

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

February 24, 2017

**TESTIMONY TO THE
SENATE COMMITTEE ON WAYS AND MEANS**

For Hearing on Monday, February 27, 2017
9:35 a.m., Conference Room 211

BY

JAMES K. NISHIMOTO
DIRECTOR

Senate Bill No. 857, S.D. 1
Relating to Workers' Compensation

(WRITTEN TESTIMONY ONLY)

TO CHAIRPERSON TOKUDA, VICE CHAIR DELA CRUZ, AND MEMBERS OF THE
COMMITTEE:

Thank you for the opportunity to provide **comments** on S.B. 857, S.D. 1.

The purposes of S.B. 857, S.D. 1, are to establish that employers shall pay all workers' compensation claims for compensable injuries and shall not deny claims without reasonable cause or during a pending investigation; create a presumption of compensability for claims submitted by employees excluded from coverage under the Hawaii Prepaid Health Care Act; establish that employers shall notify providers of service of any billing disagreements and allows providers to charge an additional rate to employers who fail to adhere to the notice requirements; establish resolution procedures for employers and providers who have a reasonable disagreement over liability for services provided an injured worker; and require an employee whose claim is found to be non-compensable to submit reimbursements for services rendered.

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.

First, in light of the statutory presumption of compensability in Section 386-85, HRS, DHRD accepts liability for the vast majority of the approximately 600 new workers' compensation claims it receives each fiscal year. However, a minority of claims do require some additional investigation to confirm that the alleged injury arose out of and in the course of employment. While this bill asserts that the patient is at times unable to use private insurance for medical services during the pendency of the workers' compensation claim, Hawaii's Prepaid Health Care administrative rules, promulgated by the Director of Labor, actually mandates the private insurer to pay for medical care. Section 12-12-45, Controverted workers' compensation claims, HAR, provides:

In the event of a controverted workers' compensation claim, the health care contractor shall pay or provide for the medical services in accordance with the health care contract and notify the department of such action. If workers' compensation liability is established, the health care contractor shall be reimbursed by the workers' compensation carrier such amounts authorized by chapter 386, HRS, and chapter 10 of title 12, administrative rules. (Emphases added.)

Rather than amending Chapter 386, we respectfully suggest amending this bill by making Section 12-12-45 a statutory provision to give it further weight and enforceability. Thus, whenever a workers' compensation claim is controverted, an individual's private medical insurance will ensure that the injured or ill employee will receive all necessary medical care and the employer can reimburse the private carrier should the claim be accepted or deemed to be work related.

Second, the proposed subsection (b)(2) provision which presumes a claim compensable if the claimant is excluded from health care coverage under the Hawaii Prepaid Health Care Act appears superfluous and may limit the more expansive presumption in Section 386-85, which already presumes that--in the absence of substantial evidence to the contrary—a claim is for a covered work injury.

Third, the proposed new subsection in Chapter 386, HRS, is internally

inconsistent because subsection (a) provides that “the employer shall pay for all medical services required by the employee due to the nature of the compensable injury” and that “[t]he employer shall not be required to pay for care unrelated to the compensable injury.” However, proposed subsection (b) states that the employer shall not controvert a claim for services while the claim is being “pending investigation.” We note that a claim that is pending investigation is not a “compensable injury” because the employer has not yet accepted the claim as compensable and/or it has not yet been ruled compensable by the Department of Labor.

Finally, 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



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February 27, 2017

To: The Honorable Jill N. Tokuda, Chair,
The Honorable Donovan M. Dela Cruz, Vice Chair, and
Members of the Senate Committee on Ways and Means

Date: Monday, February 27, 2017
Time: 9:35 a.m.
Place: Conference Room 211, State Capitol

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

Re: S.B. No. 857 S.D.1 Relating to Workers' Compensation

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal seeks to add a new section to chapter 386, Hawaii Revised Statutes (HRS), relating to payment of bills by the employer and specifies a process for bill dispute resolution by the Director. This bill is similar to section 12-15-94, Hawaii Administrative Rules (HAR), which requires the employer to pay for all medical services the nature of the compensable injury and the process of recovery requires. This measure prohibits the employer from contesting a claim for services without reasonable cause or while the claim is pending investigation. This proposal also requires that a claim for service is presumed compensable when submitted by an employee who is excluded from health care coverage under the Hawaii Prepaid Health Care Act.

