HB2740 HD1

Measure Title:	RELATING TO LIABILITY.
Report Title:	Liability; Preauthorization; Health Insurance
Description:	Prohibits health insurance preauthorization requirements that cause undue delay in receipt of medical treatment or services. Specifies that insurers, but not health care providers, are liable for civil damages caused by undue delays for preauthorization. (HB2740 HD1)
Companion:	
Package:	None
Current Referral:	CPH, JDL
Introducer(s):	CACHOLA, EVANS, LUKE, MIZUNO, SAIKI, SOUKI

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Thursday, March 17, 2016
9:45 a.m.

TESTIMONY ON HOUSE BILL NO. 2740, H.D. 1 – RELATING TO LIABILITY.

TO THE HONORABLE ROSALYN H. BAKER, 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 purpose of this bill is to prohibit health insurers from requiring preauthorization that causes undue delay in a patient's receipt of medical treatment or services. The bill would also require an insurer to defend and indemnify a licensed health care provider for injury to a patient caused by undue delay in preauthorization, impose civil liability on an insurer for any patient injury caused by undue delay in the receipt of medical treatment or services, and require a health care provider to provide treatment without waiting for preauthorization under certain circumstances. The Department submits the following comments.

This bill would add new sections (preauthorization; undue delay; liability) to chapter 431, Hawaii Revised Statutes ("HRS"), applicable to health insurers and limited benefit health insurance, and chapter 432, HRS, applicable to mutual benefit societies, as well as amend section 432D-23, HRS, applicable to health maintenance organizations.

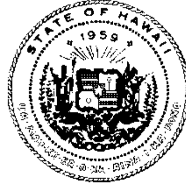
Medical determinations are complex, and not conducive to blanket regulation by the Insurance Code. These medical decisions seek to balance patient safety, effectiveness, and medical appropriateness. The Affordable Care Act, as well, recognizes that services, except in the case of emergency and patient access to obstetrical and gynecological care, may require preauthorization.

The Insurance Division ("Division") notes that determinations concerning liability of an insurer regarding medical decisions – whether in the context of preauthorizations or otherwise – is outside the scope and expertise of the Division.

As noted in previous testimony, there may be a subject-title problem with the bill in violation of Article III, section 14, of the Hawaii State Constitution. The title of this bill is “Relating to Liability.” The bill’s contents, however, address several subjects not relating to liability, thereby possibly exceeding the scope of the bill’s title.

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

DAVID Y. IGE
GOVERNOR



RACHAEL WONG, DrPH
DIRECTOR

PANKAJ BHANOT
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 16, 2016

TO: The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection & Health

FROM: Rachael Wong, DrPH, Director

SUBJECT: **HB 2740 HD1** - **RELATING TO LIABILITY**
Hearing: Thursday, March 17, 2016; 9:45 a.m.
Conference Room 229, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the opportunity to provide comments expressing concerns regarding this bill.

PURPOSE: The purpose of this bill prohibits health insurance preauthorization requirements that cause undue delay in receipt of medical treatment or services. Clarifies insurer and licensed health care provider liability for patient injuries caused by preauthorization delays.

The Department of Human Services (DHS) provides medical services for Medicaid recipients through its QUEST Integration (QI) and fee-for-service programs. About 99.5% of the Medicaid recipients are enrolled in a QI managed care plan. As part of the QI contracts, and in accordance with federally required language, there are specific provisions that outline timeframes in which a health plan must respond to a prior authorization request.

One of the major health care cost drivers for the US health care system, which is the most expensive in the world, is the over-utilization of health care services. However, one of the reasons that Med-QUEST via the QI managed care plans has been able to limit expenditure growth trend to between one to three percent over the years, which is below the overall health care cost trend, is due to the managing of clinical care by the plans. One of the techniques used is utilization management using prior authorizations for some procedures.

Med-QUEST supports patients getting timely access to care, and appreciates the frustration that health care providers feel regarding what they experience as administrative burdens. However, the bill as currently written would severely hamper the ability of our health plans to appropriately balance efficient and effective care with timely access to care.

For those reasons, we have concerns regarding the bill, and request at a minimum, that the measure specify that Medicaid is excluded from this bill's requirements. Without that clarification, we anticipate the costs of the Medicaid program will grow more quickly than what we are projecting currently.

Thank you for the opportunity to testify on this measure.

Committee: Committee on Commerce, Consumer Protection, and Health
Hearing Date/Time: Wednesday, March 16, 2016, 9:00 a.m.
Place: Conference Room 229
Re: *Testimony of the ACLU of Hawaii in Support of H.B. 2084, H.D.2 Relating to Insurance*

Dear Chair Baker and Members of the Committee:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of H.B. 2084, H.D.2, which prohibits discrimination in health insurance on the basis of gender identity or perceived gender identity.

Hawaii's transgender community faces discrimination in healthcare

In Hawaii, most health insurance plans contain discriminatory blanket exclusions of benefits connected to "sex-transitioning." Many of these plans cover the exact same treatment, such as hormone replacement therapy, for conditions unrelated to transitioning. This is discrimination, plain and simple. According to a 2011 study, 19% of transgender people report being denied access to medical services simply because they are transgender.[1] The ACLU of Hawaii has received reports that health insurance plans in Hawaii are using these exclusions to deny coverage for services unrelated to transitioning, merely because the patient's file notes that they are transgender.

This denial of medical services results in transgender people paying thousands of dollars out of pocket for the same services that are covered for cisgender (non-transgender) patients under the same insurance plan. This perpetuates the disproportionate rates of poverty experienced by the transgender community.[2]

Transition-related services constitute medically necessary care

The same medical treatment excluded from coverage in most Hawaii health insurance plans has been consistently regarded as medically necessary care by the medical community and courts. In 2008, the American Medical Association passed a resolution recognizing "an established body of medical

[1]Jaime M. Grant et al., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, 72 (2011), http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf .
[2] Fifteen percent of transgender survey respondents reported extreme poverty, with annual incomes of less than $10,000, as compared to 4% of the overall population. Center for American Progress and Movement Advancement Project, *Paying an Unfair Price: The Financial Penalty for Being Transgender in America*, 3 (2015), http://www.lgbtmap.org/file/paying-an-unfair-price-transgender.pdf.

American Civil Liberties Union of Hawai'i
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research" that "demonstrates the effectiveness and medical necessity of mental health care, hormone therapy, and sex reassignment surgery as forms of therapeutic treatment for many patients diagnosed with [Gender Dysphoria]."[3] Although not every transgender person has Gender Dysphoria, those who do often require treatment in the form of hormone therapy and/or surgery.

H.B. 2084, H.D.2 is in line with current state and federal policy

State law prohibits discrimination on the basis of gender identity in the areas of housing, employment, and public accommodations. This measure would be consistent with existing public policy and scientific data. Recently, the U.S. Department of Health and Human Services issued a proposed rule relating to section 1557 of the Affordable Care Act ("ACA"), clarifying that health insurance plans with blanket exclusions of coverage for transition-related services violate the ACA.[4] Accordingly, Hawaii's major health insurance providers will inevitably need to update their plans to comply with the ACA. This legislation is necessary, however, to protect the remaining patients under health insurance plans not covered by the ACA's requirements.

Thank you for the opportunity to testify.

Sincerely,

Mandy Finlay
Advocacy Coordinator
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.

[3] American Medical Association, Res. 122 A-08: Removing Financial Barriers to Care for Transgender Patients, *available at* http://www.tgender.net/taw/ama_resolutions.pdf; *see also* *https://www.ama-assn.org/ssl3/ecomm/PolicyFinderForm.pl?site=www.ama-assn.org&uri=/resources/html/PolicyFinder/policyfiles/HnE/H-185.950.HTM*.
[4] U.S. Department of Health and Human Services, 80 Fed. Reg. 75,487 (proposed December 02, 2015), *available at* http://www.hhs.gov/civil-rights/for-individuals/section-1557/nondiscrimination-health-programs-and-activities-proposed-rule/index.html.

