

DAVID Y. IGE
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JAMES K. NISHIMOTO
DIRECTOR

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STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

February 2, 2017

**TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY AND LABOR**

For Hearing on Tuesday, February 7, 2017
9:00 a.m., Conference Room 016

BY

JAMES K. NISHIMOTO, DIRECTOR
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

Senate Bill No. 413
Relating to Workers' Compensation

(WRITTEN TESTIMONY ONLY)

TO CHAIRPERSON KEITH-AGARAN, VICE CHAIR RHOADS, AND MEMBERS OF
THE COMMITTEE:

Thank you for the opportunity to provide **comments** on S.B. 413.

The purposes of S.B. 413 are to require the director of labor and industrial relations to set workers' compensation medical charges that correspond to the United States Department of Labor Office of Workers' Compensation Programs fee schedule instead of the Medicare Resource Based Relative Value Scale applicable to Hawaii; require the department of labor and industrial relations to submit a report to the legislature; and make an appropriation for analysis of the Act's impact on injured worker's access to treatment.

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

DHRD appreciates and understands the need to incentivize more physicians and other medical providers to treat workers who are injured or become ill in the course and

scope of their employment. We believe that having more physicians and medical providers participating in the workers' compensation system would lead to more choices, better quality, and more timely provision of services to our injured workers.

However, if the United States Department of Labor Office of Workers' Compensation Programs fee schedule allows for fees that are higher than the existing Medicare fee schedule, this bill will drive further increases in our medical costs. We note that even under the current fee schedule, the cost of medical care, services, and supplies is already the most expensive cost item in our self-insured workers' compensation program, consistently averaging at least 40% of our total costs. These costs were already expected to increase in light of recent administrative and court decisions, including the 2015 Hawaii Supreme Court decision, Pulawa v. Oahu Construction Co., Ltd., and Seabright Insurance Company, SCWC-11-0001019 (Hawai'i November 4, 2015) which liberalized the standard for medical treatment from "reasonable and necessary" to "reasonably needed" and allows claimants to "receive [] the opportunity for the greatest possible medical rehabilitation." Thus, the overall impact of this bill will likely result in DHRD requesting future increases to our HRD102 appropriation to pay workers' compensation claims under Chapter 386, HRS.

Should the Committee move this bill forward, we recommend that Section 3 be amended such that the Department of Labor will also analyze and report on the impact of this Act on the cost to employers:

SECTION 3. The department of labor and industrial relations shall analyze the impact of this Act on workers' compensation claimants' access to appropriate treatment and on employers' workers' compensation costs and report its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2024.

In the alternative, we respectfully request consideration be given to deferring this measure pending completion of the respective reports from the Workers' Compensation Working Group convened by House Concurrent Resolution 168 (2015) for the purpose of streamlining the WC process under chapter 386; and the workers' compensation

closed claims study mandated by Act 188 (SLH 2016), wherein the legislature found that “a closed claims study is warranted to objectively review whether specific statutory changes are necessary” to the workers’ compensation law. Upon delivery of the respective reports to the legislature, the empirical findings and specific recommendations of the working group and closed claims study can inform any legislative initiatives on workers’ compensation.

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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February 7, 2017

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,
The Honorable Karl Rhoads, Vice Chair, and
Members of the Senate Committee on Judiciary and Labor

Date: Tuesday, February 7, 2017
Time: 9:00 a.m.
Place: Conference Room 016, State Capitol

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

Re: S.B. No. 413 Relating to Workers' Compensation

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal seeks to amend section 386-21(c), Hawaii Revised Statutes (HRS), by changing the fee reimbursement for medical care, services, and supplies from the Medicare Resource Based Relative Value Scale applicable to Hawaii (Medicare plus ten percent) to fees that correspond with the United States Department of Labor Office of Workers' Compensation Programs (OWCP) fee schedule effective January 1, 2018. This proposal also requires the Department to analyze the impact of this Act on workers' compensation claimants' access to appropriate treatment and to report its findings and recommendations to the legislature prior to the 2024 Legislative Session. This Act shall repeal on December 31, 2024.

The department offers its comments below.

