

# SB 1212

Measure Title:	RELATING TO REGULATORY AUTHORITY OF THE INSURANCE COMMISSIONER.
Report Title:	Administrator; Third Party Administrator; License; Insurance Regulatory Variance; Insurance Commissioner; Insurance; Vehicle Protection Product Warrantor; Service Contract Provider.
Description:	Requires third party administrators to be licensed and regulated by the Insurance Commissioner. Authorizes the Insurance Commissioner to issue targeted variances, waivers, or no-action letters relating to the requirements of chapter 431, Hawaii Revised Statutes.
Companion:	<a href="#">HB986</a>
Package:	Governor
Current Referral:	CPH
Introducer(s):	KOUCHI (Introduced by request of another party)



DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LT. GOVERNOR

**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Commerce, Consumer Protection, and Health  
Friday, February 15, 2019  
9:30 a.m.  
State Capitol, Conference Room 229**

**On the following measure:  
S.B. 1212, RELATING TO REGULATORY AUTHORITY  
OF THE INSURANCE COMMISSIONER**

Chair Baker and Members of the Committee:

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

The purposes of this bill are twofold: (1) to license and regulate third-party administrators (TPAs) in accordance with the National Association of Insurance Commissioners' (NAIC) Registration and Regulation of Third Party Administrators guidelines; and (2) to authorize the Insurance Commissioner to issue targeted variances of Hawaii Revised Statutes (HRS) title 24 requirements that would enable the introduction of new, innovative, and more efficient insurance products, services, and technologies to Hawaii's consumers.

### **1. Third-Party Administrators**

Section 1 provides for regulation of third-party administrators who collect charges or premiums from, or adjust or settle claims on, residents of this state in connection with: self-insurance; stop loss or life insurance coverage; or accident and health or sickness insurance coverage. This bill is based on the NAIC's Registration and Regulation of Third-Party Administrators Guideline.

NAIC guidelines, in general, differ from NAIC model acts and model rules in that NAIC accreditation for a state is not dependent on the state's adoption of guidelines. Rather, NAIC guidelines offer states opportunities to tailor bright lines of insurance law to guide states when they are adopting measures particular to their own needs and purposes.

Hawaii is one of eight states and jurisdictions that do not regulate TPAs. Currently, 19 states require TPA licenses from their respective departments of insurance, 16 states require certificates of registration, eight states require certificates of authority, and two states require either licenses or registrations. The differences in states' approaches reflect the flexibility of NAIC guidelines and the deference they give to states in knowing their own required needs. Regulation of TPAs, as proposed in this bill, will ensure adequate consumer protection and promote transparency of TPAs operating in Hawaii by: licensing and regulating TPAs; encouraging disclosure of contracts between insurers and TPAs; and promoting the financial responsibilities of TPAs.

### **2. Targeted Variances of HRS Title 24**

Section 2 proposes to foster technology and innovation in the area of insurance by authorizing the Insurance Commissioner to grant variances with respect to the enforcement or application of certain requirements of insurance laws. Applicants for these variances must justify that the variances do not have negative economic impacts, are warranted, and are beneficial to the public.

Technology and consumer expectations are rapidly transforming the regulated insurance industry. Insurers are making substantial investments in innovative insurance products, services, and technologies that hold great promise in mitigating risks,

improving efficiencies, reducing transaction costs, speeding claims' payments, and improving overall customer understanding of and satisfaction with this essential form of financial protection.

Without altering current statutory and rule requirements that regulate the financial viability and duties and obligations of insurers, providing narrowly tailored variances for insurers would promote expanded competition and innovation for the benefit of consumers. At the same time, this bill does not allow a variance to be granted for certain essential insurance requirements, such as licensing and certification obligations, privacy of consumer financial information, prohibited policy provisions, and restrictions on retroactive annulments of policies.

By encouraging the piloting and testing of new and innovative products, pricing, and ways to deliver insurance to businesses and consumers, the State can increase mitigation of risks. This, in turn, will reduce insurance costs and expand insurance markets by making insurance transactions more accessible for first-time insurance buyers. Notably, Arizona and Illinois passed legislation in 2018 creating regulatory sandbox programs that allow businesses, both established and startup, to test innovative financial products and services.

The Department supports this administration bill and requests that it pass out of this committee. Thank you for the opportunity to testify.

