

STAND. COM. REP. NO. 2540

Honolulu, Hawaii

MAR 01 2018

RE: S.B. No. 2774
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 2774 entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose and intent of this measure is to update various
areas of the State's insurance laws, including:

- (1) Adopting the National Association of Insurance
Commissioners' Corporate Governance Annual Disclosure
Model Act;
- (2) Allowing the Department of Commerce and Consumer Affairs
and the Insurance Commissioner to determine whether an
applicant's request to add or change a trade name or
assumed name satisfies the State's Insurance Code and
corporation law requirements;
- (3) Clarifying certain provider reimbursement requirements;
- (4) Adopting revisions to the Insurance Holding Company
System Regulatory Act;
- (5) Providing the Insurance Commissioner with additional
regulatory authority to supervise or liquidate a captive
insurer;



- (6) Enabling the Insurance Division to temporarily create stopgap measures to implement the Network Adequacy Model Act;
- (7) Changing the notice requirements and recordkeeping obligations for vehicle protection product warrantors and service contract providers; and
- (8) Making various housekeeping amendments to clarify existing language and avoid ambiguities.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs, Board of Nursing, Board of Pharmacy, and American Council of Life Insurers. Your Committee received comments on this measure from the Office of Information Practices and Hawaii Medical Service Association.

Your Committee finds that this measure is intended to update and improve various areas of the State's insurance laws, including adopting the National Association of Insurance Commissioners' (NAIC) Corporate Governance Annual Disclosure Model Act (Model Act) to maintain the State's accreditation with the NAIC. According to testimony from the Department of Commerce and Consumer Affairs, although regulators obtain a significant amount of information on insurers' corporate governance practices during full-scope examinations, information on governance practices, which may include changes that can substantially impact current and prospective solvency, is not widely available to regulators in the period between onsite examinations. The adoption of the NAIC's Model Act, as proposed by this measure, will ensure that sufficient information on corporate governance practices is available to assess insurer solvency on a regular basis.

However, your Committee has heard the concerns from the Office of Information Practices that the confidentiality provision in the new article based on the Model Act is overly broad and covers all records, including blank forms, created by the Insurance Division to administer the new article. Your Committee finds that an amendment to the confidentiality provision is needed, as this provision is not intended to make confidential the Insurance Division's administrative records relating to the general administration of the new article, such as blank forms and



workflow instructions for staff. Rather, this confidentiality provision is intended to protect records and information related to specific regulated businesses under the new article, whether the information and records are received from those businesses, included in communications with the Insurance Division, or part of the Insurance Division's internal discussions and deliberations, as much of this information is proprietary and may contain trade secrets. Your Committee notes that an additional amendment is also needed to clarify that records not made confidential under this section may still be withheld from public disclosure, to the extent that such records fall under an existing exception to disclosure under chapter 92F, Hawaii Revised Statutes.

Your Committee further finds that this measure, among other things, also clarifies reimbursement requirements for health care providers and discourages the practice of creating reimbursement mandates in the Insurance Code to accompany expansions in provider practice acts; adopts revisions to the NAIC's Insurance Holding Company System Regulatory Act for accreditation purposes; and temporarily allows the Insurance Division to create stopgap measures to implement the NAIC's Network Adequacy Model Act.

Your Committee has amended this measure by:

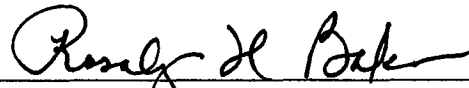
- (1) Clarifying the confidentiality provisions under the new Corporate Governance Annual Disclosure article;
- (2) Clarifying the short-term health insurance disclosure requirement disclaimer, to remove language that could be construed as no longer reflecting federal law;
- (3) Clarifying that health plans can provide reimbursement to health care providers who perform covered services, or to the insured health plan member, as appropriate;
- (4) Clarifying that captive risk retention groups are subject to the National Association of Insurance Commissioners' Risk Management and Own Risk and Solvency Assessment Model Act;
- (5) Clarifying that the repeal date of December 31, 2020, applies to sections 23 and 24 of this measure, relating to network adequacy; and



- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2774, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2774, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