II. CURRENT LAW

Section 386-21, HRS, specifies that the liability of the employer for medical care, services and supplies shall be limited to charges up to 110 percent of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii (Medicare fee schedule). The Director may also establish an

additional fee schedule if charges under Medicare are considered unreasonable or if a medical treatment, service, accommodation, or product is not covered by Medicare.

The additional fee schedule is referred to as the Workers' Compensation Supplemental Medical Fee Schedule, or Exhibit A. The law also requires the director to update the fee schedules every three years or annually, as required.

III. COMMENTS ON THE SENATE BILL

The Department favors an increase in the reimbursement rate to providers of service for workers' compensation claimants and is considering other alternatives to the current fee schedule and plans to have a proposal for discussion shortly. However, DLIR has concerns about using the United States Department of Labor Office Workers' Compensation Programs (OWCP) fee schedule and offers the following comments:

- The OWCP uses a conversion factor (CF) to convert the relative value units (RVU) into an actual dollar amount. The OWCP devises its own conversion factors based on program-specific data, national billing data from other federal programs, state workers' compensation programs and the U.S. Department of Labor's Bureau of Labor Statistics consumer price index (CPI) data. DLIR is concerned that the OWCP involves factors outside of the Department's control and is not specifically adjusted to Hawaii.
- The OWCP fees, in many cases, exceed the rates charged by Hawaii's prevalent healthcare contractors, which is not the intent of 386-21, HRS.
- DLIR is concerned that any significant increase in reimbursements to medical providers will result in additional costs and higher insurance fee premiums for employers. Oregon State, Department of Consumer and Business Services, issued a "Workers' Compensation Premium Rate Ranking" report in October 2016. The report indicates that Hawaii is ranked 17 out of 51 (see attached chart).
- This proposal also requires the Department to analyze the impact of this Act on workers' compensation claimants' access to treatment and to report its findings and recommendations to the legislature prior to the 2024 Legislative Session. In addition, this Act will repeal on December 31, 2024 and this section will revert back to its current form. The Department would like to point out that if the providers are paid at a higher rate, they will strongly object to their fees being reduced if the fee schedule reverts back to its current language in 2025.

Table 2. Workers' compensation premium rate ranking

2016 Ranking	2014 Ranking	State	Index Rate	Percent of study median	Effective Date	Percent of 2014 study median
1	1	California	3.24	176%	January 1, 2016	188%
2	3	New Jersey	2.92	158%	January 1, 2016	152%
3	4	New York	2.83	154%	October 1, 2015	148%
5	2	Connecticut	2.74	149%	January 1, 2016	155%
5	5	Alaska	2.74	149%	January 1, 2016	145%
6	9	Delaware	2.32	126%	December 1, 2015	125%
8	6	Oklahoma	2.23	121%	January 1, 2016	137%
8	7	Illinois	2.23	121%	January 1, 2015	127%
9	20	Rhode Island	2.20	119%	August 1, 2014	107%
10	10	Louisiana	2.11	115%	January 1, 2016	120%
11	11	Montana	2.10	114%	July 1, 2015	119%
12	23	Wisconsin	2.06	112%	October 1, 2015	104%
14	8	Vermont	2.02	110%	April 1, 2015	125%
14	13	Maine	2.02	110%	April 1, 2015	116%
15	17	Washington	1.97	107%	January 1, 2016	108%
17	27	Hawaii	1.96	107%	January 1, 2016	100%
17	12	New Hampshire	1.96	106%	January 1, 2016	118%
18	17	South Carolina	1.94	105%	September 1, 2015	108%
20	21	Missouri	1.92	104%	January 1, 2016	107%
20	20	New Mexico	1.92	104%	January 1, 2016	108%
22	20	Minnesota	1.91	104%	January 1, 2016	107%
22	27	North Carolina	1.91	103%	April 1, 2015	100%
23	31	Wyoming	1.87	101%	January 1, 2016	95%
24	24	Iowa	1.86	101%	January 1, 2016	101%
25	29	Alabama	1.85	100%	March 1, 2015	97%
26	17	Pennsylvania	1.84	100%	April 1, 2015	108%
27	32	Georgia	1.80	98%	March 1, 2015	95%
28	14	Idaho	1.79	97%	January 1, 2016	109%
29	38	Mississippi	1.70	92%	March 1, 2015	85%
30	22	Tennessee	1.68	91%	March 1, 2015	105%
32	30	Nebraska	1.67	91%	February 1, 2015	96%
32	25	South Dakota	1.67	91%	July 1, 2015	100%
33	28	Florida	1.66	90%	January 1, 2016	98%
34	34	Michigan	1.57	85%	January 1, 2015	91%
35	41	Colorado	1.56	84%	January 1, 2016	81%
36	40	Kentucky	1.52	82%	October 1, 2015	82%
38	37	Arizona	1.50	82%	January 1, 2016	86%
38	35	Maryland	1.50	82%	January 1, 2016	88%
40	36	Texas	1.45	79%	July 1, 2015	87%
40	33	Ohio	1.45	79%	July 1, 2015	94%
41	39	Kansas	1.41	77%	January 1, 2016	83%
42	45	District of Columbia	1.37	74%	November 1, 2015	70%
43	46	Nevada	1.31	71%	March 1, 2015	68%
44	48	Massachusetts	1.29	70%	April 1, 2014	63%
45	43	OREGON	1.28	69%	January 1, 2016	74%
46	45	Utah	1.27	69%	December 1, 2015	71%
47	48	Virginia	1.24	67%	April 1, 2015	63%
48	43	West Virginia	1.22	66%	November 1, 2015	74%
49	49	Arkansas	1.06	57%	July 1, 2015	58%
50	50	Indiana	1.05	57%	January 1, 2016	57%
51	51	North Dakota	0.89	48%	July 1, 2015	47%