Testimony of  
Jonathan Ching  
Government Relations Specialist

Before:  
Senate Committee on Commerce, Consumer Protection, and Health  
The Honorable Rosalyn H. Baker, Chair  
The Honorable Stanley Chang, Vice Chair

February 15, 2019  
9:30 a.m.  
Conference Room 229

**Re: SB1212, Relating to Regulatory Authority of the Insurance Commissioner.**

Chair Baker, Vice-Chair Chang, and committee members, thank you for this opportunity to provide testimony on SB1212, which requires third party administrators to be licensed and regulated by the Insurance Commissioner. SB1212 also authorizes the Insurance Commissioner to issue targeted variances, waivers, or no-action letters relating to the requirements of the Insurance Code.

**Kaiser Permanente offers COMMENTS on SB1212 and requests an AMENDMENT**

Kaiser Permanente takes no position on Section 1.

With regards to Section 2, we support the intent of SB1212 to promote new, innovative, or more efficient insurance products, services, or technologies to the state's consumers that can promote and incentive a healthy behavior. However, we have concerns that Section 2 of SB1212 is too broad given that it allows for the possible pilot of products, pricing, and ways of delivering *all* types of insurance.

Bearing this in mind, we respectfully offer the following comments on SB1212:

1. While we are receptive to the piloting and testing of new and innovative products and ways of delivering insurance to businesses and consumers, we note that SB1212 does not specify a panel of experts that may be able to assist the Insurance Commissioner review potential applications for a no action letter, waiver, or variance from Section 431:2, Hawai'i Revised Statutes (HRS), especially if it is to demonstrate that the public policy purpose of the underlying law or rule may be achieved by alternative means;
2. Who would assess the risks and/or success of a pilot or test of such products? Furthermore, would it require applicants to self-report on the success of the pilot? Finally, how would

the Department of Commerce and Consumer Affairs, Insurance Division show that the public policy goals of Section 431:2, HRS is being “achieved by other means” as sought via SB1212?

Therefore, we believe Section 2 of SB1212 is premature given that the National Association of Insurance Commissioners has not developed or adopted a Model Act related to technology-enabled innovations in the insurance industry, or "InsurTechs." As such, Kaiser Permanente requests the committee to delete Section 2 of the SB1212 in its entirety.

We respectfully request consideration of our amendment. Thank you for the opportunity to testify on SB1212.



February 14, 2019

The Honorable Rosalyn H. Baker, Chair  
The Honorable Stanley Chang, Vice Chair  
Senate Committee on Commerce, Consumer Protection, and Health

Re: SB 1212 – Relating to Regulatory Authority of the Insurance Commissioner

Dear Chair Baker, Vice Chair Chang, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 1212, which requires third party administrators to be licensed and regulated by the Insurance Commissioner. Authorizes the Insurance Commissioner to issue targeted variances, waivers, or no-action letters relating to the requirements of chapter 431, Hawaii Revised Statutes. HMSA supports the intent of this bill, but we would like to offer a comment for consideration.

In looking at the portion of this measure that addresses variances, waivers, or no-action letters, additional clarification is needed around protections from any potential liability that an insurer may be exposed to for conduct that is the subject of the variance, waiver, or no-action letter.

Thank you for allowing us to testify on SB 1212. Your consideration of our comment is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Pono Chong", written in a cursive style.

Pono Chong  
Vice President, Government Relations

**SENATE COMMITTEE ON  
COMMERCE, CONSUMER PROTECTION, and HEALTH**

February 15, 2019

Senate Bill 1212 Relating to Regulatory Authority of the Insurance Commissioner

Chair Baker, Vice Chair Chang, and Members of the Committee on Commerce, Consumer Protection, and Health:

I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers the following comments regarding Senate Bill 1212.

State Farm has no comments on the Third Party Administrator portion in Section 1 of the measure.

State Farm does have concerns with Section 2 which has proposed new language with regards to variances, waivers, or no-action letters.

