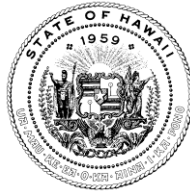


SB2775

Measure Title:	RELATING TO THE HAWAII HEALTH INSURANCE GUARANTY ASSOCIATION.
Report Title:	Health insurance; Guaranty fund; Guaranty association; Hawaii health insurance guaranty association; Hawaii life and disability insurance guaranty association; Insolvency; Medical service organization; Mutual benefit society; Health maintenance organization; Health care provider; Covered claim; Chapter 431; Article 16
Description:	Creates and establishes an insurance guaranty fund for Hawaii domestic medical service organizations and health maintenance organizations.
Companion:	HB2348
Package:	Governor
Current Referral:	CPH, WAM
Introducer(s):	KOUCHI (Introduced by request of another party)



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
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DEPUTY DIRECTOR

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

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Friday, February 2, 2018
9:30 a.m.

**TESTIMONY ON SENATE BILL NO. 2775, RELATING TO THE HAWAII HEALTH
INSURANCE GUARANTY ASSOCIATION.**

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

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on S.B. 2775, Relating to the Hawaii Health Insurance Guaranty Association. My name is Gordon Ito, and I am the Insurance Commissioner (“Commissioner”) for the Department’s Insurance Division. The Department strongly supports this administration bill, which is a companion to H.B. 2348.

The State has two insurance guaranty associations that provide payment mechanisms for eligible covered claims when insurers are insolvent. The first, the Hawaii Insurance Guaranty Association, covers direct property and liability contracts. The second, the Hawaii Life and Disability Insurance Guaranty Association (“HLDIGA”), covers life and accident and health or sickness insurance policies and insurance contracts.

As HLDIGA is currently structured, if a mutual benefit society (Hawaii Revised Statutes (“HRS”) chapter 432), health maintenance organization (HRS chapter 432D) or dental insurer (HRS chapter 432G) becomes insolvent, the policy members of those

insurers will not be able to access any relief through HLDIGA. The Department believes this bill lays the groundwork for providing relief to those affected members should an insolvency occur.

This proposed framework establishes the Hawaii Health Insurance Guaranty Association ("HHIGA") and closely follows the current organizational structure of HLDIGA. As the number of mutual benefit society, health maintenance organization, and dental insurers is fewer than the number of HLDIGA members, it is proposed that the administrator and administration support of HLDIGA also provide direction and services to HHIGA at prorated costs. Also, it is proposed that mutual benefit society and health maintenance organization members be responsible for similar members' health insurance insolvencies, while dental insurers be responsible for dental insurance insolvencies. The separation of these types of insurers is important to ensure that dental insurers are not assessed for health insurers' insolvencies, and vice-versa.

In the past few years, Hawaii has experienced several health and dental insurer insolvencies, which have included Pacific Group Medical Association, Hawaii Healthcare Alliance, Hawaii Dental Health Plan, and Family Health Hawaii. In each case, policyholders and providers experienced uncertainty and financial losses. This bill seeks to protect health and dental insurance policyholders and health care providers, but it also encompasses agents, service providers, and other creditors in cases of medical service organization, health maintenance organization, or dental insurer financial insolvencies where no protection mechanism existed before.

The Department strongly supports this administration bill because it would further enhance consumer protection. Thank you for the opportunity to testify on this measure, and we ask for your favorable consideration.

Testimony of
Jonathan Ching
Government Relations Specialist

Before:
Senate Committee on Commerce, Consumer Protection, and Health
The Honorable Rosalyn H. Baker, Chair
The Honorable Jill N. Tokuda, Vice Chair

February 2, 2018
9:00 a.m.
Conference Room 229

Re: SB2775, Relating to the Hawaii Health Insurance Guaranty Association

Chair Baker, Vice-Chair Tokuda, and committee members, thank you for this opportunity to provide testimony on SB2775, which establishes the Hawaii health insurance guaranty association for Hawai'i insurers licensed under Hawai'i Revised Statutes part 1 of chapter 432, chapter 432D, and chapter 432G.

Kaiser Permanente Hawaii offers the following COMMENTS on SB2775

We have concerns that SB2775 could require large group insurers, such as Kaiser Permanente Hawaii, to subsidize potential liabilities incurred by the insolvency of another health plan.