American Civil Liberties Union of Hawai'i
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Thursday March 17, 2016
9:45 AM.
Capitol Rm. 229

To: SENATE COMMITTEE ON CONSUMER PROTECTION & HEALTH
Sen. Rosalyn Baker, Chair
Sen. Michelle Kidani, Vice Chair

From: Hawaii Medical Association
Dr. Scott McCaffrey, MD, President
Dr. Linda Rasmussen, MD, Legislative Co-Chair
Dr. Ronald Keinitz, MD, Legislative Co-Chair
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: HB 2740 HD1 – RELATING TO LIABILITY

IN SUPPORT

Chair, Vice Chair, and Committee Members:

Hawaii Medical Association **strongly supports** this legislation.

In medicine, moments matter. This bill is a common sense measure and should be enacted as soon as possible to ensure patient safety and encourage health plans approve appropriate care. The HMA believes prior authorization, and the delays and health risks that come with it, should only be performed when utilization and quality issues are in question.

The necessity of extensive, far reaching prior authorization scrutiny at this time is not founded on the part of insurers. **The HMA can find no identifiable data to demonstrate overutilization or quality issues.** Actually, quite the opposite is true. According to data from the Centers for Medicare and Medicaid Services (CMS), Hawaii providers lead the nation in controlling costs and providing quality care.

Information compiled from CMS by the Commonwealth Fund (commonwealthfund.org) demonstrates that overall, as of February 2015, **Hawaii leads the nation in the lowest spending**

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per capita (37% below the national average), with the highest quality scores (43% above the national average). No other state is even close!

Similarly, data from **physician's offices demonstrate that Hawaii physicians have the highest quality scores in the nation (71% higher than the national average) while maintaining costs 13% below the national average.**

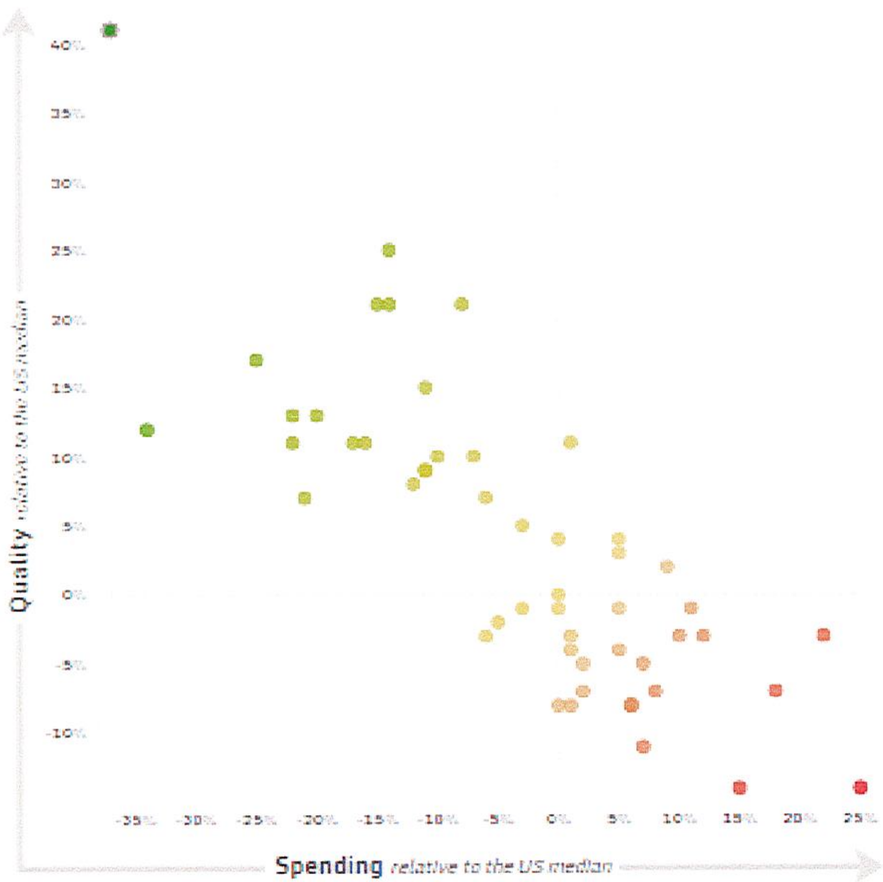
In regard to imaging specifically, CMS reports similar data with imaging expenditures being approximately 40% lower than the national average in Hawaii. Additionally, Hawaii demonstrated a dramatic decrease in imaging expenditures between 2004 and 2012, placing the state in 8th lowest expenditure rate in the nation.

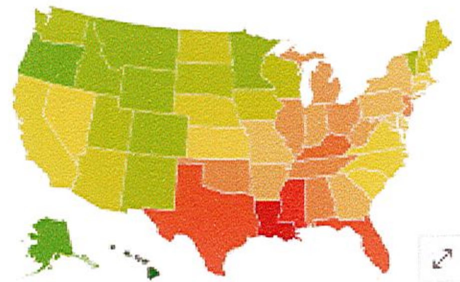
In medicine moments matter. It is only fair that a licensed health care provider should be immune from civil liability for injury to a patient that was caused by undue or unreasonable delay caused by the unilateral placement of the provider in an impossible position by the insurer for the preauthorization of medical treatment services. The insurer should be civilly liable and indemnify the provider for any injury that occurs to a patient because of undue delay in medical treatment.

Thank you for the opportunity to provide this testimony.

Total Medicare spending per capita vs. Overall quality score

View location type: States HRRs





ENTER A LOCATION:

Search by zip code, state, or local area...