We support the intent of this bill: to promote current, and encourage future innovation in insurance products and services. There are however three areas where State Farm would like further consideration, all dealing with the procedural aspects of the proposal:

- **Consistent Application of the Process.** There should be some guarantees that this process is applied consistently to all meritorious applications submitted, regardless of the size of the company, or whether it is a domestic or foreign carrier. Perhaps there should be a provision stating that the commissioner must give equal consideration of all applications meeting the public policy goals outlined in the statute.
- **Transparency.** State Farm recognizes and appreciates that innovation, particularly technological innovation, will generally involve efforts that are entitled to Trade Secret protection. Companies often invest considerable time, resources, and money in the development of new technologies, and they should be entitled to benefit from those investments. This is essential to creative development. Notwithstanding, State Farm believes that the posted notice of the waiver request should have some general description of the applicant's legal and business need for the waiver, and that this can be done without compromising trade secrets.
- **Public Comment.** State Farm believes that there should be an opportunity for comment on a request prior to approval of a variation. This could be accomplished by building in 30-day comment period.

With the rapid changes in technology and application of these changes to the insurance business, there are huge possibilities for improvements in delivering insurance products and services to consumers. This is particularly important for Hawaii which has geographical barriers not faced by other states: modern technology is and will continue to reduce these barriers. This bill can help to facilitate these innovations, however, there should be a level playing ground for all insurers with regards to consistency, transparency, and public comment.

Thank you for the opportunity to present this testimony.



TO THE SENATE COMMITTEE ON  
CCOMMERCE, CONSUMER PROTECTION, AND HEALTH  
THIRTIETH LEGISLATURE  
Regular Session of 2019  
Friday, February 15, 2019, 9:30 a.m.  
Room 229

**TESTIMONY ON SENATE BILL NO. 1212, RELATING TO THE REGULATORY AUTHORITY  
OF THE INSURANCE COMMISSIONER**

To the Honorable Senator Rosalyn H. Baker, Chair, Honorable Senator Stanley Chang, Vice Chair, and Members of the Senate Committee on Commerce, Consumer Protection, and Health

TESTIMONY IN SUPPORT WITH COMMENTS ON SECTION 1 OF THE MEASURE RELATED TO THE REGULATION OF THIRD PARTY ADMINISTRATORS.

NO POSITION ON SECTION 2 OF THE MEASURE, RELATING TO WAIVER AND VARIANCES.

MDX Hawaii, Inc. recognizes the importance of and supports Section 1 of this measure relating to the regulation of third party administrators; we, however, respectfully offer the following comments and suggestions for the committee's consideration with respect to Section 1 of the measure.

MDX Hawaii, Inc., however, takes no position on Section 2 of this measure, relating to variances and waivers.

Thus, our comments below are limited to Section 1 of the measure.

1. **§431: License required; application (Page 5, Lines 14-19, Page 6, Lines 3-6).** We offer three suggestions on this section of the bill:

A. The term, "solvent", is not defined. Clarity in the solvency standards will help to ensure compliance with the solvency standards. Third-party administrators should know what financial standards they will be held accountable to. The National Association of Insurance Commissioners guidelines use a "positive net worth" concept. We suggest the adoption of such a standard or allow the applicant to meet the solvency requirement through a letter of credit in a form and amount reasonably determined by the commissioner.

B. Since the bill proposes new licensing requirements that will apply to current third party administrators, we suggest that the bill's effective date be established as a future date to allow current third-party administrators sufficient time to meet the audited financial statement requirement. Some of the current third-party administrators may not have two years of audited financial statements. We suggest an effective date of January 1, 2022 which will allow third party administrators adequate time to meet the audited financial statement requirement.

C. On Page 6, Lines 3-6 (Section (d)), we suggest deleting the requirement that individuals who adjust claims for the third-party administrator be licensed as claims adjusters.

The broad language of this section could encompass MDX Hawaii, Inc. personnel who process medical claims submitted by medical providers. We do not think the bill intended to require licensing of staff who process such medical claims submitted by medical providers. Requiring such personnel to be licensed as adjusters will be unduly burdensome and unnecessary since the licensed third-party administrator, as the employer or contractor, should be accountable for their actions.

2. **§Section 431: Surety bond required (Page 7, Lines 12-21)**. We suggest that the amount of the surety bond be reduced to \$100,000 to align with the NAIC guidelines.

Thank you for considering our comments and suggestions to Section 1 of this measure.