Kaiser Permanente Hawaii notes that the Health Maintenance Organization Act (Hawai'i Revised Statutes (HRS) Chapter 432D) already includes minimum net worth requirements in HRS § 432D-8(a) and deposit protections in HRS § 432D-8(b). These provisions would help to protect our members in the event of insolvency. Additionally, health plans registered in the state are already subject to the strict solvency requirements of the National Association of Insurance Commissioners.

Furthermore, as part of Kaiser Permanente, which is one of the nation's largest not-for-profit health plans, serving 11.7 million members nationally, Kaiser Permanente Hawaii is held to additional risk-based capital and reserve standards. Currently, our Risk Based Capital (RBC)¹ is well above the minimum levels, as well as our Medical Loss Ratios (MLR)², which is also above the required level for our lines of business.

Thank you for the opportunity to testify on this measure.

¹ Risk-Based Capital (RBC), which was developed by the NAIC, is a method of measuring the minimum amount of capital appropriate for a reporting entity to support its overall business operations in consideration of its size and risk profile. RBC limits the amount of risk a company can take.

² The ACA established a Medical Loss Ratio (MLR) that is now the national minimum standard that must be met by insurers selling major medical insurance policies. The MLR is the financial target that insurers are required to meet. It requires individual, small group and large group health plans to report their MLR, which represents how much of a health care premium is being spent on medical and medical-related expenses and how much is being spent on administration, fees and profits.



An Independent Licensee of the Blue Cross and Blue Shield Association

February 2, 2018

The Honorable Rosalyn H. Baker, Chair
The Honorable Jill N. Tokuda, Vice Chair
Senate Committee on Commerce, Consumer Protection
and Health

Re: SB 2775 – Relating to the Hawaii Health Insurance Guaranty Association

Dear Chair Baker, Vice Chair Tokuda, and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2775, which creates and establishes an insurance guaranty fund for Hawaii domestic medical service organizations and health maintenance organizations.

We appreciate the intent of this Bill and the role that the Insurance Commissioner seeks to play in ensuring that health plans operating in the state remain in good standing.

In 2016, HMSA supported the passage of the NAIC Risk Management and Own Risk Solvency Act (ORSA). This model legislation set forth risk assessment reports and tools for the Commissioner to assess the financial condition of a health plan. Though the model act was passed in 2016, this year (2018) will be the first year the reporting and assessment can occur. Under ORSA, the issuer assesses the adequacy of its risk management and current and prospective solvency positions under normal and severe stress scenarios. Plans analyze all reasonably foreseeable and relevant material risks (i.e., underwriting, credit, market, operational, liquidity risks, etc.) that could have an impact on an insurer's ability to meet its policyholder obligations. We believe the ORSA will help to ensure that consumer's investment is secure.

Also 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. 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 allowing us to provide our comments on SB 2775. Your consideration is appreciated.

Sincerely,

Pono Chong
Vice President, Government Relations

Arbor Strategies, LLC

Chris Petersen

703-847-3610

cpetersen@arborstrategies.com

February 1, 2018

Honorable Senator Rosalyn H. Baker, Chair
Committee on Commerce, Consumer Protection, and Health State Senate
Hawaii State Capitol
Conference Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairwoman Baker:

I am writing on behalf of a Coalition¹ of health insurers that represents some of the country's largest major medical insurers and health maintenance organizations. This Coalition urges the Senate Commerce, Consumer Protection, and Health Committee ("Committee") to amend Senate Bill 2775 by replacing the language of the bill with "model language" that was recently adopted by the National Association of Insurance Commissioners ("NAIC"). The NAIC model language can be found in the redlined version of the Life and Health Insurance Guaranty Association Model Act (#520) ("Model Act"). The following is a link to the Model Act for the Committee's consideration²: http://naic.org/documents/cmte_ex_plenary_171221_agenda.pdf

We thank the Committee for recognizing that the guaranty fund system needs restructuring in order to ensure the continued stability of the guaranty fund and the health insurers that fund the health accounts of the guaranty fund. In order to accomplish this, we urge the Committee to adopt a solution based on Model Act. We believe the Committee should have two goals, both of which can be addressed by the Model Act language, when addressing the funding of future insolvencies:

1. To more fairly distribute the cost of long term care insolvencies among companies writing life, health, annuity and HMO products; and

¹ Aetna, Anthem, Cigna, HCSC and United, who together provide health insurance coverage to more than 227 million members world-wide, are the members of this Coalition.