COMPARING

● Hawaii

37% lower spending | 41% higher quality

relative to the US median

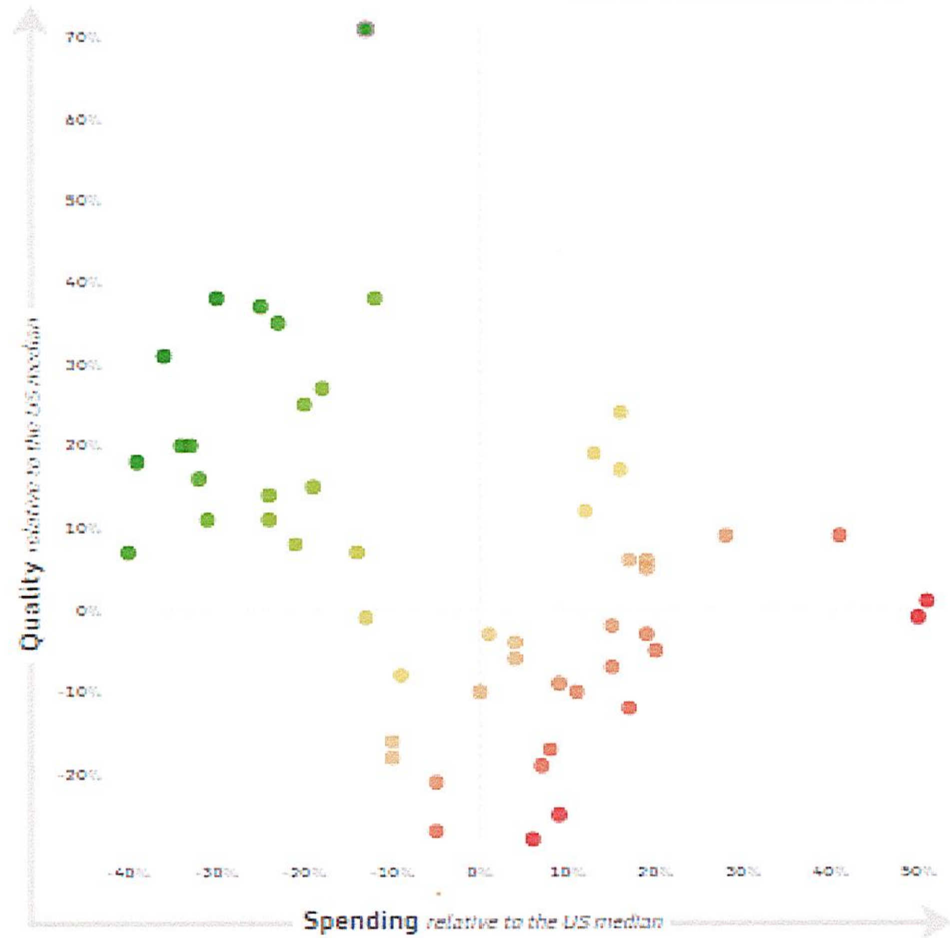
Total spending per capita: $5,421

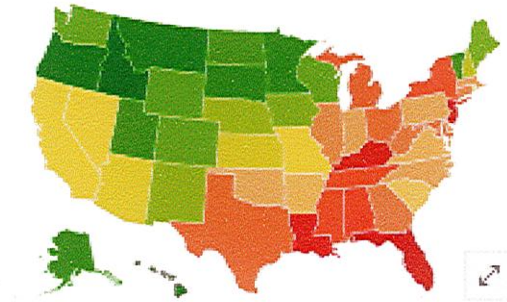
Spending Indicator Source: *Data Year: 2013* - Geographic Variation Public Use File, February 2015 (CMS Office of Information Products and Analytics).

Spending Indicator Notes: Spending estimates exclude prescription drug spending from Medicare Part D and reflect only claims incurred by the age 65+ population with traditional fee-for-service Medicare. Spending estimates are standardized to account for regional differences in wages or input prices, and extra payments that Medicare makes to advance other program goals, such as compensating certain hospitals for the cost of training doctors.

Medicare spending per capita for doctors' office visit vs. Doctors' office quality score

View location type: States HRRs





ENTER A LOCATION:

Search by zip code, state, or local area...

COMPARING:

Hawaii

13% lower spending | 71% higher quality

relative to the US median

Doctors' office visit spending per capita: $736

Spending Indicator Source: *Data Year: 2013* - Geographic Variation Public Use File, February 2015 (CMS Office of Information Products and Analytics).

Spending Indicator Notes: Spending estimates are based on Evaluation and Management claims incurred by beneficiaries age 65+ with traditional fee-for-service Medicare. Payments have been adjusted to account for regional differences in wages, practice costs, and malpractice costs.

licare Part B All Imaging Spending per 1000 Beneficiaries

:y: Spending on Radiology Services   Source: CMS 5% Research Identifiable Files

e Series Results

2004

2013

/ national data?

states: All | None

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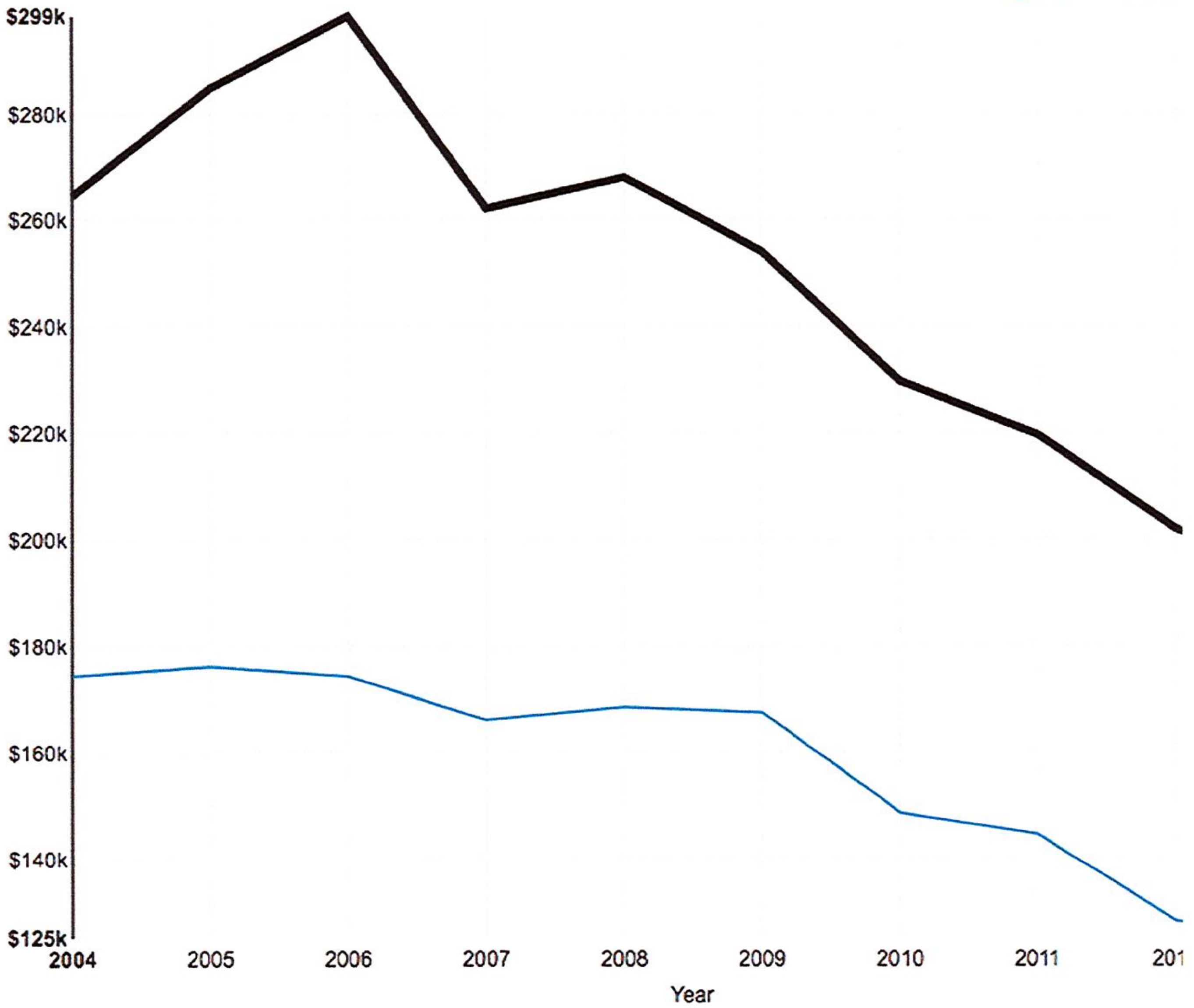

icare Part B All Imaging Spending per 1000 Beneficiaries

:: Spending on Radiology Services   Source: CMS 5% Research Identifiable Files

Series Results

2004

2013

national data?

:ates: All | None

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Map   Graph

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TABLE 2: Ten States With Lowest Medicare Imaging Spending per Beneficiary in 2004 and 2012

Rank	2004		2012	
51	Vermont	112.58	Ohio	67.08
50	New Hampshire	121.98	Vermont	72.78
49	North Dakota	141.86	Idaho	110.66
48	Oregon	147.56	Kansas	110.97
47	Wyoming	149.73	North Carolina	115.53
46	South Dakota	150.47	North Dakota	121.50
45	District of Columbia	151.53	Maine	127.47
44	Montana	163.08	Hawaii	128.10
43	Missouri	164.79	New Hampshire	132.31
42	North Carolina	167.19	Utah	137.60

Note—Values are U.S. dollars.

