

SB954

Measure Title:	RELATING TO HEALTH INSURANCE.
Report Title:	Health Care Provider; Accident and Health or Sickness Insurance; Insolvency; Continuation of Benefits; Limited Benefit Plan; Short-Term Health Insurance; Preexisting Condition; Disclaimer; Affordable Care Act; General Readability Requirements; Flesch Reading Ease Test; Perceived Gender Identity; Life and Disability Insurance Guaranty Association; Member Insurer
Description:	Updates Hawaii Revised Statutes title 24 by: requiring health care providers to continue providing services during a health insurer insolvency; moving the short-term health insurance preexisting disclosure requirement from section 431:10-104(5) to chapter 431, article 10A; amending the definition of "perceived gender identity" to correct a technical drafting error; including health insurers as part of the guaranty association; and making technical, nonsubstantive amendments for clarity and consistency.
Companion:	HB1088
Package:	Governor
Current Referral:	CPH
Introducer(s):	KOUCHI (Introduced by request of another party)



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TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Monday, February 27, 2017
9:30 a.m.

TESTIMONY ON SENATE BILL NO. 954 – RELATING TO HEALTH INSURANCE.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner (“Commissioner”),
testifying on behalf of the Department of Commerce and Consumer Affairs
(“Department”). The Department strongly supports this Administration bill.

The Department is aware that there are national insurers that will be entering
liquidations on the Mainland, or have done so, and their insolvencies will greatly affect
local policyholders, providers, and the Hawaii Life and Disability Insurance Guaranty
Association (“HLDIGA”) under chapter 431, article 16, Hawaii Revised Statutes (“HRS”).
Prior experience through the State’s involvement with domestic and other national
liquidations, past and present, shows the impact of these liquidations will be great.

This bill’s various provisions seek to better prepare insurers, policyholders,
providers, and HLDIGA for future liquidations, as well as update existing statutes to
conform with recent changes in the law. We are also respectfully requesting
amendments to this bill resulting from discussions with affected parties.

SECTION 1 of the bill proposes to require health care providers to continue
providing services during the insolvency of a health insurer by adding a new section to
chapter 431, article 10A, part I, HRS. Chapters 432 and 432D, HRS, have similar

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existing provisions to ensure insureds have access to treatment when an insurer goes insolvent.

SECTIONS 2 and 13 of this bill propose to allow insurers that are assessed through HLDIGA to recoup their costs through a surcharge on premiums. However, HLDIGA currently allows insurers to offset their assessments through tax credits under §431:16-213, HRS, Credits for Assessments Paid, and the Department therefore requests that the current statutory language remain unchanged and both these proposed amendments be deleted from the bill.

SECTION 3 of the bill moves and amends the short-term health insurance pre-existing disclosure requirement currently in §431:10-104(5), HRS, to the new section proposed in SECTION 1 as a more appropriate placement in the Insurance Code for this statute, and amends §431:10-104(5) by removing the disclosure requirement.

SECTIONS 4, 16, and 18 of the bill correct a technical drafting error in the definition of "perceived gender identity" by amending §§ 431:10A-118.3(e), 432:1-607.3(e), and 432D-26.3(e), HRS.

SECTIONS 5, 6, 8, and 9 of the bill add dental as part of HLDIGA by amending §§ 431:16-202(a), 431:16-203(b) and (c), 431:16-206, and 431:16-208, HRS, as dental insurers are currently recognized by the Patient Protection and Affordable Care Act.

SECTION 7 of the bill amends the definitions "member insurer" and "supplemental contract". We are requesting that the definition of "member insurer" remain unchanged and that the proposed amendment be deleted from the bill, as the Department is in ongoing discussions with affected parties regarding this definition.

SECTIONS 10, 11, and 12 of the bill clarify that HLDIGA assign and notify member insurers of their respective assignments to specific accounts for assessment purposes.

SECTIONS 14, 15, and 17 of the bill propose amending language providing protection to healthcare providers in case of a health insurer's insolvency.