Notes: Starting with the 2008 study, when two or more states' Index Rate values are the same, they are assigned the same ranking. The index rates reflect adjustments for the characteristics of each individual state's residual market. Rates vary by classification and insurer in each state. Actual cost to an employer can be adjusted by the employer's experience rating, premium discount, retrospective rating, and dividends. [Link to previous reports and summaries](#)

Employers can reduce their workers' compensation rates through accident prevention, safety training, and by helping injured workers return to work quickly.

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February 6, 2017

To: The Honorable Senator Gilbert S.C. Keith-Agaran, Chair
The Honorable Senator Karl Rhoads, Vice Chair
The Senate Committee on Judiciary and Labor

From: Jeremy Merz, Vice President, Western Region

Subject: **SB 413: Workers' Compensation Fee Schedule**
AIA Position: Concerns

Date: February 7, 2017
Conference Room 016

The American Insurance Association (AIA) has concerns with SB 413 which change the workers' compensation fee schedule in Hawaii without conducting a thorough analysis of the impact on this change to Hawaii's workers' compensation system.

AIA is the leading property-casualty insurance trade organization, representing approximately 325 insurers that write more than \$127 billion in premiums each year. AIA member companies offer all types of property-casualty insurance, including personal and commercial auto insurance, commercial property and liability coverage for small businesses, workers' compensation, homeowners' insurance, medical malpractice coverage, and product liability insurance. In Hawaii, AIA member company property-casualty insurance market share is about 22 percent, with nearly \$500 million in premiums.

AIA supports the use of the current Medicare Resource Based Relative Value Scale (RBRVS) system as the methodology for workers' compensation provider fee schedules. This schedule has proven effective in avoiding incentives for over utilization or underutilization of specific services. A change in the fee schedule from RBRVS to the Department of Labor's fee schedule is in sharp contrast to the direction taken by other states. According to a report titled "WCRI Medical Price Index for Workers' Compensation, Eighth Edition" published by the Workers' Compensation Research Institute in November, 2016 more than 30 states moved towards using a RBRVS based fee schedule. The study also highlights several examples of the impact of a change in fee schedules. When Kentucky moved away from the RBRVS based fee schedule, the overall prices paid for professional services rose by 19 percent from 2013 to 2015.

There are many other examples of the impact of a change in fee schedule contained in the report.

AIA would recommend the state reach out the National Council on Compensation Insurance (NCCI) which gathers data, analyzes industry trends, and prepares objective insurance rate and loss cost recommendations for a variety of states to review and comment on the possible implications of the change in fee schedule to ensure there are no unintended consequences. The bill does contain language requiring a study of the impact of the change in fee schedule on workers' compensation claimants' access to appropriate treatment which will be conducted after the change in the fee schedule. AIA would recommend a study be conducted *prior* to changing the fee schedule. The study should also include whether the new fee schedule results in higher workers' compensation costs for Hawaii's employers or results in unintended disruption of existing provider relationships.