March 17, 2016

Senator Rosalyn H. Baker, Chair
Senator Michelle N. Kidani, Vice Chair
Committee on Commerce, Consumer Protection, and Health
Conference Room 229

RE: HB2740 HD1 Relating to Liability

Dear Chair Baker, Vice Chair Kidani and Members of the Committee:

We respectfully oppose HB2740 HD1 which proposes to prohibit health insurance preauthorization requirements that cause undue delay in receipt of medical treatment or services and specifies that insurers, but not health care providers, are liable for civil damages caused by undue delays for preauthorization.

This bill will result in a dramatic shift in the oversight and monitoring conducted by health insurers and it will likely significantly drive up costs of health care generally.

The bill's definition of "undue delay" is vague and will likely only result in more disputes and litigation. The bill defines "undue delay" to mean "an unreasonable delay in medical treatment or services that may cause the exacerbation or worsening of a health condition due to:

(1) The unwarranted rejection by an insurer of a first-time preauthorization;

(2) Administrative difficulties or delays in receiving preauthorization from insurers; and

(3) Difficulties arising from the non-communication by insurers on the tests and procedures that require preauthorization."

These factors are not clear and provide the health insurer with no guidelines by which we can create reasonable policies.

More worrisome is the bill's creation of additional liability upon the health insurer for "any injury that occurs to a patient because of undue delay in the receipt of medical treatment or services." There is already existing tort liability under common law for injuries proximately caused by the wrongful party. Here however, there is a new liability created that specifically exempts the provider from their liability.

Liability for any injury oftentimes arises from a complex aggregate of a multitude of factors. It is for that reason we have a system where each of the several parties can be included in a case to ensure that all of these factors can be considered by the fact-finder and decision maker as to who is the ultimately contributed to the alleged injury. This new liability would dramatically change this landscape, but more importantly, will place most of any burden upon the health insurer.

The unintended consequence of this bill would be that insurers would diminish or eliminate any prior authorization process. This will result in little to no oversight and ultimately lead to increased costs for all.

It is for these reasons we oppose HB2740 HD1. Thank you for the opportunity to submit written comments.

Respectfully submitted,

Howard Lee
President, CEO

American Congress of Obstetricians and Gynecologists
District VIII, Hawaii (Guam & American Samoa) Section
Greigh Hirata, MD, FACOG, Chair
94-235 Hanawai Circle, #1B
Waipahu, Hawaii 96797

To: Committee on Commerce, Consumer Protection, and Health
Sen. Rosalyn Baker, Chair
Sen. Michelle Kidani, Vice Chair

DATE: Thursday, March 17, 2016 (0945)

FROM: Hawaii Section, ACOG
Dr. Greigh Hirata, MD, FACOG, Chair
Dr. Jennifer Salcedo, MD, MPH, MPP, FACOG, Vice-Chair
Lauren Zirbel, Community and Government Relations

RE: HB2740, HD1 Relating to Liability

Position: support

Dear Senator Baker, Senator Kidani, and Committee Members,

The Hawaii Section of the American Congress of Obstetricians and Gynecologists (HI ACOG) supports HB 2740, HD1.

This bill is a common sense measure and should be enacted as soon as possible to ensure patient safety and encourage health plans approve appropriate care. There should be no obstecals between a physician and their patients.

Physicians feel strongly about their profession and patients. Among the closely held beliefs concerning prior authorization are:

(1) The physician-patient relationship is paramount and should not be subject to third-party intrusion.
(2) Preauthorization programs should not be permitted to hinder patient care or intrude on the practice of medicine.
(3) Preauthorization programs must include the use of independently developed, evidence-based and, when necessary or available, appropriate use criteria or written clinical criteria.
(4) Preauthorization programs must include reviews by appropriate physicians to ensure a fair process for patients.

This bill allows for the prohibition of insurers from requiring preauthorization that causes undue delay in a patient's receipt of medical treatment or services and will clarify liability for patient injuries caused by preauthorization delays.

As all obstetricians know, moments matter. It is only fair that a licensed health care provider should be immune from civil liability for injury to a patient that was caused by undue or unreasonable delay caused by the unilateral placement of the provider in an impossible position by the insurer for the preauthorization of medical treatment services. The insurer should be civilly liable and indemnify the provider for any injury that occurs to a patient because of undue delay in medical treatment.

Thank you for the opportunity to provide this testimony.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON HOUSE BILL HB 2740, HD 1, RELATING TO LIABILITY

March 17, 2016

Via e mail: capitol.hawaii.gov/submittestimony.aspx
Honorable Senator Rosalyn H. Baker, Chair
Committee on Consumer Protection and Health
State Senate
Hawaii State Capitol, Conference Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Baker and Committee Members:

Thank you for the opportunity to comment on HB 2740, HD 1, relating to Liability.

Our firm represents the American Council of Life Insurers ("ACLI"), a Washington, D.C., based trade association with approximately 300 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers' products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums. Two hundred sixteen (216) ACLI member companies currently do business in the State of Hawaii; and they represent 93% of the life insurance premiums and 88% of the annuity considerations in this State.

Section 2 of HB 2740, HD 1, seeks to amend Article 10A of Hawaii's Insurance Code relating to Accident and Health or Sickness Insurance Contracts by adding a new section to that Article that would (among other matters) prohibit an insurer under an Accident and Health or Sickness Insurance Contract from requiring its preauthorization of medical services or treatments "so as to cause an undue delay" in the insured's receiving medical treatment or services. For violation, the insurer is made liable for the insured's injury caused by the undue delay in receiving medical treatment.

By its terms, *Article 10A of the Code (by reference to HRS §431:1-205) defines "accident and health or sickness insurance" to include disability insurance*.

ACLI submits that the intent and purpose that these provisions apply only to health insurers – not insurers issuing disability insurance.

Disability insurance provides cash payments designed to help individuals meet ongoing living expenses in the event they are unable to work due to illness or injury. Unlike health insurance, disability income insurance does not provide coverage for the insured's health care or medical treatment; further, the cash payments are made directly to the insured – not to the insured's health care providers or suppliers. Finally, the disability insurance policy typically does not dictate how the cash payments received by the insured are to be used by the insured.

Consistent with the bill's stated purpose as set forth in Section 1 of the bill ACLI suggests that paragraph (a) of the new section proposed to be added to §431: 10A (beginning at line 11, page 2 of the bill) be amended to dispel any confusion that disability insurers are subject to the bill's provisions as set forth below:

> "§431:10A-____ Preauthorization; undue delay; liability. (a) ~~Notwithstanding any provision of the law to the contrary, n~~No insurer that provides health care coverage shall require preauthorization of medical services or treatments so as to cause an undue delay in a patient's receipt of medical treatment or services.

Again, thank you for the opportunity to comment on HB 2740, HD 1, relating to Liability.

LAW OFFICES OF
OREN T. CHIKAMOTO
A Limited Liability Law Company

Oren T. Chikamoto
1001 Bishop Street, Suite 1750
Honolulu, Hawaii 96813
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E mail: otc@chikamotolaw.com

HB 2740 HD1

Honorable Senators and Committee Members:

RE: HB 2740 HD1
Relating to Liability

Hawaii Academy of PAs

We respectfully support HB 2740 HD1 which proposes to prohibit health insurance preauthorization requirements that cause undue delay in receipt of medical treatment or services and specifies that insurers, but not health care providers, are liable for civil damages caused by undue delays for preauthorization.