² The NAIC Model Act can be found at the beginning of page three of the link.

Arbor Strategies, LLC

February 1, 2018

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2. To provide stability and fairness for the guaranty funds and for health insurance consumers.

To meet those two goals, the Committee should amend existing law to a) spread future long-term care insurance assessments across not only health writers but also life and annuity writers and b) include mutual benefit societies and HMOs in the assessment formula.

We believe the Committee should include mutual benefit associations and include HMOs as members of the guaranty association, as part of the existing health account. Under the Model Act approach assessments with respect to long-term care insurance policies issued by an insolvent member insurer would be apportioned between the life/annuity and health account.

The NAIC took this approach because it concluded that the existing assessment formula is not sustainable. There are clear differences in treatment between the life insurance industry and the major medical health insurance industry that must be considered when determining appropriate assessment bases for long-term care insolvencies. The Committee should broaden and re-align the assessment base for long-term care insurance related insolvencies among life and health insurers to reflect the evolution of the long-term care insurance market. Any realignment must acknowledge the rapid growth of life insurance and annuity hybrid products, as such products account for approximately 24% of the current long-term care insurance market and 85% of new long-term care insurance sales.

The major medical health insurance industry cannot on its own absorb the cost of future long-term care insolvencies. Long-term care insurance, while classified as “health” policies, are not written by major medical insurers in any material way. Our industry has no more than 3% of the long-term care writings, yet is being asked to shoulder almost 75% of the cost of these insolvencies. The major medical health insurance industry cannot and should not be expected to bear such a disproportionate cost of these insolvencies. Given how very little of today’s long-term care insurance is being written by major medical carriers, passing along this tremendous cost to health care consumers is unfair and is unworkable.

The major medical industry writes very little of today’s long-term care insurance yet is being asked to fund the lion’s share of these insolvencies. This is unworkable in today’s marketplace. The American Council of Life Insurers (“ACLI”) recognizes these inequities and working together at the NAIC we developed a solution that spreads the cost across the **entire** health and life insurance industry. The ACLI and this coalition of health insurers recognizes the societal benefits of a functioning and fair safety net for customers of long term care insurance. We believe that the entire life, annuity, and health insurance industry, including mutual benefit societies and HMOs, should participate in meeting this societal need.

Any new assessment formula must recognize, and make allowances for, how health insurance has evolved. There are new products and new competition. As presently drafted the Senate Bill 2775 favors certain types of health insurance coverage (mutual benefit societies and HMOs) over other types of health insurance

coverage. This creates an unjust and inequitable situation for consumers, who are denied the ability to purchase health insurance products in a robust and competitive market.

Excluding HMOs from the guaranty fund assessment system is an outdated concept. The health insurance market has changed dramatically over the decades since the NAIC originally excluded HMOs from the assessment base of guaranty assessment health accounts. The health insurance market and the HMO market have to a large extent converged, and it is critical that this convergence be considered in designing a properly functioning system to protect consumers in the event of insolvencies and to ensure the long-term stability not only of the guaranty fund system, but also of the health insurance marketplace.

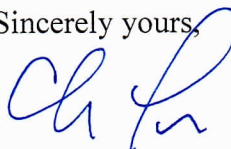
Major medical health insurers, mutual benefit societies and HMOs directly compete against each other and offer similar products. Yet despite this fact, only the major medical writers are required to participate in the social safety net for insurer insolvencies. Despite directly competing with major medical health insurance plans, mutual benefit societies and HMOs are not included in the assessments and therefore are not required to share in the consumer protection mechanism like all other health insurers.

If changes are not made, and as assessments increase, the marketplace will react and will move more and more to an HMO product offering as customers seek cost savings wherever they can find them. Assuming this occurs, it will lower the assessment pool and will result in increased instability and uncertainty for guaranty associations. Companies that compete in the same market, such as mutual benefit societies, HMOs and major medical health insurers, should both be required to shoulder the responsibility of funding the guaranty fund association system. Failing to rationalize the assessment base in this way almost guarantees that markets will destabilize and that consumers will be harmed.

We urge the Committee members to support the NAIC Model Act language as a better approach to ensure equity and stability in the guaranty fund. We also urge the Committee to amend Senate Bill 2775 to include the NAIC's Model Act language.

Please feel free to call me at 703-847-3610 if you have any questions regarding our comments. Thank you.

Sincerely yours,



Chris Petersen
For Arbor Strategies, LLC