Thank you for the opportunity to comment.



HAWAII CHAPTER - AMERICAN PHYSICAL THERAPY ASSOCIATION

(800) 554-5569 x13 • www.hapta.org • info@hapta.org

SB 413, Relating to Workers' Compensation
Senate JDL Committee Hearing
Tuesday, Feb. 7, 2017 – 9:00 am
Room 016
Position: Strong Support

Chair Keith-Agaran and Members of the Senate JDL Committee:

I am Gregg Pacilio, PT and Board President of the Hawaii Chapter of the American Physical Therapy Association, a non-profit professional organization serving more than 300 member Physical Therapists and Physical Therapist Assistants. Our members are employed in hospitals and health care facilities, the Department of Education school system, and private practice. We are part of the spectrum of care for Hawaii, and provide rehabilitative services for infants and children, youth, adults and the elderly. Rehabilitative services are a vital part of restoring optimum functioning from neuromusculoskeletal injuries and impairments.

HAPTA appreciates SB413 and strongly supports this measure that will increase access to medical and rehabilitative care for injured workers, particularly on the Neighbor Islands where there is a shortage of physicians.

Section 386-21, HRS currently requires DLIR to determine charges for workers' compensation treatment that do not exceed 110 per cent of fees prescribed in the Medicare Resource Based Relative Value Scale applicable to Hawaii. It allows the Director to establish an additional fee schedule, known as Exhibit A for codes determined to be undervalued or treatment codes that are not found in the Medicare schedule that is generally for older patients with chronic disease management. The analysis of what treatment codes and fees for injured workers separate from the Medicare-based schedule must require DLIR to deploy staff, time and resources.

The existing law leaves the development of injured worker treatment codes and fees to the discretion of the DLIR Director. In November 2016, the Director proposed eliminating many codes from the Exhibit A schedule and moving them back to the Medicare plus 10 per cent level within the statutes. This was vigorously opposed by the medical and rehabilitative providers. The higher stakes on outcomes with workers' compensation cases require far more oversight, space requirements, equipment and documentation than with Medicare. Hawaii's 10 percent differential does not compensate for this and that is recognized by most other states that connect their systems with Medicare and set their differentials much higher.

SB 413 moves the fee schedule for injured workers away from a Medicare-based schedule, to one that is specific to injured workers, the federal Office Workers' Compensation Program (OWCP). DLIR staff will no longer need to do lengthy analysis of injured workers' treatment codes and fees since the OWCP is a national fee schedule. The OWCP provides incentives to doctors to accept injured workers as the reimbursement places it at about Medicare plus 30 per cent which returns Hawaii providers closer to the average compensation across the nation for injured worker treatment.

Ultimately, this change to the OWCP fee schedule ensures that injured workers receive medical treatment through rates and fees that are adequate for standards of services and care intended for injured employees.

Your support of SB413 is appreciated. Thank you for the opportunity to testify. Please feel free to contact Derrick Ishihara, HAPTA Workers' Compensation Committee Chair at (808) 221-8620 or Herbert Yee, HAPTA Reimbursement Committee member at (808) 348-3763 for further information.

From:
To: [JDLTestimony](#)
Subject: WC fee schedule
Date: Friday, February 3, 2017 10:20:07 PM

Committee on Judiciary and Labor

Chair Keith Agaran and members of the JDL Committee

Date: Tuesday, February 7, 2017

Time: 9:00am

Place: Conference Room 016

Bill: SB413

Position: SUPPORT

Aloha Chair Keith Agaran and Members of the Senate JDL Committee ,
Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

SB 413 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. SB 413 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for SB 413 is appreciated. More information can be received from Derrick Ishihara, or Herbert Yee,
Thank you,

Joanna Bilancieri, DPT
Back In Action, Inc.

TESTIMONY OF LINDA O'REILLY

COMMITTEE ON JUDICIARY AND LABOR
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair

Tuesday, February 7, 2017
9:00 a.m.