These required pre-authorizations are delaying routine diagnostic imaging studies.
This ties the hands of the medical providers trying to deliver care in a timely and conscientious manner.
Additionally it is causing patients to be referred to, already busy, emergency departments for tests which could have been order on an outpatient basis. Several examples included CT scan of the abdomen to rule out appendicitis or soft tissue of the neck to rule out abscess.
This obviously drives costs up, clogs already busy EDs and is an inconvenience to the patient who May have to endure a 6 hour emergency department visit, when they could have more easily spent ½ an hour getting the CT and then have been directly admitted to the surgeon or released to go home.

For health care providers trying to get an approval from NIA it is almost routinely a 20-30 minute process to get through to the reviewing physician at NIA. This is prohibitive for providers in busy medical practices.

Since HMSA changed the requirement to obtain preauthorization for all advanced imaging studies it has caused nothing but problems for health care providers trying to provide the best possible medical care for their patients.

It is not just a question of liability, but of good medical practice.
This type of preauthorization for all advanced imaging studies is unwarranted, unjustified and should be reversed. Clearly, injury to patients caused by unnecessary delays in diagnostics should be the responsibility of insurers placing these restrictions on medical providers which are causing delays in medical care.

Respectfully,

Fielding Mercer, PA-C
Legislative Liaison
HAPA

March 16, 2016

Senator Rosalyn Baker
Chair, Senate Committee on Commerce, Consumer Protection, and Health

HB2740 HD1: Relating to Liability

Letter in SUPPORT

Dear Senator Baker and Committee Members:

In late 2015, HMSA reconfigured its preauthorization program for non-emergency imaging studies. Time has not allowed for well-designed research to demonstrate the effects of the policy change. However, informal polling of our Hawaii emergency physician members indicate a widespread increase in patients presenting to our emergency departments seeking testing that their primary care physicians were not able to order because authorization was delayed or denied.

Insurance companies site the importance of preauthorization in their efforts to decrease negative effects of imaging and to decrease costs for their members. First, physicians are the true advocates for patient safety in imaging and patient safety is considered in the ordering of any test or treatment. Second, left out of the equation as related to health care economics are the increased administrative costs and time absorbed by physician practices due to overly burdensome preauthorization processes.

Furthermore, very little attention is given to dubious view that preauthorization does not constitute the practice of medicine, and health care plans are not held liable for potential ramifications related to delayed or missed diagnoses. Health care plans and those that they contract with are directly determining whether or not tests and procedures are being provided to patients after a physician who has examined a patient first-hand has ordered said test or procedure. Yet if an untoward event occurs because of that delay or denial, only the provider may face civil liability claims.

The current system has resulted in more patients presenting to our emergency departments and increased administrative burdens to health care providers. Preauthorization is direct patient care. As such, we should require that health care plans prove that their actions are truly in our patient's best interest and end its civil liability protections.

Sincerely,

William Scruggs, MD, RDMS, FACEP
President, Hawaii College of Emergency Physicians

TESTIMONY OF BERT SAKUDA ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) IN SUPPORT OF H.B. NO. 2740, H.D. 1

Date: Thursday, March 17, 2016
Time: 9:45 am
Room: 229

To: Chair Rosalyn Baker and Members of the Senate Committee on Commerce, Consumer Protection and Health:

My name is Bert Sakuda and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in SUPPORT of H.B. No. 2740, H.D. 1, Relating to Liability. This testimony is focused on the liability provisions of this measure as currently drafted.

The Hawaii Association for Justice SUPPORTS the purpose and intent of this measure to protect patients from harm caused by undue delays in treatment due to insurance preauthorization requirements. While the resolution of insurance processing procedures are ultimately for the medical and insurance industries to work out, HAJ seeks to insure that patients receive needed medical care on a timely basis and are not innocent casualties in the crossfire between doctors and insurers. Any resolution must insure that doctors treat patients without undue delay and that doctors who render such treatment in good faith be properly reimbursed for their services. Thus, HAJ opposes any immunity that would permit or encourage undue delays in providing needed treatment due to insurance preauthorization issues. This current draft protects patients and doctors from undue delays in processing health insurance preapprovals for treatment by 1) prohibiting preauthorization requirements that result in undue delay in rendering needed treatment; and 2) by requiring insurance companies to defend and indemnify doctors for harm caused by undue delay on the part of insurers.

Thank you very much for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.

From:	mailinglist@capitol.hawaii.gov
To:	CPH Testimony
Cc:	moore4640@hawaiiantel.net
Subject:	Submitted testimony for HB2740 on Mar 17, 2016 09:45AM
Date:	Tuesday, March 15, 2016 8:24:19 PM

HB2740

Submitted on: 3/15/2016

Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

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 this proposed legislation. Injured workers tell us about their treating physicians who want to get diagnostic testing of the injured workers quickly, like CT scans & MRI's, so that necessary and appropriate medical treatment and therapy can be administered asap to assist their medical rehabilitation and return them to work. Instead, their doctors are second guessed by insurance companies who delay or even deny the diagnostic testing by requiring pre-authorization. This hurts our injured workers when they really need the medical testing and treatment the most. Unnecessary delays can cause hardship or harm to our injured workers. When this happens, civil liability should be imposed to deter the harmful conduct. The sooner we can get our injured workers medically rehabilitated, the sooner they can return to the workplace which benefits employers and reduces costs. Please pass this bill. mahalo, Douglas Moore, HIWA President

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From: mailinglist@capitol.hawaii.gov
To: CPH Testimony
Cc: abiedel@mauimedical.com
Subject: Submitted testimony for HB2740 on Mar 17, 2016 09:45AM
Date: Monday, March 14, 2016 12:36:28 PM

HB2740

Submitted on: 3/14/2016
Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Biedel	Individual	Comments Only	No

Comments: Hawaii must protect it's people from the dangerous and oppressive use of Insurance Company's Prior Authorization for radiology tests. Too many times physicians have to wait for approval and often are denied a request for a test and then have to go through untenable hoops to get the test covered. This is not good or healthy for either patient or physician.

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From:	mailinglist@capitol.hawaii.gov
To:	CPH Testimony
Cc:	moore4640@hawaiiantel.net
Subject:	Submitted testimony for HB2740 on Mar 17, 2016 09:45AM
Date:	Wednesday, March 16, 2016 9:06:23 AM

HB2740

Submitted on: 3/16/2016

Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas Moore	Individual	Support	No

Comments: Aloha: I strongly support. Recently my wife Kalena experienced undue delay in having an authorization for an MRI. The undue delay caused critical medical care to be delayed which exacerbated her severe injury and worsened her pain causing her prolonged unnecessary suffering. The undue delay was wrong. Please protect our citizens from undue wrongful delays with receiving critical medical care. Mahalo

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From: mailinglist@capitol.hawaii.gov
To: CPH Testimony
Cc: douglasvalenta@gmail.com
Subject: Submitted testimony for HB2740 on Mar 17, 2016 09:45AM
Date: Monday, March 14, 2016 3:44:54 PM

HB2740

Submitted on: 3/14/2016
Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
douglas valenta	Individual	Support	No

Comments: HMSA and NIA are encroaching upon my ability to provide usual and customary care of patients. HMSA and NIA should not be allowed to block my requests for imaging. The process delays efficiency of the office procedure as well patient care. There is a potential harm to the patient, as well as down stream difficulties concerning other patients, because of the over utilization of my staff

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From:	mailinglist@capitol.hawaii.gov
To:	CPH Testimony
Cc:	erin-capps@sbcglobal.net
Subject:	Submitted testimony for HB2740 on Mar 17, 2016 09:45AM
Date:	Tuesday, March 15, 2016 11:13:37 PM

HB2740

Submitted on: 3/15/2016

Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Erin Capps MD	Individual	Support	No

