



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Monday, March 21, 2016
3:00 p.m.

TESTIMONY ON SENATE BILL NO. 2854, S.D. 2 – 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 strongly supports this Administration bill.

The Department believes the various provisions proposed in this bill will update and improve Hawaii’s Insurance Code in a number of areas. Specifically, this measure will do the following:

SECTION 1 of the bill adds a new part to article 10E of chapter 431 to apply part of section 431P-10(b) and section 431P-17 to property insurers.

SECTION 2 of the bill amends section 431:2D-107(g) to correct a sentence fragment error that was intended to comply with the National Conference of Insurance Legislators (“NCOIL”) Insurance Compliance Self-Evaluative Privilege Model Act.

SECTIONS 3 and 4 of the bill amend sections 431:7-201(a) through (c) and 431:7-202(f) to reduce the administrative cost of processing monthly and annual premium tax statement and checks. The premium tax collections would be deposited into the general fund faster and more efficiently.

SECTION 5 of the bill amends section 431:10-104 to benefit the public by requiring conspicuous disclosure of preexisting conditions provisions in short-term health policies.

SECTIONS 6 and 7 of the bill amend sections 431:10A-116.6(d) and 431:10A-116.7 by deleting outdated terms, “nurse practitioner” and “certified nurse midwife”, and inserting “advanced practice registered nurse”.

SECTION 8 of the bill amends sections 431:10A-206.5(a) and (e) to correct punctuation and add physician assistant-delivered services to maintain uniformity with section 431:10A-115.5.

SECTION 9 of the bill amends section 431:13-108(c) to make clear that the person filing a claim is entitled to notice.

SECTIONS 10 and 11 of the bill amend sections 431:19-304 and 431:19-305(a) to add flexibility to captive laws of sponsored captive insurance companies by allowing a risk retention group (“RRG”) to participate in a sponsored captive insurance company as a protected cell by establishing a separate account to fund the liabilities of the RRG through the sponsored captive insurance company. The amendments also help Hawaii’s sponsored captive insurance legislation stay competitive with other captive domiciles. Captive domiciles such as Vermont, Delaware, Montana, and the District of Columbia allow an RRG to participate in a sponsored captive insurance company.

SECTION 12 of the bill amends section 431M-1 by adding a new definition for “licensed dietitian”.

SECTION 13 of the bill amends section 431M-4(b) to add licensed dietitians treating eating disorders as a provider type who can approve an individualized treatment plan, as some health plans currently exclude such coverage.

SECTION 14 of the bill amends section 431P-10(b) as a result of adding a new part to article 10E of chapter 431 in SECTION 2 of the bill.

SECTION 15 of the bill amends section 431R-5 to maintain its uniformity with chapter 431 by requiring an entity to respond during the course of an investigation or examination.

Senate Bill No. 2854, S.D. 2
DCCA Testimony of Gordon Ito
Page 3

SECTION 16 of the bill amends section 432:1-102(b) to add two consumer protections (delivery of policy and notice of cancellation or renewal) to mutual benefit societies policies. This section also amends section 432:1-102(b) to provide coverage-specific services to maintain its uniformity with article 10A of chapter 431 and chapter 432D.

SECTION 17 of the bill amends section 432:1-602.5(e) to add physician assistant-delivered services to maintain its uniformity with article 10A of chapter 431 and chapter 432D.

SECTION 18 of the bill amends section 432:1-604.5(d) by deleting outdated terms, “nurse practitioner” and “certified nurse midwife”, and inserting “advanced practice registered nurse”, and also adds pharmacist-delivered medical contraceptive services to maintain uniformity with article 10A of chapter 431 and chapter 432D.

SECTION 19 of the bill amends section 432D-14(b) to maintain its uniformity with chapter 432 regarding suspension, revocation, or denial of a certificate of authority.

SECTION 20 of the bill amends section 432D-19(d) to add two consumer protections (delivery of policy and notice of cancellation or renewal) to health maintenance organization policies.

SECTION 21 of the bill repeals section 431P-17 as a result of adding a new part to article 10E of chapter 431 in SECTION 2 of the bill.

SECTION 23 of the bill has defective dates and we would request an effective date of July 1, 2016, except for a delayed effective date of January 1, 2017 for sections 3 and 4.

We thank the Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INSURANCE, Require Electronic Filing and Payment for Premium Taxes

BILL NUMBER: SB 2854, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

EXECUTIVE SUMMARY: Sections 3 and 4 of the bill require e-filing and e-payment of premium tax returns. Consideration might be given to setting liability thresholds at which the filing and/or payment requirements are triggered.

BRIEF SUMMARY: This is an omnibus insurance bill submitted by the department of commerce and consumer affairs CCA-09 (16). Sections 3 and 4 of this bill impact filing and payment of insurance premium taxes.

Section 3, relating to filing of annual and monthly tax statements, amends HRS section 431:7-201 to replace “shall file” with “shall electronically file” wherever the phrase appears.