This bill shortens the period for an employer to contest and pay for services billed from sixty calendar days (referenced in section 12-15-94, HAR) to thirty calendar days of receipt. Failure to do so allows the provider to increase the total outstanding balance by one per cent per month. This bill also specifies the process for bill dispute resolution and increases the penalty from \$500 to \$1,000 that the DLIR Director may assess for failure to negotiate in good faith.

The proposal also holds the employee liable for reimbursement of benefits or payments received under this section to an employer, insurer, or the Special Compensation Fund or to any other source from which the compensation was

received when a controverted claim is found non-compensable.

The Department offers comments on the measure below.

II. CURRENT LAW

The Workers' Compensation Medical Fee Schedule (WCMFS), HAR section 12-15-94 Payment by employer, allows for the following:

When a provider of service notifies or bills the employer, the employer shall inform the provider of service within sixty calendar days of such billing should the employer contest the claim for services. Failure by the employer to notify the provider shall make the employer liable for services rendered until the employer contests further services.

The employer, after accepting liability, shall pay all charges billed within sixty calendar days of receipt of the charges, except for items where there is reasonable disagreement. If more than sixty-calendar days lapse between the employer's receipt of an undisputed bill and date of payment, the billing can be increased by one percent per month of the outstanding balance.

If there is a disagreement, within sixty calendar days of receipt of the bill, the employer shall notify the provider of service, copying the claimant, of the denial and the reason for the denial. The denial must state that if the provider does not agree with the denial, they may file a bill dispute with the DLIR Director within sixty calendar days after postmark of employer's denial and failure to do so shall be construed as acceptance of the denial.

If the disagreement cannot be resolved between the employer and provider of service, either party may make a written request for intervention to the Director. The Director shall send the parties a notice and the parties shall negotiate for thirty-one calendar days to resolve the dispute upon receipt of the Director's notice. If the parties fail to come to an agreement during the thirty-one calendar days, then within fourteen calendar days following the thirty-one day negotiating period, either party can request the Director to review the dispute.

The Director shall send both parties a second notice requesting they submit position statements and documentation within fourteen days following the receipt of this second notice. The Director shall review the positions of both parties and render an administrative decision. A service fee of \$500 will be assessed at the discretion of the Director against either or both parties who fail to negotiate in good faith.

Prepaid Health Care, section 12-12-45 HAR regarding Controverted workers' compensation claims, allows for the following: "In the event of a controverted workers' compensation claim, the health care contractor shall pay or provide for the medical services in accordance with the health care contract and notify the

Department of such action. If workers' compensation liability is established, the health care contractor shall be reimbursed by the workers' compensation carrier such amounts authorized by chapter 386, HRS, and chapter 10 of title 12, administrative rules."

Under the Hawaii Prepaid Health Care (PHC) Act, employers are required to provide PHC coverage for their eligible employees. However, under section 393-3, HRS, the following entities are not considered to be "employers" and are not covered under the health care law.

- 1) The State, any of its political subdivisions, or any instrumentality of the State or its political subdivisions;
- 2) The United States government or any instrumentality of the United States;
- 3) Any other state or political subdivision thereof or instrumentality of such state or political subdivision;
- 4) (4) Any foreign government or instrumentality wholly owned by a foreign government, if (A) the service performed in its employ is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof, and (B) the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof.