Comments: I am a radiologist practicing in Hawaii and I am writing in support of HB 2740. Timely diagnosis is critical to quality patient care. Lengthy and cumbersome pre authorization and denials for diagnostic tests result in delays in diagnosis and delays in treatment. Such delays can result in medical complications, increased utilization of emergency room and hospital services, and contribute to increased cost. The ordering physician should not be liable for injury resulting from delays in diagnosis caused by pre authorization. Thank you, Erin Capps MD

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From:	mailinglist@capitol.hawaii.gov
To:	CPH Testimony
Cc:	ponochester@gmail.com
Subject:	Submitted testimony for HB2740 on Mar 17, 2016 09:45AM
Date:	Tuesday, March 15, 2016 4:14:19 PM

HB2740

Submitted on: 3/15/2016

Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jeffrey H. Chester, DO	Individual	Support	No

Comments: Several times each week I personally watch patients struggling with addiction who are attempting to stay sober, only to have insurance company prior authorizations cause delays in essential treatment. This risks an individual's health and our community's health. Prior authorizations are artificial, waste healthcare resources, distract healthcare personnel from REAL treatment and take decision making away from healthcare providers, giving it to administrators at the expense of patient health. Respectfully, Jeffrey H. Chester, DO Board Certified Addiction Medicine Board Certfied Physical Medicine and Rehabilitation

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From: mailinglist@capitol.hawaii.gov
To: CPH Testimony
Cc: lpanglro@aol.com
Subject: Submitted testimony for HB2740 on Mar 17, 2016 09:45AM
Date: Monday, March 14, 2016 10:18:47 PM

HB2740

Submitted on: 3/14/2016

Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Laeton J Pang	Individual	Support	No

Comments: I'm writing in support of this bill as a practicing radiation oncologist with over twenty years of experience treating cancer patients, some of whom develop potentially life threatening or serious conditions that can be best reversed with immediate treatment. HMSA claims to have data that Hawaii's physicians overuse advanced radiologic procedures but has failed to produce this data despite requests by the Hawaii Medical Association and Hawaii Radiological Society and despite data showing the utilization of radiology procedures in Hawaii is well below the US national average for Medicare patients. HMSA claims to use nationally recognized guidelines from professional organizations but actually selects criteria from the guidelines rather than adopting the guidelines as a whole. I'm not opposed to preauthorization when used correctly; however, the process utilized by HMSA and its contractor is faulty taking time away from patient care and has resulted in an additional, unnecessary and unfair burden in time and increased liability on Hawaii's already overworked physicians and their staff. I urge passage of this bill to hold HMSA accountable for delays is patient care that may result from a faulty preauthorization process.

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From:	mailinglist@capitol.hawaii.gov
To:	CPH Testimony
Cc:	lynnehi@aol.com
Subject:	Submitted testimony for HB2740 on Mar 17, 2016 09:45AM
Date:	Tuesday, March 15, 2016 8:35:18 AM

HB2740

Submitted on: 3/15/2016
Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments: Please pass this bill. HMSA is abusing the people, denying much needed treatment to those in pain and suffering. News reports detail complaints and how the delays have hurt.The inhumane HMSA must stop this practice immediately. I am an HMSA member. Fortunately, I have not needed any of these exams, but if my physician deems it essential, HMSA should not override. If someone is hurt by this practice, HMSA should be held responsible and be forced to pay up, big time. Lynne Matusow, 60 N. Beretania, Honolulu 96817 808 531-4260

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Children's Orthopaedics of Hawaii
98-1247 Kaahumanu Street, Ste 122
Aiea, HI 96701
(808)485-8985

March 15, 2016

RE: Support for HB2740 Relating to Liability - Insurers rather than health care professionals are liable if there is a delay in diagnostic tests due to preauthorization.
Hearing on 03/17/16 at 9:45 am in conference room 229

Dear Honorable Senator Baker and Committee members,

I apologize for being unable to testify in person.

This letter is written in strong support of legislation to hold insurers (as well as other entities such as hospitals or other health care organizations/facilities) responsible for actions which delay diagnostic testing due to preauthorization purposes.

As the only pediatric orthopedic surgeon in private practice, HMSA's recent decision to arbitrarily require widespread pre-authorization for MRI's, CT scans, etc. has had a significant and negative impact on my ability to provide timely care for my young patients.

In addition to the increased workload of such a sweeping policy, this action also raises more opportunities for human error to occur. In one specific case my office received an authorization for a scan for someone that was <u>not</u> my patient and for a scan which, as an orthopedist, I would never order. The authorization was also given for the scan to be done at my office, which is impossible. Despite these 3 major discrepancies, this error was not caught by either HMSA or it 3rd party vendor for it pre-authorization process, the National Imaging Associates.

As a last comment, despite repeated requests from the Hawaii Orthopaedic Association, HMSA has not provided the source or documentation of its claim that Hawaii's physicians inappropriately over-utilize advance imaging more than 30% of the time. If this were true, as a physician leader I would gladly be at the forefront of correcting such wasteful activity. But I simply do not believe this is true and HMSA has done nothing to persuade me otherwise.

Please do not hesitate to contact me directly on this issue.

Sincerely,

Byron Izuka, M.D.
Past President – Hawaii Orthopaedic Association

From: mailinglist@capitol.hawaii.gov
To: CPH Testimony
Cc: marcyfrommaui@gmail.com
Subject: Submitted testimony for HB2740 on Mar 17, 2016 09:45AM
Date: Monday, March 14, 2016 11:47:38 AM

HB2740
Submitted on: 3/14/2016
Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Marcy Koltun-Crilley RN	Individual	Support	No

Comments: I STRONGLY support HB 2740 and I thanks the Committee and Legislature for please doing the same. People pay for insurance, but even if they don't they should be treated immediately. There is no good reason that monthly or annual post treatment reviews can't be done to curb any possible abuses or excessive testing and individuals that show the same can then be dealt with later to correct future issues. No patient should have to be caught in between. Mahalo Marcy Koltun-Crilley RN Kihei, HI

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THE SENATE
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016
COMMITTEE ON COMMERCE , CONSUMER PROTECTION, and HEALTH

HEARING : Thursday, March 17, 2016
Time: 9:45 am
Place: Conference Room 229

H.B NO. 2740 HD 1
RELATING TO LIABILITY

TESTIMONY ON HOUSE BILL NO. 2740 H.D. 1– RELATING TO LIABILITY.
TO THE HONORABLE Senator Rosalyn H. Baker, Chair and Michelle N. Kidani, Vice Chair and MEMBERS OF THE COMMITTEE:

My name is Richard DeJournett M.D. I am a diagnostic radiologist licensed in the State of Hawaii , testifying on behalf of myself.

Some Hawaii health care providers have unilaterally decided to impose a preauthorization requirement on all high technology diagnostic imaging procedures. This includes Computed Tomography (CT), Magnetic Resonance Imaging (MRI), Positron Emission Tomography (PET), and nuclear cardiac imaging procedures as well as the prescription of some medications.

Physicians and hospitals have an incentive to perform imaging studies in providing state of the art healthcare, while payers for healthcare generally have an incentive to control cost or raise premiums to be profitable. The challenge is always to allow alignment of all incentives without endangering patients lives and well being and insuring the best outcomes for patients. Diagnostic imaging utilization has increased significantly in recent years. This increased use clearly demonstrates the positive role imaging is playing in redefining medical practice through safer, less invasive, and more accurate means of collecting diagnostic information.

The problem with preauthorization requirements are many. 1. They delay patient diagnosis and treatment. 2. They require inappropriate delays in a wait-and-see strategy or require less effective alternative treatments before authorization can be obtained. 3.Use of required physical therapy before diagnosis risks harm to patients.4. Increased liability risk for Hawaii providers by delaying health care delivery. 5.Increase uncompensated administrative and financial burden on physicians practices in attempting to comply with preauthorization requirements.