SB 413

Chair Keith-Agaran, Vice Chair Rhoads, and members of the Committee on Judiciary and Labor, my name is Linda O'Reilly, Assistant Vice President of Claims - Workers Compensation of First Insurance Company of Hawaii. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** this bill which changes the reimbursement for providers of medical services to that of the Office Workers' Compensation Programs (OWCP) fee schedule as prepared by the United States Department of Labor. Although we are awaiting an analysis of what the OWCP fee schedule reimbursement rate is as a percentage of Medicare, we believe that this change will result in an increase in reimbursement as described in the intent of this bill. At this time, the most commonly billed CPT codes are reimbursed outside the statute's 110% of Medicare and in Schedule A of the medical fee schedule. The reimbursement rate therefore, is not at 100% of Medicare, but estimated at 135% of Medicare which we believe is approximately what healthcare reimburses their physicians. The Department of Labor and Industrial Relations has the ability to hear from specific providers and consider a higher reimbursement rate for certain CPT codes. This provision in current statute is appropriate and is more relevant than any across the board increase.

No state in the nation uses OWCP as a basis for reimbursement. In fact, according to

NCCI, OWCP uses Medicare as its basis, so this change would not make the fee schedule more current but have the opposite effect. Twenty-three states use Medicare as its reimbursement basis, as we do in Hawaii.

Furthermore, the shortage of physicians and especially those in rural areas may not be mitigated by an increase in reimbursement. There are many other factors that contribute to a physician considering a move to Hawaii from the mainland and those who practice here, but do not treat workers' compensation injuries. Some of the factors that are included in a decision to move to Hawaii from the mainland include Hawaii's high cost of living, especially housing, income tax rates, and the cost to educate children in private schools. Some factors included when a physician already in practice here may consider is the built-in push and pull in the workers' compensation system where one party may feel the injured worker is stabilized and either ready to be rated and/or is ready to return to work and the treating physician is in a position to either urge that injured worker back to work or to support their staying out of work.

An increase to the reimbursement of providers will certainly increase the cost of workers' compensation as Hawaii's claim dollar is about 50/50, with medical reimbursement slightly less than indemnity benefits. Any cost increases will reflect in the cost of workers' compensation insurance and is ultimately passed on to businesses which has a trickle-down effect. Perhaps an in-depth study of what would motivate physicians to treat workers' compensation injuries prior to any drastic law change would be more prudent. If a reimbursement increase is implemented with the purpose of increasing the treating physician pool and it is not successful, having the law sunset will be very difficult under a future threat of decreasing the pool even further.

We believe this bill may have the opposite effect of its intent and therefore if analysis of the OWCP fee schedule reflects an overall increase in medical costs from what is being reimbursed today, we ask that this bill be held.

Thank you for the opportunity to testify.

**KAUAI COMMUNITY HEALTH ALLIANCE
HALE LEA MEDICINE**

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winkler@kauai-medical.org (email)

February 3, 2017

Re: SB413

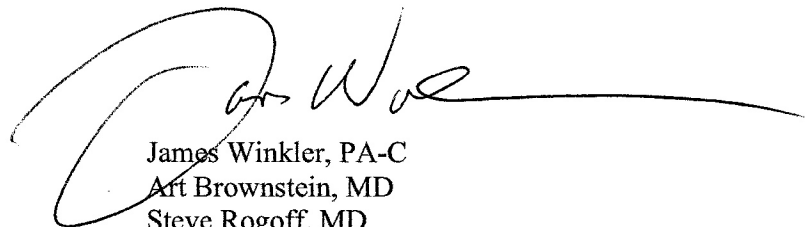
Dear Sir or Madam:

Hale Lea Medicine is one of the few remaining clinics still accepting Workers Compensation insurance ("WC") on the island of Kauai.

Excessive paperwork, low reimbursement and repeated down-coding of charges by insurers has resulted in the majority of primary care offices no longer accepting WC patients.

We urge you to adopt the Federal WC medical Fee Schedule in an attempt to bring our state more in line with national standards, as well as stemming the attrition of medical providers willing to offer medical care to Hawaii residents injured at work.