Exclusions from the Prepaid Health Care Act in section 393-5, HRS, include the following:

- 1) Service performed by an individual in the employ of an employer who, by the laws of the United States, is responsible for care and cost in connection with such service;
- 2) Service performed by an individual in the employ of [the] individual's spouse, son, or daughter, and service performed by an individual under the age of twenty-one in the employ of the individual's father or mother;
- 3) Service performed in the employ of a voluntary employee's beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if:
 - a. Admission to membership in the association is limited to individuals who are officers or employees of the United States government; and
 - b. No part of the net earnings of the association inures (other

than through such payments) to the benefits of any private shareholder or individual;

- 4) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor if all service performed by the individual for the employer is performed for remuneration by way of commission;
- 5) Service performed by an individual for an employer as a real estate salesperson or as a real estate broker if all service performed by the individual for the employer is performed for remuneration by way of commission;
- 6) Service performed by an individual who, pursuant to the federal Economic Opportunity Act of 1964, is not subject to the provisions of law relating to federal employment, including unemployment compensation;
- 7) Domestic in-home and community-based services for persons with developmental and intellectual disabilities under the Medicaid home and community-based services program pursuant to title 42 Code of Federal Regulations sections 440.180 and 441.300, and title 42 Code of Federal Regulations, part 434, subpart A, as amended, or when provided through state funded medical assistance to individuals ineligible for Medicaid, and identified as chore, personal assistance and habilitation, residential habilitation, supported employment, respite, and skilled nursing services, as the terms are defined and amended from time to time by the department of human services, performed by an individual whose services are contracted by a recipient of social service payments and who voluntarily agrees in writing to be an independent contractor of the recipient of social service payments; and
- 8) Domestic services, which include attendant care, and day care services authorized by the Department of Human Services under the Social Security Act, as amended, or when provided through state-funded medical assistance to individuals ineligible for Medicaid, when performed by an individual in the employ of a recipient of social service payments. For the purposes of this paragraph only, a "recipient of social service payments" is a person who is an eligible recipient of social services such as attendant care or day care services.

Employees who do not work 20 hours per week for 4 consecutive weeks are not entitled to PHC coverage because they have not met the eligibility requirement for health care coverage, but they are not "excluded" from coverage. In addition, employees may sign a waiver, Form HC-5, saying they do not want PHC coverage from the employer because they have other PHC coverage.

III. COMMENTS ON THE SENATE BILL

The Department appreciates the intent of SB857 SD1, as it proposes to streamline the investigation and bill dispute process and offers a faster resolution of disputed charges between the employer and the medical provider. DLIR offers the following comments:

- DLIR suggests the measure should address the Prepaid healthcare contracts that exclude WC in violation of section HAR 12-12-45¹.
- SD1 adds to subsection (b) that the claim is presumed compensable when submitted by an employee excluded by the PHC Act. As stated in the current law above, there are many exclusions to the PHC Act. The Department does not feel the intent of the measure is to be all-inclusive.
- DLIR notes that claims for compensation are already presumed, in the absence of substantial evidence to the contrary, to be claims for covered work injuries (§386-85). The pending investigation clause in the proposed section (b) (2) (page 2, lines 11-15) adds a second presumption and DLIR does not understand the intent of the second presumption. Moreover, it is unclear what the relationship is between that clause and HAR 12-12-45 Controverted workers' compensation claims.
- By increasing the service fee for parties who fail to negotiate in good faith, this bill may potentially ease the administrative burden of resolving billing disputes by encouraging parties to settle their differences before sending their differences to the Department to act on.
- The Department has concerns regarding shortening the time period from sixty calendar days to thirty calendar days for the employer/carrier to contest and pay the provider of service. The carrier often has a heavy workload of cases and many claims to monitor, adjust, and pay. If they do not have adequate time to review the case thoroughly, they may tend to contest the claim in order to protect their rights while reviewing the claim in more detail. This may have an unintended consequence leading to further delays in treatment and payment of claims.
- The Department opines that the current dispute resolution procedure and timelines in HAR section 12-15-94 Payment by employer,² are adequate when properly implemented. Because the Department realizes that certain insurers, attorneys, and claimants may not negotiate in good faith in order to delay the resolution process, the Department is seeking approval in this year's biennial budget for two DCD Facilitator positions with the primary responsibility of ensuring proper implementation of the statutes and timely advancement of case investigations.