Insurance companies have utilized preauthorization of physicians orders as a gatekeeper tool intended to restrict the physicians lawful right to practice medicine in the legitimate way in which they are trained and licensed and restrict the timely delivery of health care. It is an affront to the medical profession to believe that medical insurance companies are the anointed protectors of "consumers from arbitrary, capricious and/or misleading information about healthcare services, treatments, and procedures" as claimed by some opponents to this measure. It is the community of medical practioners who establish the standards of care, not the insurance industry.

Prior authorization is a more stringent process for imaging utilization management that is being used by insurance companies and their hired radiology benefit management associates . Prior authorization requires an ordering physician to obtain approval from the insurance company before a study is performed in order to receive payment for that service. The ordering physician is required to contact the management company, often located on the mainland, to obtain authorization on the basis of that company's proprietary guidelines.
This approach, without ever having seen or examined the patient, involves reckless endangerment of the patients wellbeing at the least and potentially risking the complication of an unstable medical condition.

Prior authorization programs introduce barriers to patient care by introducing a layer of administrative complexity that creates additional burdens for referring physicians . These requirements seem intentionally burdensome and discourage utilization. Because of its cumbersome structure, prior authorization leads to the inappropriate redirection of patient care toward Emergency Rooms or inpatient admission to hospitals which would not require preauthorization. This significantly increases the cost of health care.

High technology imaging facilities presently require American College of Radiology (ACR) accreditation. This accreditation process is an educationally focused evaluation of imaging practices. There is also a peer review assessment of image quality and radiation safety. Qualifications of personnel, equipment performance, and the effectiveness of quality control and assurance measures as well as outcomes data are also evaluated in this process. Radiation protection is a key element of an ACR accredited practice, not the role of an insurance carrier.

Diminishing the inappropriate utilization of diagnostic examinations is the goal of the American College of Radiology standards and guidelines which define standard practices (ACR Appropriateness Criteria). This standardized system coupled with commercially available order entry programs allows for physician education at the time of order entry. It provides the means to order the most appropriate tests for the presenting clinical complaints at the time of initiating an order for a procedure.

Commercially available Order entry and decision support systems based on the American College of Radiology Guidelines and Appropriateness Criteria are the appropriate venue for proper control of imaging utilization, not the preauthorization gatekeeper system mandated by some insurance carriers. The American College of Radiology ACR Select program is a straightforward and transparent application of government approved, evidence-based appropriate–use criteria when making clinical decisions. Providers would receive, at the point of care in their office, Computerized Decision Support (CDS) available through an Electronic Health Record (EHR) or web-based portal. There would be real-time feedback on the clinical utility of a request and, if necessary, the physician would be guided to either a more appropriate exam or given consideration for direct consultation with a local Radiologist. This program is backed by 25 years of research and development of the tool which is NOW AVAILABLE FREE through a web portal to all Hawaii physicians. Within the next two years this type of order entry system fulfills the requirements of the impending CMS mandate whereby physicians ordering

advanced diagnostic imaging exams (CT, MRI, nuclear medicine and PET) for Medicare patients must consult government-approved, evidence-based appropriate-use criteria.which has already been federally approved will be mandated by Medicare (CMS). It will be the operating order entry protocol in the near future and it is available now!
If the first priority of a health plan is the well-being and care of its members the plan administrators should let the trained professionals take care of the patients in the manner in which they have been trained. All medical insurance carriers would be wise to implement a physician initiated order entry systems to the mutual benefit of all physicians and their patients. Eventually it will be mandated. Why wait?

Any delay in the delivery of health care is an undue delay.

Passage of this bill will place the responsibility of delay in access to health care squarely on the shoulders of the insurance carriers and their agents where it rightfully belongs.

I strongly support the passage of this legislation.

Richard DeJournett M.D.

Senators,

Please support Bill HB 2740 which assigns liability to insurance companies who unreasonably interfere with physicians care of patients by requesting unreasonable preauthorization for imaging studies and testing. As a physician a 40 years experience, credential by board certification, State licensure, and hospital affiliation, I'm quite capable of recognizing the need and justification for imaging studies that I ordered. Attempts by insurance companies, primarily HMSA, to restrict and interfere with my care of patients for no other reason than to increase profits is a disservice not only to my patients but to our community. They should be held liable for the harm they cost, certainly with civil penalties and hopefully this bill can be amended to include criminal penalties for the executives who would trade lives for dollars.

Aloha,

Rob Mastroianni MD

From: mailinglist@capitol.hawaii.gov
To: CPH Testimony
Cc: timothy.mcnulty@mauilaw.net
Subject: *Submitted testimony for HB2740 on Mar 17, 2016 09:45AM*
Date: Wednesday, March 16, 2016 9:15:17 AM

HB2740

Submitted on: 3/16/2016
Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Timothy McNulty	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
To:	CPH Testimony
Cc:	vinceyamashiroya@gmail.com
Subject:	Submitted testimony for HB2740 on Mar 17, 2016 09:45AM
Date:	Tuesday, March 15, 2016 4:47:57 PM

HB2740

Submitted on: 3/15/2016

Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Vince Yamashiroya, MD	Individual	Support	No

Comments: I am in strong support for HB2740 which makes insurance providers liable for delays in care due to insurance barriers.

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From:	mailinglist@capitol.hawaii.gov
To:	CPH Testimony
Cc:	wailua@aya.yale.edu
Subject:	Submitted testimony for HB2740 on Mar 17, 2016 09:45AM
Date:	Saturday, March 12, 2016 9:13:01 PM

HB2740

Submitted on: 3/12/2016

Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Wailua Brandman	Individual	Support	No

Comments: The rising cost of health care is in large part due to the rise in administrative costs, including employing people to man the phones at insurance companies and pharmacy benefit management corporations who operate by script and make continuous referrals to yet another phone employee who also cannot make a decision, thus referral to another phone employee. The runaround is horrendous, and a terrible waste of resources, both mine as a health care provider and those of the managed care organizations who put us through these endless hoops of frustration. Did we providers not go through years of education and subsequent practice hours to achieve expertise in providing health care to our patients? Why then must we be subjected to burdensome oversight by businesses that run on a bottom line ethic rather than a "do no harm" ethic? I strongly support this bill. The business model of healthcare MUST be changed to allow providers to make the decisions on treatment, not the insurers. Perhaps the only way to achieve that is to hold the insurers liable for their decisions in court. Respectfully submitted, Wailua Brandman APRN FAANP, Ke`ena Mauliola Nele Paia LLC, 615 Piikoi Street, Honolulu, Hawaii 96814

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From:	mailinglist@capitol.hawaii.gov
To:	CPH Testimony
Cc:	kyamamoto@rehabhospital.org
Subject:	Submitted testimony for HB2740 on Mar 17, 2016 09:45AM
Date:	Tuesday, March 15, 2016 3:49:03 PM

HB2740

Submitted on: 3/15/2016

Testimony for CPH on Mar 17, 2016 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kent Yamamoto	Individual	Oppose	No

Comments: Today, physicians are bogged down with paperwork and authorizations by multiple payers and various insurance companies, not to mention from patients requesting letters for work or travel. We try in the patients best interest to meet their needs. Adding more authorizations have in itself created an unsafe situation since not only does this cause a delay but also need follow-up, which is quite difficult because of other responsibilities we have.

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March 15, 2016
Representative Karl Rhoads, Chair
Representative Joy San Buenaventura, Vice Chair
Committee on Judiciary
Conference Room 325

RE: HB2740, HD1 Relating to Liability

I have read the proposed legislation and the online testimonies re: HB2740. As a health care provider in Hawaii for over 30 years (ER, Urgent Care, Internal Medicine and Occupational Medicine), having worked as a quality consultant for a local health care insurance carrier, and having earned an MPH and MBA in health care quality and administration, I am compelled to offer the following testimony on my own behalf concerning HB2740.