BEFORE THE

**SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH**

Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair

**SB1212 RELATING TO REGULATORY AUTHORITY OF THE INSURANCE  
COMMISSIONER**

**TESTIMONY OF  
PAUL KAISER  
Chief Operating Officer,  
Hawaii-Western Management Group**

February 15, 2019, 9:30 a.m.  
State Capitol Conference Room 229

Chair Baker, Vice Chair Chang, and Committee Members:

My name is Paul Kaiser, the Chief Operating Officer of Hawaii-Western Management Group (HWMG). HWMG supports the intent of SB1212, as amended by the attached proposed SB1212, SD1 (with proposed amendments highlighted in yellow). These amendments seek to conform the language of the bill to model acts promulgated by the National Association of Insurance Commissioners (NAIC).

By way of background, HWMG is a small, kama'aina third-party administrator providing health insurance management services for a wide range of organizations including Hawaii Medical Assurance Association (HMAA), Charter Communications, Hawaii Electricians Local Union 1186, and labor unions. HWMG is proud to be 100% employee-owned through its Employee Stock Ownership Plan (ESOP).

The purpose of SB1212 is twofold: (1) to allow the Insurance Commissioner to issue targeted variances, waivers, or no-action letters (Section 2 of SB1212); and (2) to encourage disclosure of contracts between insurers and third-party administrators, promote financial responsibility of such administrators, and govern the qualifications and procedures for the licensing of such administrators (Sections 1 and 3 of SB1212).

I. Section 2 of SB1212 Will Provide Too Much Power to the Insurance Commissioner to Exempt Persons and Entities from Insurance Laws

Section 2 of SB1212 seeks to allow the Insurance Commissioner to issue targeted variances, waivers, or no-action letters. This section effectively allows the Commissioner free reign to broadly exempt any person or entity subject to the Insurance Code from having to follow numerous provisions in the insurance code for

any amount of time and in any scope. This section also provides no guidelines for consistent application of variances, transparency, or ability for public comments, just like there is in the Legislature. SB1212 does not specify a panel of experts that may be able to assist the Insurance Commissioner's review of potential applications for a no action letter, waiver, or variance from the Insurance Code. Further, the few limitations on the Insurance Commissioner's authority to provide exceptions as listed in subsection (b) of SB1212's Section 2 is narrow in scope.

There is no basis to usurp the Legislature's powers by vesting to the Insurance Commissioner power to exempt, and this section should be deleted in its entirety from SB1212. The ability to make exceptions to law should rest with the Legislature. Therefore, Section 2 of SB1212 should be deleted in its entirety.

## II. Sections 1 of SB1212 Oversteps Model Law Proposed by the NAIC

HWMG supports Sections 1 and 3 of SB1212 with certain modifications to Section 2 as set forth below to address inconsistencies with the bill when compared with the NAIC model bill. As drafted, SB1212 departs in several respects from the NAIC model bill (available here: <https://www.naic.org/store/free/GDL-1090.pdf>) and these departures present challenges to administrators.

First, the proposed SB1212 does not protect any books and records examined by the Insurance Commissioner. For instance, under Section 1 of SB1212, documents in the administrator's possession that may be protected by the attorney-client privilege will no longer be privileged if in the Commissioner's possession. To ensure that privileged documents remain privileged and confidential, the Committee should adopt the NAIC model act's language as to the following provision of SB1212:

### **§431- Recordkeeping required; commissioner's access to records.**

\* \* \*

(b) The commissioner shall have access to the books and records for examination, audit, and inspection. ~~[Trade secrets in the books and records, including the identity and addresses of insureds, shall be confidential and privileged. However, the commissioner may use the information in proceedings brought against the administrator.]~~ **Any documents, materials or other information in the possession or control of the commissioner that are furnished by the administrator, payor, insurance producer or an employee or agent thereof acting on behalf of the administrator, payor or insurance producer, or obtained by the commissioner in an investigation shall be confidential by law and privileged, shall not be subject to freedom of information or sunshine requests, shall not be not subject to subpoena, and shall not be subject to**

**discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use such documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.**

(Additional language bolded and underscored; deleted language bracketed and struck-through.)

Second, Section 1 of SB1212 does not set forth ascertainable standards as to when an administrator is considered “solvent” or “insolvent.” As drafted, SB1212 requires prospective administrators to show annual audited financial statements for the two most recent years to prove solvency. The NAIC model act, however, sets forth a specific, qualitative standard to prove “solvency” by requiring financial statements showing the applicant had a positive net worth. The licensing requirements in SB1212 should conform to the NAIC model act and account for HWMG’s structure as an ESOP where audited financial statements currently do not exist:

**§431- License required; application.**

(a) No person shall act as or hold out to be an administrator in this State without a license as an administrator issued by the commissioner.

