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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Health
Tuesday, January 29, 2019
8:30 a.m.
State Capitol, Conference Room 329**

**On the following measure:
H.B. 216, RELATING TO INSURANCE**

Chair Mizuno and Members of the Committee:

My name is Colin Hayashida, and I am the Insurance Commissioner for the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to prohibit a health care insurer from requiring an insured diagnosed with stage two cancer to undergo step therapy prior to covering the insured for the drug prescribed by the insured's health care provider, under certain conditions.

By prohibiting step therapy under certain conditions, this measure may create the potential for circumvention of medical necessity provisions in Hawaii Revised Statutes (HRS) section 432E-1.4. Section 432E-1.4(a) provides in relevant part, "A health intervention may be medically indicated and not qualify as a covered benefit or meet the definition of medical necessity. A managed care plan may choose to cover health interventions that do not meet the definition of medical necessity." This bill may be

construed as prohibiting step therapy without considering whether it is medically necessary.

Additionally, the Department is concerned that an investigational new drug prescribed to the insured is one condition that will trigger the prohibition of step therapy, as “investigational new drug” is broadly defined.¹

Thank you for the opportunity to testify on this bill.

¹ The bill references the definition of “investigational new drug” in 21 Code of Federal Regulations section 312.3, which reads: “*Investigational new drug* means a new drug or biological drug that is used in a clinical investigation. The term also includes a biological product that is used in vitro for diagnostic purposes. The terms “investigational drug” and “investigational new drug” are deemed to be synonymous for purposes of this part.”



HAWAII MEDICAL ASSOCIATION

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To:

HOUSE COMMITTEE ON HEALTH

Rep. John Mizuno, Chair

Rep. Bertrand Kobayashi, Vice Chair

Date: January 29, 2019

Time: 8:30 a.m.

Place: Room 329

From: Hawaii Medical Association

Jerry Van Meter, MD, President

Christopher Flanders, DO, Executive Director

Re: HB 216 – Relating to Health Care Insurance

Position: SUPPORT

On behalf of Hawaii's physician and student members, the HMA supports HB 216 which would prohibit health care insurers from requiring an insured diagnosed with Stage II cancer to undergo step therapy prior to covering the insured for the drug prescribed by the insured's health care provider.

Step therapy, or "fail first" therapy is a form of prior authorization that requires preferred drugs be prescribed first until proven ineffective before physicians can try other, potentially higher cost agents. For cancer patients, selecting the proper personalized treatment as quickly as possible can be critical to survival. Delays in getting patients the right treatments at the right time many times leads to unnecessary complications in the physician-patient decision-making process.

Step therapy likewise places a significant administrative burden on physician practices. Physicians do not currently have ready access to patient benefit and formulary information, as there is currently no capability making this information available through electronic health records or other means at the point of prescribing. This lack of transparency makes it exceedingly difficult to determine what treatments are preferred by a particular payor at the point of care and places practices at financial risk for the cost of administered drugs if claims are later denied for unmet (yet unknown) step therapy requirements.

Furthermore, payor exemption and appeals processes can be complicated and lengthy, making them burdensome for both busy physician practices and patients awaiting treatment. It is our hope that another layer of administrative complication will not be added on to an already strained system.

Thank you for allowing testimony on this issue.

HMA OFFICERS

President – Jerry Van Meter, MD President-Elect – Michael Champion, MD Secretary – Thomas Kosasa, MD
Immediate Past President – William Wong, Jr., MD Treasurer – Elizabeth A. Ignacio, MD
Executive Director – Christopher Flanders, DO



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HB-216

Submitted on: 1/28/2019 3:58:00 PM

Testimony for HLT on 1/29/2019 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Support	No

Comments:



LATE

January 28, 2019

The Honorable John M. Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair

Re: HB 216 – Relating to Health Care Insurance

Dear Chair Mizuno, Vice Chair Kobayashi, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 216 which prohibits a health care insurer from requiring an insured diagnosed with stage two cancer to undergo step therapy prior to covering the insured for the drug prescribed by the insured's health care provider, under certain conditions. HMSA appreciates the intent of this bill and would like to provide comments.

HMSA follows clinically evidence based guidelines to ensure our members receive care that is safe and efficacious. Our policies are in line with ASCO (American Society of Clinical Oncology) guidelines. ASCO is the professional organization representing physicians of all oncology sub-specialties who care for people with cancer.

We also follow the NCCN (National Comprehensive Cancer Network) guidelines. NCCN is a not-for-profit alliance of the 28 leading cancer centers including MD Anderson, Mayo Clinic Cancer Center and Memorial Sloan Kettering Cancer Center to name a few. We also solicit input for our policies from local oncologists and also provide a 90 day comment period for the policies.

We are concerned with the mandated coverage of investigational or experimental drugs. These drugs are still awaiting the approval of the Food and Drug Administration, and do not have any long term data on safety and efficacy.

Finally, as this would be a new mandated benefit, it is subject to an impact assessment report by the Auditor pursuant to Sections 23-51 and 23-52 of the Hawaii Revised Statutes.

Thank you for allowing us to provide these comments on HB 216.

Sincerely,

Pono Chong
Vice President, Government Relations

LATE

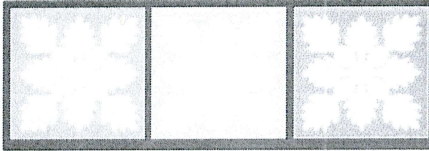
HB-216

Submitted on: 1/28/2019 4:28:13 PM

Testimony for HLT on 1/29/2019 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:



January 28, 2019

LATE TESTIMONY

House Committee on Health
The Honorable John M. Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair

LATE

House Bill 216 – Relating to Health Care Insurance

Dear Chair Mizuno, Vice Chair Kobayashi, and Members of the Committee:

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to testify on HB 216 which prohibits a health care insurer from requiring an insured diagnosed with stage two cancer to undergo step therapy prior to covering the insured for the drug prescribed by the insured's health care provider, under certain conditions.

We would like to express concerns on this legislation as it goes against policies as determined by the health plan's medical director and generally accepted evidence based medical practice.

We are also opposed to the mandated coverage of investigational or experimental drugs. These drugs are still awaiting the approval of the Food and Drug Administration, and do not have any longitudinal data on effectiveness and patient safety.

Finally, as this is a new mandated benefit, it is subject to an impact assessment report by the Legislative Auditor pursuant to Sections 23-51 and 23-52 of the Hawaii Revised Statutes.

Thank you for allowing us to testify expressing concerns on HB 216.

Sincerely,

HAHP Public Policy Committee