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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

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

TESTIMONY ON HOUSE BILL NO. 2482, H.D. 1 – RELATING TO INSURANCE.

TO THE HONORABLE ANGUS L.K. McKELVEY, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department takes no position on this bill, but submits the following comments.

House Bill No. 2482, H.D. 1 requires managed care plans to provide claims data annually at no charge to a large group purchaser if the large group purchaser requests the information and meets certain requirements.

Page 1, lines 8-11, proposes to “deidentify” data to protect an individual’s identity. At this point in our technological development, it is not clear whether complete and total deidentification can occur, and if the determination of deidentification can be made solely by a statistician.

Some insurers have expressed concerns that this type of claims disclosure may trigger a violation of the federal Health Insurance Portability and Accountability Act of 1996, particularly for smaller employers. However, there may also be a perception in the public that restricting the disclosure to large group purchasers creates an unlevel playing field.

We thank this Committee for the opportunity to present testimony on this matter.



An Independent Licensee of the Blue Cross and Blue Shield Association

February 22, 2016

The Honorable Angus L.K. McKelvey, Chair
The Honorable Justin H. Woodson, Vice-Chair
House Committee on Consumer Protection and Commerce

Re: HB 2482 HD1 – Relating to Insurance

Dear Chair McKelvey, Vice Chair Woodson, and Committee Members:

The Hawaii Medical Association (HMSA) appreciates the opportunity to testify on HB 2482 HD1, which would require plans to provide claims data at no charge to large group purchasers upon request. HMSA respectfully opposes this Bill.

Affordable Care Act - Transparency

HMSA fully appreciates the Committee's interest in ensuring transparency as it applies to claims data. As the Bill implies, the Affordable Care Act (ACA) already requires issuers to disclose detailed claims and coverage data to the Department of Health and Human Services (HHS), state insurance regulators, and the public. The ACA requires eight categories of information that plans must make public, including:

- Claims payment policies and practices;
- Periodic financial disclosures;
- Data on enrollment;
- Data on disenrollment
- Data on the number of claims that are denied;
- Data on rating practices;
- Information on cost-sharing and payments related to any out-of-network coverage; and
- Information on enrollee and participant rights under health reform.

Virtually the entire private insurance market is subject to a uniform minimum standard of transparency. This Bill will interfere with this ongoing effort and create an additional administrative burden.

HMSA Large Groups Data Reports Complies with the Intent of HB 2482

HMSA already is in substantial compliance with the intent of HB 2482. We provide de-identified data to our large groups (250 or more employees) upon request and in accordance with each group's plan, or as is required by the group Agreement. We take extreme care in ensure compliance with our obligation to protect a members privacy and confidentiality. If there only is a single case of a diagnosis, we take additional measures to ensure the diagnosis may not be attributable to a specific member. And, we do not provide data on protected class diagnoses, such as HIV.

We believe that the reports we already do provide large groups have been beneficial to our members, as well as meeting federal and state requirements for transparency. Should this



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measure ultimately be enacted in its current form, it would potentially require plans to provide significantly more, and different, data to a large number of groups, incurring significant cost for the plan and ultimately our members.

Proposed Amendments

The following amendments are submitted for the Committee's consideration should it choose to advance this measure:

- 1) Delete subsection (c) as currently written and replace with:

(c) claims data required pursuant to subsection (a) shall be provided by the plan at no charge to a large group purchaser and may include the following aggregated data:

- (1) aggregate claims paid;
 - (2) aggregated utilization data showing utilization and cost per service by broad service categories (including physician visits, hospital days, outpatient services, prescription drugs);
- 2) Subsection (i), define 'large group purchaser' or 'purchaser' at 250 or more employees enrolled in the plan.
- 3) Include a new subsection that requires a data sharing agreement between an issuer and large group purchaser or purchaser before transfer of any data provide per this section.
- 4) Define what constitutes a qualified statistician.

Thank you for allowing us to testify in opposition to HB 2482 HD1.

Sincerely,

A handwritten signature in black ink, appearing to read 'JDiesman', with a long horizontal stroke extending to the right.

Jennifer Diesman
Vice President, Government Relations.



February 22, 2016

The Honorable Angus McKelvey, Chair
The Honorable Justin Woodson, Vice Chair
House Committee on Consumer Protection and Commerce

Re: HB 2482, HD1 – Relating to Insurance

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

The Hawai'i Association of Health Plans (HAHP) respectfully submits comments in opposition to HB 2482, HD1, which requires plans to provide claims data annually at no charge to a large group purchaser if the large group purchaser requests the information and meets certain requirements.

As currently written, we are concerned that this bill won't ensure that data will be properly de-identified, leaving members vulnerable to a loss of confidentiality and privacy. This could possibly result in violations of HIPAA.

In addition, the added data reporting requirements placed upon the plan would create a additional administrative burden, which would be borne primarily by the plan and potentially its members. We respectfully request the Committee to defer this measure.

Thank you for allowing HAHP to testify in opposition to HB 2482, HD1.

Sincerely,

Wendy Morriarty, RN, MPH
Chair, HAHP Public Policy Committee

Cc: HAHP Board Members

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 20, 2016 6:19 AM
To: CPCtestimony
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for HB2482 on Feb 22, 2016 14:30PM*

HB2482

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:

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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