumer Protection & Commerce

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

Date: Monday, February 22, 2016
Time: 2:30 p.m.
Place: Conference Room 325
State Capitol
415 South Beretania Street

Re: HB No. 2017 Relating to WC Treatment Plans

I. Introduction.

As a labor attorney practicing for nearly four decades with a heavy emphasis in the processing of workers' compensation claims (WC), I wholeheartedly support HB No. 2017. The passage of the bill will indisputably ensure the prompt delivery of critical medical care, services, and supplies. It is consistent with the humanitarian purpose of the workers' compensation statute and the case law rather than the everlasting unnecessary disputes and delays. Improved medical rehabilitation is one of the core goals of the WC Law contained in Chapter 386 to efficiently provide injured workers a prompt recovery and return to gainful employment.

HB 2017 proposes to add a new section in Chapter 386 to allow physicians to electronically submit treatment plans of injured workers to employers, which include their representatives and insurers. It also includes the requirement that employers accept electronically filed treatment plans and acknowledgment of electronic receipt. Denials and objections, if any, are required to be filed within seven calendar days after receipt of the treatment plans. **Suggestion: Physician should include all medical providers.**

As I have stated in another testimony on another proposed legislation, allowance for electronic transmission should have been allowed long ago. It is truly amazing that we still have a statutory provision or rules or custom and practice, which are currently inconsistent with technological developments used by in the business world.

II. Discussion.

As a general observation, I can attest to the fact that injured workers routinely request prompt medical treatment for a recovery and immediate return to work. Moreover, many employers are already accepting facsimiles of treatment plans, and they immediately return them electronically with a stamp of approval as well. As I previously commented on another proposed legislation, physicians (or other medical providers) are lured into this efficient practice and are misled into believing that electronic transmissions are acceptable. Then to their chagrin, for whatever reason employers decide that the requested medical treatment should be denied by relying on the current technical rule for deficient treatment plans because they were

not mailed. That is wholly unfair and borders on the absurd resulting in a cottage industry of attorneys, who specialize in denying and litigating treatments plans.

The absurdity and inconsistency in the current practice results in undue cost drivers in the WC system. The denial and delay routinely results in the payment of temporary total disability benefits (TTD). If the injured workers ultimately win after litigating the denial of treatment plans for medical care, services, and supplies, that delay results in economic ruin for injured workers and their love ones. Payment of TTD is already a reduced amount of their wages since they are paid out at the rate of their meager earnings in the year of their work accidents even when they have vital delayed or extensive medical rehabilitation. That serves as an incentive to rapidly recover and attempt an expeditious return to gainful employment. If the employers continue to engage in denial of treatment plans without a set time frame, there will inevitably be increasing costs and wasted time in the WC process. This is outrageous. They are causing self-inflicted additional costs, which they incorrectly blame on the mind set of injured workers. This unsound practice and public policy must be reversed 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).

Mr. Pulawa sustained a severe head injury during a work accident on August 20, 1996, resulting in major medical conditions, including chronic tinnitus, cognitive deficits, and headaches. Without the employer's approval there is no basis for the physician to proceed with medical, unless the costs could be shifted to the taxpayers by using public assistance programs, such as MedQuest (private medical insurance generally will not cover the expenses for medical treatment arising out of work accidents).

Without any basis other than claiming technical deficiencies, the treatment plan, which requested a fitted neuromonics device, was denied. Eventually, the employer also terminated his TTD while the injured worker's condition was still unstable and required continued medical care. The case was litigated after the employer stacked the record with two defense medical reports as well as an extensive vocational rehabilitation report, all stating that he was playing the "disabled role", did not need the device and could find some form of work.

After a hearing, the Director agreed with the employer. On appeal, the Labor and Industrial Relations Board (Board) affirmed the Director's decision. On appeal to the Intermediate Court of Appeals (ICA), the Board's decision was affirmed. The Hawaii Supreme Court granted the petition for *certiorari* and reversed the adverse decisions below by holding that the neuromonics device was an aid that was "reasonably needed for the employee's greatest possible medical rehabilitation". TTD at the 1995 rate, as required by law, was retroactively reinstated. (Upon request, I will gladly provide copies of the lengthy decision to the chairs and committee) Now, more than two decades later, the injured worker will get critical treatment and retroactive payment of TTD.

In this regard, Mr. Pulawa's case demonstrates the drastic and practical need for an efficient system to generally allow all treatment plans when requested for the "greatest possible medical rehabilitation". If reasonable, it should be approved, medical providers cannot proceed at their peril and incur expenses which will not likely be paid. They do not work on a contingency fee arrangement. This goes to the heart of the opposition, arguing nonsense to

detract from the pertinent merits of the proposed bill by stating that they cannot respond in a timely fashion or they need more time to gather evidence to formulate a response on whether to deny or approve the treatment plans. If they have no basis to deny the treatment plans when received, employers are required to immediately approve them as reasonable as a matter of law.

To contend that employers do not have the technological equipment to accept and respond with an approval is utter nonsense. If solo practitioners, physicians and attorneys alike, have the capacity to send communications by facsimile, employers with their multi-millions should have the same capacity.

As for security, that should be a lesser concern. If necessary, we have authorizations drafted by the best and brightest attorneys in the Hawaii State Bar Association that could serve as releases of liability, if privacy may be violated.

III. Conclusion.

Thank you for allowing me to comment on this proposed legislation. HB No. 2017 is a great proposed bill.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 21, 2016 2:29 PM
To: CPCtestimony
Cc: standamanmasui@gmail.com
Subject: Submitted testimony for HB2017 on Feb 22, 2016 14:30PM

HB2017

Submitted on: 2/21/2016

Testimony for CPC on Feb 22, 2016 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Stanford H. Masui	Individual	Support	No

Comments: Modernizing the ability to submit treatment plans and obtaining a prompt response has been a serious problem for injured workers. Often, the insurance companies simply do not respond. Frequently, they appear at the hearing to say that the treatment plan was not sent by "mail" and is therefore invalid. This objection is frequently upheld by the DCD. The injured workers usually wait up to six months for a hearing on a treatment plan whether denied or not. Most doctors will not go forward without an affirmative response in writing. This is a small step, but an important step in the system.