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



February 27, 2017

The Honorable Rosalyn H. Baker, Chair
The Honorable Clarence K. Nishihara, Vice Chair
Senate Committee on Consumer Protection and Health

Re: SB 954 – Relating to Health Insurance

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

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 954, which amends the Insurance Code to subject mutual benefit societies to the requirements of the Hawaii Life and Disability Guaranty Association statute. HMSA has serious concerns with this measure.

HMSA appreciates the intent of this Bill where, in cases of an insolvency of a health plan, the member would be held harmless and providers would appropriately receive reimbursement for services rendered. That said, we seriously are concerned that SB 954 would require HMSA to contribute to a Guaranty Association to subsidize the potential liabilities incurred by the insolvency of another health plan.

The State's Mutual Benefit Society Act already includes deposit protections in HRS § 432:1-407(b), to protect our members in the event of insolvency. Health plans are already subject to the stringent solvency requirements of the NAIC. As an affiliate of the Blue Cross Blue Shield Association, HMSA is held to additional risk-based capital and reserve standards. Even with these stringent standards, 92% of our member's premiums go to paying for their medical services and only 8% to administrative costs, federal taxes, and reserve requirements – far exceeding the 80% federal ACA standard.

Thank you for the opportunity to testify on this measure. Your consideration of our concern is appreciated.

Sincerely,

Jennifer Diesman



TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON SENATE BILL 954, RELATING TO INSURANCE

February 27, 2017

Via e mail: cphtestimony@capitol.hawaii.gov

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 provide comments on Senate Bill 954, relating to insurance.

The American Council of Life Insurers (“ACLI”) is a Washington, D.C., based trade association with approximately 290 member companies operating in the United States and abroad. ACLI advocates in state, federal, 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 94 percent of industry assets, 93 percent of life insurance premiums, and 97 percent of annuity considerations in the United States. Two hundred twenty-two (222) ACLI member companies currently do business in the State of Hawaii; and they represent 96% of the life insurance premiums and 99% of the annuity considerations in this State.

The bill proposes legislation that includes amendments to the State’s guaranty association laws set forth in Article 16 of Hawaii’s Insurance Code. Hawaii is one of 43 states in the country, along with the District of Columbia, that have adopted guaranty association legislation that is substantially similar to the NAIC’s Life and Health Insurance Guaranty Association Model Act (“Model”).

The ACLI strongly supports the Model Act as it contains sound provisions that promote effective solvency regulation in each state. The ACLI and the National Organization of Life and Health Insurance Guaranty Associations (“NOLHGA”) will continue to reach out to the remaining seven states to convey to them the importance of adopting legislation that is substantially similar to the Model.

It is also important that the states that already have guaranty association laws that are substantially similar to the Model not enact new or amended provisions that would materially deviate from the Model. Otherwise, the goal of achieving uniformity among the states would be significantly diminished. In addition, the adoption of such material deviations could affect some states’ NAIC accreditation status.

Senate Bill 954 contains several guaranty association-related provisions that materially deviate from the Model. As a result, we have no choice but to oppose these provisions and respectfully ask that they be removed from the bill. These provisions relate to:

- (1) **The inclusion of a nonprofit hospital or medical service organization as a “member insurer”** (Included in Section 7 of the bill).

While we are neutral as to whether a health maintenance organization (“HMO”) should be included as a “member insurer” of the Hawaii Life and Disability Insurance Guaranty Association, we oppose the inclusion of a nonprofit hospital (“Nonprofit”) or medical service organization (“MSO”) as a “member insurer”. The ACLI opposes inclusion of these entities because inclusion would constitute a material deviation from the Model. ACLI believes that Nonprofits and MSOs, along with the other types of entities that are specifically excluded from the current definition of “member insurer”, should continue to remain outside the framework of the guaranty association system for both coverage and assessment purposes. Accordingly, the ACLI respectfully requests that Section 7, at line and page 14 of the bill be amended so that a Nonprofit or MSO continue to be excluded from the definition of a “member insurer.”

