



LATE

February 12, 2016

The Honorable Rosalyn H. Baker, Chair  
Senate Committee on Commerce, Consumer Protection and Health  
The Honorable Gilbert S. C. Keith-Agaran, Chair  
Senate Committee on Judiciary and Labor

Re: SB 2668 – Relating to Insurance

Dear Chair Baker, Chair Keith-Agaran, and Members of the Committees:

The Hawaii Medical Association (HMSA) appreciates the opportunity to testify on SB 2668, which establishes a dispute resolution process to resolve differences over a “surprise bill.” It additionally specifies provisions related to the relationship between a health plan and an out of network provider. With all due respect HMSA opposes this Bill as drafted.

There are several components of this measure that are duplicative of existing Affordable Care Act (ACA) provisions. The ACA already prohibits greater out of pocket costs for emergency services received from a nonparticipating provider. While the ACA does not prevent balance billing, it does require health plans to reimburse a “reasonable” amount for emergency services rendered by nonparticipating providers and includes a formula for calculating that amount. Adding the language proposed in this bill may be inconsistent and duplicative of existing regulatory requirements.

The bill also requires health plans to accept assignment of benefits. This provision will impair a health plan’s ability to create and maintain networks, which actually benefits consumers. If health plans are deprived of incentives to attract participating providers, such as direct reimbursement in exchange for delivering insureds, the cost of providing health care to consumers will increase along with premiums for coverage.

SB 2668 also contains a provision to add a dispute resolution process in the state Insurance Commissioner’s office. We believe this process would not only add an additional layer of review, but is also outside the scope of that office’s purview. Nonparticipating providers have numerous avenues to resolve disputes with health plans, including bringing suit, mediation or settlement.

A key component of this measure does relate to ‘surprise billing’ in an attempt to ensure that consumers are noticed of a providers non-participating status with a health plan prior to services being performed. There is a national effort to ensure that consumers are made aware of their choices. In that vein, we would like to point out that President Obama’s FY 2017 budget that was released this past Tuesday includes a provision to eliminate surprise out-of-network bills in the CMMS sections. Specifically, hospitals would be required to take “reasonable steps” to match patients with in-network providers, and all physicians who regularly provide services in hospitals would be required to accept “an appropriate” in-network rate as payment in full. If a



An Independent Licensee of the Blue Cross and Blue Shield Association

LATE

hospital fails to match a patient to an in-network provider, the patient would still be protected from surprise out-of-network charges.

We would respectfully ask the Committee to consider replacing the contents of SB 2668 with language similar to this federal provision. We would be pleased to work with the Committee in this regard.

Thank you for allowing us to testify on SB 2668, and your consideration of our concerns is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "JD", with a long horizontal flourish extending to the right.

Jennifer Diesman  
Vice President, Government Relations

LATE

55 Merchant Street  
Honolulu, Hawai'i 96813-4333

## HAWAI'I PACIFIC HEALTH

Kapi'olani • Pali Momi • Straub • Wilcox

www.hawaiipacifichealth.org

**February 12, 2016 at 9:00am**  
**Conference Room 016**

### **Senate Committee on Commerce, Consumer Protection & Health**

To: Senator Roz Baker, Chair  
Senator Michelle N. Kidani, Vice Chair

### **Senate Committee on Judiciary and Labor**

To: Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S. L. Shimabukuro, Vice Chair

From: Michael Robinson  
Vice President – Government Relations & Community Affairs

**Re: Submitting comments – SB 2668 – Relating to Insurance**

My name is Michael Robinson, Vice President, Government Relations and Community Affairs at Hawai'i Pacific Health (HPH). Hawai'i Pacific Health is a not-for-profit health care system, and the state's largest health care provider and non-governmental employer. Hawai'i Pacific Health is committed to providing the highest quality medical care and service to the people of Hawai'i and the Pacific Region through its four hospitals, more than 50 outpatient clinics and service sites, and over 1,600 affiliated physicians. Hawai'i Pacific Health's hospitals are Kapi'olani Medical Center for Women & Children, Pali Momi Medical Center, Straub Clinic & Hospital and Wilcox Memorial Hospital.

HPH appreciates the opportunity to submit comments regarding SB 2668 which establishes a dispute resolution process by which a dispute for a bill for emergency services or a surprise bill may be resolved and which specifies disclosure requirements for health care professionals and health care facilities.

We understand the issues both patients and providers face with respect to the lack of transparency and inadequacy of health plan provider networks resulting in "surprise" or "balance" billing practices in certain parts of our nation. At the same time, we also want to ensure that legislation addresses the particular issues that Hawai'i's patients face and creates an environment which encourages – rather than hinder - network participation by both providers and consumers that is informed by the dynamics of our local market.

The issue of "surprise billing" is complex requiring a complex solution beyond 3<sup>rd</sup> party adjudication of billing disputes. The solution needs to incorporate all facets of the problem including the current state of network adequacy in Hawai'i, patient information and motivation, and available information amongst and between stakeholders.

In order for providers to either comply with or evaluate the benefits of SB 2668, significant initial discussion regarding the shared responsibilities between plans, providers and patients would need to occur in order to best inform the direction needed to move forward. We offer that it would initially be helpful to have a discussion and process involving relevant stakeholders to first assess the extent of the problems based on the experience of patients within the State of Hawai'i and then determine the steps needed to address the need identified.

Thank you for the opportunity to provide comment.



HAWAI'I PACIFIC HEALTH