It is my understanding that the purpose of HB2740 is to prohibit health insurance preauthorization requirements that cause undue delay in receipt of medical treatment or services, and further specifies that insurers, but not health care providers, are liable for civil damages caused by undue delays for preauthorization.

I understand that this legislation is not, as implied by some the written testimony, to abolish prior authorization altogether or free health care providers from any liability for preventable health risks related to delay in treatment.

Anecdotes of patients who have suffered due to prior authorization procedures are compelling and often heart wrenching, but offer no substantial basis to support HB2740. It is unfair to imply and ludicrous to believe that prior authorization procedures own the full responsibility for these tragic, or potentially tragic, outcomes. A patient in genuine need of an urgent procedure or ancillary test should (and can) receive the service without waiting for authorization. Patient care does not need to, nor should, stop while the authorization process takes place. Of course genuine need, like "undue delay", is very different depending on the prospective of the player in the process. It is this very ambiguity that would make enforcement of HB2740 a logistical problem.

Dire predictions of Emergency Department overuse to circumvent the prior authorization procedures are invalid and therefore offer no basis to support HB2740. A procedure or service does not become medically necessary based on location of services. If a procedure was not urgently medically necessary in the physician's office (if it were, it would be expedited or retrospectively approved), it will not suddenly become medically necessary in an Emergency Department (it would be denied). Ironically, it is faulty reasoning such as this (no requirement for prior authorization in the ER equates to medical necessity) that underscores the need for prior authorization.

Testimonies of the qualifications of providers who order ancillary testing and suffer from the prior authorization process are impressive, but offers no substantial basis to support HB2740. Prior authorization procedures are not designed for the board certified (insert specialty of choice) practicing within their scope of training who orders (insert procedure of choice). The prior authorization procedure for these providers can and should be streamlined to take a minimal about of time. These specialists are caught in the prior authorization net because of the multitude of providers who order medications, procedures, ancillary testing and consultations without regard to national standards of care, patient

safely, or the guidelines of their respective specialty organizations. A blanket statement that "the physician knows best what the patient needs" is absurd. Were that true, the physician driven *Choosing Wisely* initiative aimed to reduce waste in health care and avoid unnecessary tests and procedures (and lessen patient risks and cost) would have been unnecessary. Instead, within the Choosing Wisely campaign, more than 70 specialty societies have identified commonly used tests or procedures within their specialties that are misused or overused.

Testimonies regarding placing liability for poor patient outcomes related to undue delay for services that require prior authorization "on the shoulders of the insurance providers" are compelling, and I would assume appealing to litigation-weary health care providers, but offers no substantial basis to support HB 2740. Placing the liability on ANYONE prior to a maloccurrence is totally illogical. The liability lies with the entity at fault. If the fault lies with the insurance carrier, the insurance carrier becomes liable on the basis of our judicial system. This remains true with or without HB2740. If the provider was at fault for delaying the process, the provider remains liable. This remains true with or without HB2740.

Testimonies accusing health care insurers of creating cumbersome prior authorization procedures as means to higher profits provide a popular rallying cry (no one likes insurance carriers) but offers no substantial basis to support HB2740. URAC, HEDIS, NCQA, CMS, the DCCA and a host of other acronyms represent organizations that offer accreditation, quality measures, and the power to levy sanctions to assure that insurance carriers meet strict standards for their prior authorization procedures. These standards include turnaround times for prior authorizations.

Health care providers are regulation weary. Insurance carriers are regulation weary. HB2740 is another straw on the back of an overly burdened camel. This is not to imply that the prior authorization procedure does not need improvement, but more legislation is not going to fix the problem and may add even more distance between the patient and their health care. Instead, health care providers need to read and understand criteria for prior authorization. Submit the information that shows medical necessity, not reams of useless EMR copies or cryptic illegible notes. Don't delegate the process to staff that cannot determine what is pertinent and what isn't. Meet deadlines. Pick up the phone. If the process becomes too burdensome, charge for your time. Insurance carriers need to implement online prior authorization programs that are user friendly and time efficient. They should invest in the development of portals that can give an authorization decision immediately for most cases. Don't micromanage. Prior authorize only for those situations that truly merit taking valuable time away from the bedside of the patient. Standardize the process. And if the process becomes too burdensome, pay the provider for their time.

HB2740 does not improve the prior authorization process. It does serve to point out the process' shortcomings, information about which providers, patients, and payors are already keenly aware. It is for this reason that I oppose HB2740.

Thank you,

Rhonda Perry, PAC, MPH, MBA
rlperry@hawaii.rr.com

From:	Wendy Watanabe
To:	CPH Testimony
Subject:	Fwd: HB2740, HD1 Relating to Liability
Date:	Wednesday, March 16, 2016 9:02:11 AM

To whom it may concern,

I have been greatly affected by the law that gives the insurance companies the control on whether or not I am able to receive treatment for my slipped disc and terrible sciatica.

I have been suffering for terrible pain since 2013. And referred to a Pain Management Doctor since 2014! It took me going through enormous stress on me physically, mentally and financially, since I had to wait for the insurance company to approve me for treatment. Since then, I have been bed ridden whenever I had to wait for my treatment.
I couldn't work and drove very minimally because of my pain.

Financially, this has burdened me and my family. You cannot imagine how it feels to be helpless and waiting on insurance approval. I often find myself crying out of frustration, intense pain, and worry about my finances, in between my treatment.

Please please remove this law/bill and give my Doctors the freedom that they once had. I beg you to give me my life back! I hate taking pain medicine but I don't have a choice waiting for insurance approval.

I recently have switched to a very empathetic and caring Doctor and all he wants to do is manage my pain with epidural injections but the insurance companies control how often I can have the treatment. Everyone's body is different and my body reacts quite well to this Doctors treatment.
His name is Dr Louis Pau!

Please give the Doctors back the control that they once had. I beg you! I want to have my life back as soon as possible.

Sincerely,
Wendy Watanabe

Wendy EF Watanabe RA
CRS, ABR, SRS, SRES, CDPE, SFR, e-PRO, AHWD, BPOR
Direct 808-520-6188
Website: www.wendywatanabe.net
Sent from my iPad

Begin forwarded message:

From: Wendy Watanabe <wewatanabe@yahoo.com>
Date: March 16, 2016 at 8:57:56 AM HST
To: CPHtestimony@capitol.gov
Subject: RE: HB2740, HD1 Relating to Liability

To whom it may concern,
I have been greatly affected by the law that gives the insurance companies the control on whether or not I am able to receive treatment for my slipped disc and terrible sciatica.
I have been suffering for terrible pain since 2013. And referred to a Pain Management Doctor since 2014! It took me going through enormous stress on me physically, mentally and financially, since I had to wait for the insurance company to approve me for treatment. Since then, I have been bed ridden whenever I had to wait for my treatment.
I couldn't work and drove very minimally because of my pain.
Financially, this has burdened me and my family. You cannot imagine how it feels to be helpless and waiting on insurance approval. I often find myself crying out of frustration, intense pain, and worry about my finances, in between my treatment.
Please please remove this law/bill and give my Doctors the freedom that they once had. I beg you to give me my life back! I hate taking pain medicine but I don't have a choice waiting for insurance approval.
I recently have switched to a very empathetic and caring Doctor and all he wants to do is manage my pain with epidural injections but the insurance companies control how often I can have the treatment. Everyone's body is different and my body reacts quite well to this Doctors treatment.
His name is Dr Louis Pau!
Please give the Doctors back the control that they once had. I beg you! I want to have my life back as soon as possible.
Sincerely,
Wendy Watanabe
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