- SD1 added subsection (g) to this bill that requires employees to reimburse all benefits or payments received under this section back to the employer, insurer, or the Special Compensation Fund, or to the source from which payment was received if the claim is found to be non-compensable. However, it is often the case that the injured employee may not have the resources to reimburse the payers.

¹ **§12-12-45 Controverted workers' compensation claims.** In the event of a controverted workers' compensation claim, the health care contractor shall pay or provide for the medical services in accordance with the health care contract and notify the department of such action. If workers' compensation liability is established, the health care contractor shall be reimbursed by the workers' compensation carrier such amounts authorized by chapter 386, HRS, and chapter 10 of title 12, administrative rules. [Eff: 5/7/81] (Auth: HRS§393-32) (Imp: HRS §§393-7, 392-32)

§12-15-94 Payment by employer. (a) The employer shall pay for all medical services which the nature of the compensable injury and the process of recovery require. The employer is not required to pay for care unrelated to the compensable injury.

(b) When a provider of service notifies or bills an employer, the employer shall inform the provider within sixty calendar days of such notification or billing should the employer controvert the claim for services. Failure of the employer to notify the provider of service shall make the employer liable for services rendered until the provider is informed the employer controverts additional services.

(c) The employer, after accepting liability, shall pay all charges billed within sixty calendar days of receipt of such charges except for items where there is a reasonable disagreement. If more than sixty calendar days lapse between the employer's receipt of an undisputed billing and date of payment, payment of billing shall be increased by one per cent per month of the outstanding balance. In the event of disagreement, the employer shall pay for all acknowledged charges and shall notify the provider of service, copying the claimant, of the denial of payment and the reason for denial of payment within sixty calendar days of receipt. Furthermore, the employer's denial must explicitly state that if the provider of service does not

agree, the provider of service may file a "BILL DISPUTE REQUEST" to include a copy of the original bill with the director within sixty calendar days after postmark of the employer's objection, and failure to do so shall be construed as acceptance of the employer's denial.

(d) In the event a reasonable disagreement relating to specific charges cannot be resolved, the employer or provider of service may request intervention by the director in writing with notice to the other party. Both the front page of the billing dispute request and the envelope in which the request is mailed shall be clearly identified as a "BILLING DISPUTE REQUEST" in capital letters and in no less than ten point type. The director shall send the parties a notice and the parties shall negotiate during the thirty-one calendar days following the date of the notice from the director. If the parties fail to come to an agreement during the thirty-one calendar days, then within fourteen calendar days following the thirty-one day negotiating period, either party may file a request, in writing, to the director to review the dispute with notice to the other party. The director shall send the parties a second notice requesting the parties file position statements, with substantiating documentation to specifically include the amount in dispute and a description of actions taken to resolve the dispute, within fourteen calendar days following the date of the second notice from the director. The director shall review the positions of both parties and render an administrative decision without hearing. A service fee of up to \$500 payable to the State of Hawaii General Fund will be assessed at the discretion of the director against either or both parties who fail to negotiate in good faith.



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the Senate Committee on Ways and Means
Monday, February 27, 2017 at 9:35 A.M.
Conference Room 211, State Capitol**

RE: SENATE BILL 857 SD1 RELATING TO WORKERS' COMPENSATION

Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** SB 857 SD1, which requires 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. Also requires the department of labor and industrial relations to submit a report to the legislature and makes an appropriation for analysis of the Act's impact on injured worker's access to treatment.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We oppose this bill as curtailing the rights of employers. Since presumption is a part of Hawaii's workers' compensation law, employers should have the ability to investigate injuries, treatment progress and other related issues. We believe that present HAR in this area already covers this process. This bill is very likely to cause increased workers' compensation costs, and overshadow the rule-making powers of the Department of Labor and Industrial Relations.