Respectfully,



James Winkler, PA-C
Art Brownstein, MD
Steve Rogoff, MD
KAUAI COMMUNITY HEALTH ALLIANCE
HALE LEA MEDICINE

LEHUA PHYSICAL THERAPY AND REHAB



Committee on Judiciary and Labor
Chair Keith Agaran and members of the JDL Committee
Date: Tuesday, February 7, 2017
Time: 9:00am
Place: Conference Room 016

Bill: SB413
Position: SUPPORT

Aloha Chair Keith Agaran and Members of the Senate JDL Committee ,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is definitely worse on Neighbor Islands because of the physician shortage.

SB 413 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. SB 413 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for SB 413 is appreciated. More information can be received from Derrick Ishihara, or Herbert Yee,

Thank you,

Sincerely,

A handwritten signature in black ink, appearing to read "Patti Taira - Tok" followed by a flourish and the initials "PT".

Patti Taira-Tokuuke, M.S., PT

Molokai Physical Therapy

P.O. Box 1006, Kaunakakai, HI 96748

Phone: (808) 553-3393 / Fax: (866) 914-1765

2/6/17

Re: SB 413

Aloha Sen. Keith-Agaran and Members of the Senate JDL Committee,

Access to rehabilitative care for injured workers is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to excessive documentation, slow approval and payment processing, and inadequate fee reimbursements. This is made worse on Neighbor Islands here in Hawaii, due to physician & rehabilitation specialist provider shortages.

SB 413 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. SB 413 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for SB 413 is greatly appreciated. More information can be received from Derrick Ishihara, or Herbert Yee,

Thank you for your time & attention with this matter.

Sincerely,



Kirsten Hirsch, MPT

Private practice outpatient physical therapist, practicing on the rural island of Molokai, HI

Molokai Physical Therapy

Kaunakakai, HI 96748

Hawaii State Legislature
Senate Committee on Judiciary and Labor
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 6, 2017

Filed via electronic testimony submission system

RE: SB 413, WC: Fee Schedule - NAMIC's Written Testimony OF CONCERN

Dear Senator Gilbert S.C. Keith-Agaran, Chair; Senator Karl Rhoads, Vice-Chair; and honorable committee members:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 7, 2017, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation. NAMIC's written comments need not be read into the record, so long as they are referenced as a formal submission and are provided to the committee for consideration.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 84 members who write property/casualty/workers' compensation in the State of Hawaii, which represents 28% of the insurance marketplace.

Unfortunately, NAMIC does not have specific information, at this time, as to what would be the likely cost-driver implication of the proposed legislation on workers' compensation insurance for employers in the State of Hawaii. However, at a visceral level, NAMIC is concerned that the proposed fee schedule could have meaningful cost implications that the state legislature should consider as part of the legislative analysis of the bill.

Additionally, NAMIC has some concerns about the statement in Section 1 of the bill that "few providers accept workers' compensation patients due to burdensome documentation and reporting, slow approval and payment processing, and inadequate fee reimbursements." [Emphasis added]

Although NAMIC appreciates that some may feel like this is the case, we question the statistical support for these unfounded contentions. Workers' compensation insurance documentation requirements, claims processing and payment timelines, and fee reimbursements are set forth in statute and have been interpreted by case law, with direct and thorough state agency regulatory oversight, so NAMIC questions the validity of the contention that there is problem and/or that the proposed use of United States Department of Labor Office Workers' Compensation Programs Fee Schedule would have any positive impact upon the administrative aspects of the workers' compensation system.

NAMIC also has concerns about the prudence of adopting the Office Workers' Compensation Programs (OWCP) fee schedule as prepared by the United States Department of Labor.

Specifically, NAMIC respectfully requests that the following questions be expressly considered:

- 1) What evidence is there that adoption of this federal government fee schedule is reasonable and necessary to address the medical access needs of injured workers in Hawaii?
- 2) Has there been a detailed analysis of the underlying medical services pricing rationale that is the methodological basis for the OWCP fee schedule?
- 3) How many other states have adopted the OWCP fee schedule and what have been the price implications for workers' compensation insurance in those states since adoption of the federal fee schedule?