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 21, 2016 4:57 PM
To: CPCtestimony
Cc: cwilson@ahcs.com
Subject: Submitted testimony for HB2017 on Feb 22, 2016 14:30PM

HB2017

Submitted on: 2/21/2016

Testimony for CPC on Feb 22, 2016 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
cathy wilson	Individual	Support	No

Comments: Dear Rep McKelvey, I respectfully support the passage of this bill which is intended to help facilitate medical providers efficiently submit treatment plans for authorization in a timely and more efficient way to do so. Under current law, the insurance companies demand these requests be sent by snail mail. This prolongs authorization for treatment. By updating this law to current times, authorization requests can be sent and received in a few minutes versus a few days. Also, by keeping these files electronic, there isn't a paper waste. Thank you, Cathy Wilson

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woodson2-Shingai

From: Cathy Wilson <Cwilson@ahcs.com>
Sent: Sunday, February 21, 2016 5:09 PM
To: CPCtestimony
Cc: Gary Okamura (okamurag006@hawaii.rr.com)
Subject: FW: HB2017 Workers' Compensation; Treatment Plans; Electronic Submission

Dear CPC Committee Chair, Rep McKelvey and Vice-chair Rep Woodson,

[HB2017 – SUPPORT by Gary Okamura, MD](#)

Please accept this email as supporting testimony for HB2016 from Gary Okamura, MD. I am submitting his testimony below on his behalf and have Dr Okamura cc'd on this email.

From: okamurag006@hawaii.rr.com [mailto:okamurag006@hawaii.rr.com]
Sent: Friday, February 19, 2016 1:16 AM
To: Cathy Wilson
Subject: Re: HB2017 Workers' Compensation; Treatment Plans; Electronic Submission

I support Bill HB2017 Could not sign in to to it by email Thank you Gary Okamura

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 22, 2016 6:59 AM
To: CPCtestimony
Cc: regoa@hawaii.rr.com
Subject: Submitted testimony for HB2017 on Feb 22, 2016 14:30PM

HB2017

Submitted on: 2/22/2016

Testimony for CPC on Feb 22, 2016 14:30PM in Conference Room 325

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

Comments: I am testifying as a claimant's attorney who specializes in Worker's Compensation claims despite a general law practice for over 40 years. HB 2017 will lessen substantial delays caused by the Worker's Compensation legal process. Everyone knows, who is familiar with the system, that medical care gets denied often and then there are attempts to find a doctor to be paid to verify and confirm the denial. This causes months and months of delay and litigation costs to the claimant needlessly. Even more so, this causes months and months of pain and suffering for the claimant who does not have medical care while we are awaiting getting medical care under the system they are required to file under. So you have presently a system where there are very frustrated and even angry workers who cannot get medical care because of the unilateral denials until and when a hearing and/or appeal may be determined, which could take months or even years. Unfortunately, these claimants cannot represent themselves in such situations due to the complexity of the issue and the complex regulatory process in place and must hire attorneys to get medical care and therefore lessen any settlement or award they may obtain in the future years down the line. Totally unfair to them is it not? So what is a claimant doing right now under the existing system? They are not getting care in many instances. They are hiring an attorney. They are trying to get coverage from a 3rd party such as med quest but sometimes do not qualify. Put yourself in their situation , unemployed, no medical care, and having to wait for the only system allowed for them to be paid medical care to work... which takes months and years....and therefore is NOT working for many claimants. I know because I hear it often from employers and insurance adjusters i.e. it would be unfair to the employer for the employee to get care and then find out it is not work related. Not so! Why, because the employer has a half dozen or more independent medical doctors ready willing and able to send to send out a report to them, i.e. a records review, within days, and so can evaluate the case immediately if there are any serious questions. Often more than not, there may be technical deficiencies in the treatment plan. Quite frankly, today, it takes an attorney and not a doctor to fill them out technically correct in every instance because of its complexity and the obvious detailed requirements of treatment plans . HB 2017 will alleviate that problem. Hawaii's worker's compensation laws was enacted to give claimants medical rehabilitation to allow workers a prompt recovery and return to work. HB 2017 will do that. Anson Rego Waianae Attorney

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.

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Chamber of Commerce HAWAII
The Voice of Business

LATE

Testimony to the House Committee on Consumer Protection & Commerce
Monday, February 22, 2016 at 2:30 P.M.
Conference Room 325, State Capitol

**RE: HOUSE BILL 2017 RELATING TO WORKERS' COMPENSATION
TREATMENT PLANS**

Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** HB 2017, which allows physicians to submit workers' compensation treatment plans to employers by facsimile, the Internet, or secure electronic mail. Requires employers to accept electronically submitted treatment plans and provide an electronic receipt of the submission.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber has serious concerns on several key points of HB 2017, such as the vague usage of "the Internet," which fails to clearly define how plans could be submitted or objected. Also, the requirement of employers to accept electronic submissions of treatment plans and provide automatic electronic receipts may be problematic if the sender and recipient do not possess the technological capabilities to fulfill the request. This could increase the cost to many small employers. Finally, we object to the automatic acceptance of a treatment plan if no objection is filed within seven days, as it would not allow adequate time to properly analyze a treatment plan. Not only is this unfair with employers, but could create more filings due to the short time period. We respectfully ask that the bill be held.

Thank you for the opportunity to testify.