Section 4 amends HRS section 431:7-202(f) to replace “shall be due and payable” with “shall be due and payable by electronic payment via the Automated Clearing House debit or credit payment system” wherever the phrase appears.

EFFECTIVE DATE: Sections 3 and 4 take effect on January 1, 2051. The balance of the bill is effective July 1, 2050.

STAFF COMMENTS: From Insurance Commissioner’s Memorandum 2015-2E, dated January 15, 2015, it appears that the Insurance Division has allowed electronic filing since the beginning of 2015 and has already advised insurers that it may require electronic filing at a later date. At present the Insurance Division accepts electronic filing with electronic payment, or paper filing with paper check payment.

Electronic filing requires some form of acceptable electronic signature. None is provided for in the bill as it now exists, but electronic signatures are apparently accepted now.

Electronic payment is mandated by this bill without setting any liability thresholds, as is done for other taxes in HRS section 231-9.9. Consideration might be given to setting liability thresholds that would trigger the e-payment requirement.

In addition, requiring in “cold turkey” fashion that payments be made by electronic funds transfer may have the result of delaying the filing of returns until the very last day that the tax is due. This might place an undue burden on administrators in the processing of returns.

Digested 3/19/2016

March 21, 2016,

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

Re: SB 2854, SD2 – Relating to Insurance

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

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2854, SD2, which amends various sections of the Insurance Code. HMSA has concerns with this Bill, and we suggest amendments.

While we appreciate the SB 2854, SD2, addressing some of the concerns we had with the original draft of the Bill, we continue to have concerns with other sections of the legislation.

Section 9 - §431:13-108 – Claims

This provision amends current statute related to notification by a plan in a case where a claim is denied or contested. The Bill proposes to include notification to a “member filing a claim for a non-contracted provider.” We would want to ensure that the “non-contracted provider” is a Hawaii licensed provider to ensure that notification would not be required where a claim is from an out-of-state provider not licensed in Hawaii. We suggest the Committee may wish to consider the following amendment to Section 9 as follows:

SECTION 9. Section 431:13-108, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) If a claim is contested or denied or requires more time for review by an entity, the entity shall notify the health care provider, insured, or member filing a claim from a non-contracted provider licensed in the state in writing or electronically not more than fifteen calendar days after receiving a claim filed in writing, or not more than seven calendar days after receiving a claim filed electronically, as appropriate. The notice shall identify the contested portion of the claim and the specific reason for contesting or denying the claim, and may request additional information; provided that a notice shall not be required if the entity provides a reimbursement report containing the information, at least monthly, to the health care provider."

Section 18 – §432:1-604.5 – Contraceptive Services

The amendment in this section extends to pharmacists the authority to promote the use of contraceptive supplies or devices. This concept within this amendment actually is already part of discussions on another measure this Committee is scheduled to decide to hear jointly with the Judiciary Committee on Wednesday– SB 2320, SD1, HD1. That Bill authorizes pharmacists to



An Independent Licensee of the Blue Cross and Blue Shield Association

prescribe and dispense contraceptive supplies to persons eighteen of age or older. We believe that the issue raised in this amendment is better addressed in SB 2320, SD1, HD1.

Thank you for allowing us to testify on SB 2854, SD2.. Your consideration of our concerns is appreciated.

Sincerely,

A handwritten signature in black ink that reads "Mark K. Oto". The signature is written in a cursive style with a long horizontal stroke at the end.

Mark K. Oto
Director, Government Relations.

LATE

LATE TESTIMONY



Advocacy. Leadership. Results.

To: The Honorable Angus McKelvey, Chair
The Honorable Justin Woodson, Vice Chair
House Committee on Consumer Protection & Commerce

From: Mark Sektnan, Vice President

Re: SB 2854 SD2 Relating to Insurance
PCI Position: Comments

Date: Monday, March 21, 2016
Conference room 325; 3:00 PM

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

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to provide comments on SB 2854 SD2 which makes various updates to title 24, Hawaii Revised Statutes.

PCI is unsure why the following provision is necessary as all rates must be submitted to the Division for its prior approval.

§431:10E- Extended coverage. Authorization of the commissioner is required for insurers seeking to provide standard extended coverage endorsements for residential property, including coverage of hurricane risks."

The term "authorization" is undefined so it is unclear as to what an insurer would need to do to obtain it.

SB 2854 SD2 also mandates that insurers file their annual statement and premium tax statements electronically and that they pay their premium taxes electronically. Although PCI supports the intent of these sections, we ask that they take effect on January 1, 2017 to give insurers who are not now filing electronically adequate time to set up their systems with the Division.

In Hawaii, PCI member companies write approximately 42.7 percent of all property casualty insurance written in Hawaii. PCI member companies write 44 percent of all personal automobile insurance, 65.2 percent of all commercial automobile insurance and 75 percent of the workers' compensation insurance in Hawaii.

Thank you again for your consideration of our comments.