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



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

February 6, 2017

To: Honorable Senator Gilbert Keith-Agaran Chair, Judiciary and Labor
Honorable Senator Karl Rhoads Vice Chair

Hearing: Tuesday, February 7, 2017 – Conference Room 16 – 9:00 a.m.

RE: SB 413 – Relating to Workers Compensation

On behalf of the Occupational Therapy Association of Hawaii, we support the intent of SB 413 which would require the director of labor and industrial relations to set workers' compensation medical charges that correspond to the United States Department of Labor Office of Workers' Compensation Programs fee schedule instead of the Medicare Resource Based Relative Value Scale applicable to Hawaii. Occupational Therapy practitioners provide services to both inpatient and outpatients who have sustained work related injuries ranging from orthopedic injuries, burn injuries, cumulative trauma or repetitive stress disorders to name a few. Occupational Therapy practitioners provide rehabilitative services to the injured worker are employed in hospitals across the state, in outpatient clinics and at the Rehabilitation Hospital of the Pacific.

Providing occupational therapy services to the injured worker not only involves direct treatment, but the practitioner needs to submit a detailed treatment plan; track authorizations and provide the given treatment within a specified time period; consult with the nurse case manager and/or insurance adjustor in order to provide the injured client with best rehabilitative care to enable him/her to successfully return to work in a timely manner. Due to the intricacies and details needed to provide services to the injured worker, we recommend reimbursement based on the OWCP fee schedule versus Medicare RVU scale.

If you have any questions, please feel free to contact me at .

Sincerely,

Avis Sakata, OTR
President – Occupational Therapy Association of Hawaii



To: The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Karl Rhoads, Vice Chair
The Senate Committee on Judiciary and Labor

From: Mark Sektnan, Vice President

Re: **SB 413 – Relating to Workers’ Compensation**
PCI Position: Concerns

Date: Tuesday, February 7, 2017
9:00 AM; Conference Room 016

Aloha Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) has **concerns** regarding **SB 413** which would change the workers’ compensation fee schedule in Hawaii without appropriate analysis to ensure the potential impact of the change is fully understood. In Hawaii, PCI member companies write approximately 42.3 percent of all property casualty insurance written in Hawaii. PCI member companies write 44.7 percent of all personal automobile insurance, 65.3 percent of all commercial automobile insurance and 76.5 percent of the workers’ compensation insurance in Hawaii.

SB 413 requires the Director of the Department of Labor and Industrial Relations to set workers’ compensation medical charges that correspond to the United States Department of Labor Office of Workers’ Compensation Programs fee schedule instead of the Medicare Resource Based Relative Value Scale applicable to Hawaii. The bill also requires the department to submit a report to the legislature on injured worker’s access to treatment.

A change in the fee schedule from the Medicare Resource Based Relative Value Scale (RBRVS) to the Department of Labor’s fee schedule is in sharp contrast to the direction taken by other states. According to a report titled “WCRI Medical Price Index for Workers’ Compensation, Eighth Edition” published by the Workers’ Compensation Research Institute in November, 2016 more than 30 states moved towards using a RBRVS based fee schedule. The study also highlights several examples of the impact of a change in fee schedules. When Kentucky moved away from the RBRVS based fee schedule, the overall prices paid for professional services rose by 19 percent from 2013 to 2015. There are many other examples of the impact of a change in fee schedule contained in the report.

PCI recommends the state reach out to the National Council on Compensation Insurance (NCCI) which gathers data, analyzes industry trends, and prepares objective insurance rate and loss cost recommendations for a variety of states to review and comment on the possible implications of

the change in fee schedule to ensure there are no unintended consequences. The bill does contain language requiring a study of the impact of the change in fee schedule on workers' compensation claimants' access to appropriate treatment to be conducted after the change in the fee schedule. PCI recommends a study be conducted *prior* to changing the fee schedule. We suggest the study also include whether the new fee schedule results in higher workers' compensation costs for Hawaii's employers or results in unintended disruption of existing provider relationships.

PCI asks the committee to defer this measure until the full impact of changing the workers' compensation fee schedule can be analyzed appropriately and the impact fully understood by everyone.