Thank you for the opportunity to testify.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

February 27, 2017

TO: HONORABLE JILL TOKUDA, CHAIR, HONORABLE DONOVAN DELA CRUZ, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON WAYS AND MEANS

SUBJECT: **OPPOSITION TO S.B. 857, SD1, RELATING TO WORKERS' COMPENSATION.** Establishes that employers shall pay all workers' compensation claims for compensable injuries and shall not deny claims without reasonable cause or during a pending investigation. Creates a presumption of compensability for claims submitted by employees excluded from coverage under the Hawaii Prepaid Health Care Act. Establishes that employers shall notify providers of service of any billing disagreements and allows providers to charge an additional rate to employers who fail to adhere to the notice requirements. Establishes resolution procedures for employers and providers who have a reasonable disagreement over liability for services provided an injured worker. Requires an employee whose claim is found to be non-compensable to submit reimbursements for services rendered. Effective 1/7/2059. (SD1)

PUBLIC DECISION MAKING

DATE: February 27, 2017
TIME: 9:35 a.m.
PLACE: Conference Room 211

Dear Chair Tokuda, Vice Chair Dela Cruz and Committee Members,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over five hundred general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA is **opposed** to S.B. 857, SD1, Relating to Workers' Compensation, which proposes to require that employers pay all workers compensation claims for compensable injuries and shall not deny claims without reasonable cause or during a period of investigation. The bill also proposes to require notification by the employers under certain conditions, among other things.

While GCA understands and appreciates the need to ensure the injured worker is provided with the resources necessary to treat a work related injury, this proposal fails to address such need and is inapposite of what the workers compensation system provides. In order to receive treatment necessary for an injured worker the current system in place provides safeguards which would allow the employer to request additional information if there is a question as to a determination of compensability. This measure mandates payment of all claims without confirming whether or not the compensable injury is confirmed.

The added provision that indicates that the employee reimburse the source from which compensation was received for services rendered whenever a claim is found to be non-compensable provides no safeguard to the employer who would require additional resources to attempt to collect such payments from an employee.

For these reasons, GCA respectfully requests this bill be held. Thank you for the opportunity to express our opposition to S.B. 857, SD1.

TESTIMONY OF LINDA O'REILLY

COMMITTEE ON WAYS AND MEANS
Senator Jill Tokuda, Chair
Senator Donovan Dela Cruz, Vice Chair

Monday, February 27, 2017
9:35 a.m.

SB 857, SD1

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. I am testifying today on behalf of Hawaii Insurers Council which 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.

SB 857, SD1 proposes to reduce an employers' amount of time in which to determine compensability and impose fines for those employers who continue doing so without reasonable cause. The bill also makes claims for those "excluded from health care coverage under the Hawaii Prepaid Health Care Act" presumed compensable.

The bill states in part, that in many cases, insurers seem to automatically deny claims "pending investigation," while for months, the patient is at times unable to use private insurance or get money in which to live.

HIC respectfully disagrees with this assessment and is unaware of any insurer who imposes such a practice. In fact, the large majority of workers' compensation claims are

processed initially without delay and benefits are issued in compliance with H.R.S. 386 and related Administrative Rules.

However, there are a minority of claims that require additional information before a determination of compensability can be rendered. For cases that are denied pending additional information, we believe the sixty days allowed in HAR 12-15-94 is the appropriate amount of time. If this is cut in half to thirty days as it is in this bill, the result will be more disputes. Most of the time, subpoenaed medical records are received by the employer within 60 days and the employer then can use those records to assist in their determination of compensability. If this is cut in half, subpoenaed medical records will likely have not been delivered and therefore a denial would be issued resulting in a dispute for payment.

If DLIR believes employers are arbitrarily denying claims without reasonable cause, we believe directly addressing those in violation of the current law is a more workable solution.

Finally, SD 857, SD1 presumes compensable, a claim for those “excluded from health care coverage under the Hawaii Prepaid Health Care Act.” We believe this phrase is ambiguous and could mean one who does not have health care coverage or it could mean one who does have health care coverage and whose coverage does not include treatment allowed in the workers’ compensation statute.