- (2) **The recoupment of assessments through surcharges on premiums charged for life, dental and health policies** (Included in Section 2)

The purpose of this provision is unclear since it only applies to insurers who are not able to claim premium tax offsets for Class B assessments (those relating to insurer insolvencies). We, therefore, respectfully ask for clarification. Clarification notwithstanding, we oppose this provision since it materially deviates from the Model and because it is linked to the premium tax offset provision - a provision that we have long supported and do not want modified or weakened. The ACLI, therefore, respectfully requests that Section 2 in its entirety, at lines 12 to 22, at page 3, and at lines 1 to 22 of the bill, be deleted.

- (3) **The creation of a new assessment account for dental insurance** (Included in Section 8)

Claims relating to dental insurance are already paid from the association’s accident and health or sickness insurance assessment account, so there is no need to create a separate assessment account for this type of specific insurance. In fact, doing so could create a capacity problem in the event a large dental insurer becomes insolvent, since the assessment base of the remaining dental insurers may not be sufficient to cover outstanding claims. Currently, dental insurance claims are paid from a much higher assessment base of all health insurers who do business in the state.

In addition, we do not support the carving out of any specific products (e.g., dental insurance, structured settlement annuities, term life insurance) from any of the association’s three existing assessment accounts (life insurance, accident and health or sickness insurance, and annuities) as it would reduce the assessment capacity of the effected account in the event of a large-scale insolvency. The Model purposely created broad assessment accounts for this very reason. The creation of a separate account for dental insurance would be considered a material deviation from the Model; and we are not aware of any other states that have created such a separate account. Accordingly, the ACLI respectfully requests that Section 8, which begins at line 9, page 16, and continues on lines 1 to 4, on page 17 of the bill, be amended as follows:

“(a) There is created a nonprofit legal entity to be known as the Hawaii Life and disability insurance guaranty association. All member insurers shall remain members of the association as a condition of their authority to transact insurance in this state.

. . For purposes of administration and assessment the association shall maintain ~~four~~
three accounts:

- (1) The life insurance account;
- (2) The accident and health or sickness insurance account; and
- (3) The annuity account; ~~and~~
- (4) ~~The dental insurance account."~~

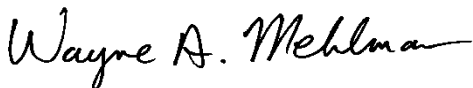
Further, all references in the bill relating to the inclusion of "dental insurance" as a separate account appearing in Sections 5, 6, 7 and 9 should also be deleted.

- (4) **The creation of a new \$3,000 annual coverage limit for dental insurance benefits** (Included in Section 6)

As stated above, there is no need to create a separate assessment account for dental insurance since such claims are already paid from the accident and health or sickness account. Similarly, there is no need to create a separate coverage limit for dental insurance benefits since (1) such benefits are already included within the \$500,000 coverage limit for "basic hospital, medical, and surgical insurance or major medical insurance" and (2) we are not aware of any compelling reason to limit dental insurance benefits to \$3,000 per year (or of any other state that has a separate coverage limit for dental insurance). The creation of a separate coverage limit for dental insurance benefits would be considered a material deviation from the Model. Accordingly, ACLI respectfully requests that the annual \$3,000 benefit coverage specified for dental insurance set forth in Section 6, at line 17 on page 14 of the bill, be deleted.

Again, thank you for the opportunity to comment on Senate Bill 954 and we look forward to working with you on this important legislation. If you have any questions, feel free to call me at (202) 624-2135.

AMERICAN COUNCIL OF LIFE INSURERS



Wayne Mehlman
Senior Counsel, Insurance Regulation

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 17, 2017 2:47 PM
To: CPH Testimony
Cc: mgolojuch@hotmail.com
Subject: Submitted testimony for SB954 on Feb 27, 2017 09:30AM

SB954

Submitted on: 2/17/2017

Testimony for CPH on Feb 27, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	LGBT Caucus of the Democratic Party of Hawaii	Support	No

Comments: The LGBT Caucus is in support of SB 954 with regards to amending the definition of "perceived gender identity" to correct a technical drafting error. In regards to the rest of the substance of the bill the LGBT Caucus has no position as it is outside our kuleana. Mahalo for the chance to testify.

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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