From:
To:
Subject: FW: Please Support SB 413, relating to Workers' Compensation
Date: Thursday, February 2, 2017 8:17:36 AM

-----Original Message-----

From:
Sent: Wednesday, February 1, 2017 9:30 AM
To: Sen. Gilbert Keith-Agaran <senkeithagaran@capitol.hawaii.gov>
Subject: Please Support SB 413, relating to Workers' Compensation

Mr Eric Rohozinski

2/1/2017

Dear Senator Keith-Agaran:

Aloha Senator,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

SB 413 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. SB 413 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for SB 413 is appreciated. More information can be received from Derrick Ishihara, or Herbert Yee,

Thank you.

Sincerely,

Mr Eric Rohozinski

Committee on Judiciary and Labor
Chair Keith Agaran and members of the JDL Committee
Date: Tuesday, February 7, 2017
Time: 9:00am
Place: Conference Room 016
Bill: SB413
Position: SUPPORT

Aloha Chair Keith Agaran and Members of the Senate JDL Committee ,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

SB 413 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. SB 413 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Many patients who fall under this issue are taking any steps needed to return to work. However, the longer they have to wait to receive services, the worse their condition gets. From the clinical standpoint, it is crucial to be treated as soon as possible to prevent injuries from becoming chronic. When you delay services for these patients, not only do they lose personal income, but they also take longer to recover, face psychological issues such as depression, and many other obstacles which may be prevented.

Your support for SB 413 is appreciated. More information can be received from Derrick Ishihara,
or Herbert Yee,

Thank you,

Garrett Yamamoto, PT, DPT

Committee on Judiciary and Labor
Chair Keith Agaran and members of the JDL Committee
Date: Tuesday, February 7, 2017
Time: 9:00am
Place: Conference Room 016

Bill: SB413
Position: SUPPORT

Aloha Chair Keith Agaran and Members of the Senate JDL Committee ,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

After discussions with several physical therapists, colleagues and smaller outpatient physical therapy clinics, it is a concern of mine what will happen to workers' compensation patients in the future. They may not be receiving the services they need, due to clinics no longer accepting workers' compensation patients due to the reasons stated above. Without proper rehabilitation, there will be longer periods of time out of work and possible long term implications for the patient in returning to the prior level of function.

I am supportive of SB 413 being based on the federal Office Workers Compensation Program (OWCP) fee schedule and not on a Medicare system as the patient population is very different. I have treated numerous workers' compensations patients in the past and understand that the rehabilitation demands are greater for a workers compensation patient. An example is a longshore man with a rotator cuff repair whose goal is to return to lifting >50lbs, climbing ladders with heavy equipment, repetitively over long work days is different from a 67 year old grandmother whose goal is to carry her 10month old grandson. A different system is necessary and should be implemented.

Your support for SB 413 is appreciated.

Thank you,

Joanne Ishikawa, PT, DPT

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for SB413 on Feb 7, 2017 09:00AM
Date: Friday, February 3, 2017 12:42:43 PM

SB413

Submitted on: 2/3/2017

Testimony for JDL on Feb 7, 2017 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Pacilio	Individual	Support	No

Comments: I am a Physical Therapist in the County of Kauai and a constituent of Ron Kouchi. I am in support of SB 413 to move treatment for injured workers away from Medicare-based reimbursement which is generally for elderly persons, to OWCP which is for younger, work-aged persons. Care of the injured worker requires faster outcomes to return patient to work but greater amounts of documentation and coordination with other providers and insurance adjusters. Providers should be reimbursed appropriately for the services they provide to this special group.

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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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
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Subject: *Submitted testimony for SB413 on Feb 7, 2017 09:00AM*
Date: Monday, February 6, 2017 3:22:44 PM

SB413

Submitted on: 2/6/2017

Testimony for JDL on Feb 7, 2017 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Rachelle Lam, OTR	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
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Subject: *Submitted testimony for SB413 on Feb 7, 2017 09:00AM*
Date: Friday, February 3, 2017 7:20:46 PM

SB413

Submitted on: 2/3/2017

Testimony for JDL on Feb 7, 2017 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Terri Pacheco APRN	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for SB413 on Feb 7, 2017 09:00AM*
Date: Thursday, February 2, 2017 4:43:27 PM

SB413

Submitted on: 2/2/2017

Testimony for JDL on Feb 7, 2017 09:00AM in Conference Room 016

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

Comments:

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