(b) An administrator shall apply to the commissioner on a form prescribed by the commissioner and shall include the following:

\* \* \*

(5) Annual [~~audited~~] financial statements for the two most recent years that prove the applicant [~~is solvent~~] **has a positive net worth** and information the commissioner may require to review the current financial condition of the applicant; and

(Additional language bolded and underscored; deleted language bracketed and struck-through.)

Third, Section 1 of SB1212 places licensing requirements on individuals who adjust claims for the administrator, even though the NAIC model act imposes no such requirement. Requiring licensure for such adjusters is unnecessary and will be administratively and financially burdensome. In addition, it may be discriminatory to focus solely on adjusters employed by administrators, when adjusters that are not employed by administrators would not be subject to a similar licensing requirement. Therefore, this requirement should be deleted as follows:

**§431- License required; application.**

(a) No person shall act as or hold out to be an administrator in this State without a license as an administrator issued by the commissioner.

(b) An administrator shall apply to the commissioner on a form prescribed by the commissioner and shall include the following:

\* \* \*

~~[(d) If an administrator employs or has contracted individuals to adjust claims for the administrator, the employees or contracted individuals shall first be licensed as individual adjusters.]~~

(Additional language bolded and underscored; deleted language bracketed and struck-through.)

Fourth, Section 1 of SB1212 includes a surety bond requirement for administrators of up to \$300,000, which is threefold the amount recommended by the NAIC. The surety bond requirements should be consistent with the NAIC model act as follows:

**§431- Surety bond required.** Prior to the issuance or renewal of the administrator license, the administrator shall file and maintain with the commissioner a surety bond of at least ~~[\$300,000]~~ **\$100,000**, in the form and penal sum acceptable to the commissioner, and shall provide that the bond may not be canceled or otherwise terminated until two years have elapsed from the last day the applicant was an administrator, unless the commissioner has given prior written consent. The surety bond shall be undertaken and may be enforced in the name of "Commissioner of Insurance, State of Hawaii."

(Additional language bolded and underscored; deleted language bracketed and struck-through.)

Fifth, Section 1 of SB1212 addresses the compensation of an administrator and the following clarification should be made to reflect the intent that an administrator should not benefit by reducing the amount of claims paid:

**§431- Compensation of administrator.** Compensation to an administrator for adjusting or settling claims shall not be **increased** contingent on claim experience. This section shall not prevent the compensation of an administrator from being based on premiums or charges collected or number of claims paid or processed.

(Additional language bolded and underscored; deleted language bracketed and struck-through.)

As drafted, Section 1 of SB1212 will hurt the ability of administrators to provide quality and cost-effective services to self-insured employers and insurance providers, thereby pushing the cost of healthcare higher to many of Hawaii's families who already pay a high price for healthcare. SB1212, SD1 makes certain necessary amendments to conform SB1212 to the model law and ensures that third-party administrators are not adversely burdened by administrative licensing requirements. In addition, the Insurance Commissioner would continue to enforce and apply approved law in line with the intent of legislators and consistently amongst all carriers. HWMG respectfully urges the passage of this measure as amended. HWMG is also ready and willing to discuss these matters further with the Insurance Commissioner or his designee to see if compromise can be reached on these issues. Thank you for the opportunity to testify on this matter of critical importance.

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A BILL FOR AN ACT

RELATING TO REGULATORY AUTHORITY OF THE INSURANCE COMMISSIONER.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new article to be appropriately designated and to read as follows:

**"ARTICLE**

**THIRD PARTY ADMINISTRATORS**

**§431- Definitions.** For purposes of this article:

"Administrator" or "third party administrator" means a person who collects charges or premiums from, or who adjusts or settles claims on, residents of this State in connection with self-insurance, stop-loss, or life insurance coverage, accident and health or sickness insurance coverage, or article 1 of chapter 432, except the following:

- (1) An employer on behalf of its employees or the employees of a subsidiary or an affiliated corporation of the employer;
- (2) A union on behalf of its members;
- (3) An insurer authorized to transact insurance in this State with respect to a policy lawfully issued and delivered in and pursuant to the laws of this State or another state;
- (4) A producer licensed to sell life insurance coverage or accident and health or sickness insurance coverage in this State, whose activities are limited exclusively to the sale of insurance;
- (5) A managing general agent licensed in this State whose activities are limited exclusively to the scope of activities conveyed under that license;