Nevertheless, we acknowledge that for injured employees without any health insurance coverage, providers are reluctant to treat fearing they will not be paid for their services and may leave the injured worker without medical care. If the Legislature decides to move forward on this provision, we believe medical and indemnity payments while more information on the claim is being sought, should come from the Special Compensation

Fund (SCF). If the SCF bears this expense, it will be spread across all workers' compensation insurers, rather than by the employer who draws the short straw.

We ask that this bill be held or if the Legislature moves it forward, to amend it to remove its contents and replace it with language to award payment of medical benefits and indemnity payments to the injured worker while their claim is being investigated for compensability from the Special Compensation Fund.

Thank you for the opportunity to testify.

The Twenty-Ninth Legislature
Regular Session of 2917

THE SENATE

The Committee on Ways and Means

Senator Jill N. Tokuda, Chair

Senator Donovan M. Dela Cruz, Vice Chair

State Capitol, Conference Room 211

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

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 857 SD 1
RELATING TO WORKERS' COMPENSATION**

The ILWU Local 142 supports S.B. 857 SD 1, which establishes that employers shall pay all workers' compensation claims for compensable injuries and shall not deny claims without reasonable cause or during a pending investigation.

The workers' compensation law, as originally enacted 100 years ago, was intended to address the need to compensate workers who are injured on the job. The law provided that the injury would be presumed to be compensable if it occurred at the workplace or in the course of employment. In exchange for this presumption of compensability the worker agreed not to sue the employer for the injuries. The workers' compensation law was a no-fault law and worked fine for decades.

In recent years, however, workers' compensation has become increasingly contentious and adversarial. Employers often deny liability for a claim "pending investigation". During this investigation period, which could last for weeks and months, physicians would decline to see, much less treat, an injured worker. Without proper treatment, including medication, the workers' injuries would worsen. Without acceptance of compensability, the worker would be with income. A desperate situation quickly develops and the goal of returning the injured worker to his job or other gainful employment becomes further out of reach.

S.B. 857 SD 1 is a thoughtful and effective means of alleviating this problem. It places the burden squarely on the employer to accept liability for the claim or provide an explanation of reasonable cause to deny – even during an investigation. This will force an expeditious investigation, rather than the current practice of delay. The employer has the resources and is in a position to conduct a speedy investigation while the injured worker simply cannot afford to be put through a lengthy delay. If the ultimate goal of workers' compensation is to return the worker to his job, what possible purpose would it serve to leave the injured worker without medical care and income.

We also have some concerns over the language added to the SD 1 at page 5, subsection (g), however, we hope this language can be addressed as the bill moves forward.

The ILWU urges passage of S.B. 857 SD 1. Thank you for the opportunity to provide testimony on this measure.



HAWAII CHAPTER - AMERICAN PHYSICAL THERAPY ASSOCIATION

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

SB 857sd1, Relating to Workers' Compensation
Senate WAM Decision Making Hearing
Monday, Feb. 27, 2017 – 9:35 am
Room 211
Position: Support

Chair Tokuda and Members of the Senate WAM Committee:

I am Gregg Pacilio, PT and Board President of the Hawaii Chapter of the American Physical Therapy Association (HAPTA), 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 movement specialists and part of the spectrum of care for Hawaii. We 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 supports this measure to allow injured workers access to medical care despite a pending investigation.

While we agree that an insurer has the right to investigate compensability of claims, delaying treatment of legitimately injured workers goes against the intent of the WC law. Prompt and needed care should be afforded all legitimately deserving injured workers.

HAPTA feels that if after investigation a claimant is found to have defrauded the insurer, the insurer should be able to recover any and all costs related to such fraud. The medical provider, unless found to be complicit in the fraud, should not be liable to return any fees for service provided in good faith and appropriately performed, billed, and documented.

This measure would provide incentive for insurers to investigate only cases which are truly questionable.

Thank you for the opportunity to testify. Please feel free to contact Derrick Ishihara, HAPTA's Workers' Compensation Committee Chair at 808-221-8620 for further information.