(6) An individual adjuster licensed in this State whose activities are limited exclusively to the scope of activities conveyed under that license;

(7) An individual who adjusts or settles claims in the normal course of practice or employment as an attorney at law and who does not collect charges or premiums in connection with life insurance coverage or accident and health or sickness insurance coverage;

(8) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(9) A trust established in conformity with 29 U.S.C. section 186 and trustees, agents, and employees acting under that trust;

(10) A trust exempt from taxation under 26 U.S.C. section 501(a) and trustees and employees acting under that trust, or a custodian and the custodian's agents and employees acting under a custodian account that meets the requirements of 26 U.S.C. section 401(f);

(11) A financial institution subject to supervision or examination by federal or state banking authorities, or a mortgage lender that collects and remits premiums to licensed producers or authorized insurers in connection with loan payments;

(12) A credit card issuing company advancing for and collecting premiums or charges from its credit card holders who have authorized collection, provided the company does not adjust or settle claims; and

(13) A person who acts solely as an administrator of one or more employee benefit plans established by an employer or an employee organization.

"Commissioner" means the insurance commissioner.

"Insurance producer" or "producer" has the same meaning as in section 431:9A-102.

"Insurer" has the same meaning as in section 431:1-202.

"Person" has the same meaning as in section 431:1-212.

"Stop-loss insurance" means an insurance protecting an employer or other person responsible for an otherwise self-insured health or life benefit plan against obligations under the plan, but does not include reinsurance written for an insurance company.

**§431- License required; application.** (a) No person shall act as or hold out to be an administrator in this State without a license as an administrator issued by the commissioner.

(b) An administrator shall apply to the commissioner on a form prescribed by the commissioner and shall include the following:

(1) A nonrefundable fee as set forth in section 431:7-101;

(2) All basic organizational documents of the administrator, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, and other applicable documents and all amendments to the documents;

(3) The bylaws, rules, regulations, or similar documents regulating the internal affairs of the administrator;

(4) The names, addresses, official positions, and professional qualifications of the individuals responsible for the conduct of affairs of the administrator, including, but not limited to, all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers in the case of a corporation, or the partners in the case of a partnership;

(5) Annual [audited] financial statements for the two most recent years that prove the applicant [is solvent] **has a positive net worth** and information the commissioner may require to review the current financial condition of the applicant; and

(6) Any other pertinent information the commissioner may require.

(c) An administrator licensee or applicant for licensure shall notify the commissioner within thirty days of any material change in its ownership, control, contact person for the administrator, or any other fact or circumstance affecting the licensee's or applicant's qualification for licensure.

~~[(d) If an administrator employs or has contracted individuals to adjust claims for the administrator, the employees or contracted individuals shall first be licensed as individual adjusters.]~~

~~[(e)]~~(d) If an administrator employs or has contracted individuals to sell, solicit, or negotiate insurance business, the employees or contracted individuals shall first be licensed as producers. An administrator who intends to directly solicit insurance contracts or otherwise act as a producer shall first be licensed as an insurance producer.

~~[(f)]~~(e) The commissioner may refuse to issue a license if the commissioner determines, after notice and hearing pursuant to section 431:2-308 and chapter 91, that the administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation, or has had an application for an insurance license denied or revoked for cause within the past five years.

~~[(g)]~~(f) The license shall be renewable or extendable biennially. The renewal or extension date for a license issued to a natural person shall be the sixteenth day of the licensee's birth month. The renewal or extension date for a license issued to an artificial person shall be the sixteenth day of April for a nonresident licensee, and the sixteenth day of July for a resident licensee. The license shall remain in effect so long as the fees set forth in section 431:7-101 are paid.

~~[(h)]~~(g) The commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners or any affiliations or subsidiaries that the National Association of Insurance Commissioners oversees, to perform any ministerial functions relating to the licensure of administrators.

**§431- Surety bond required.** Prior to the issuance of the administrator license, the administrator shall file with the commissioner, and maintain in force while so licensed, a surety bond of at least ~~[\$300,000]~~**\$100,000**, in the form and penal sum acceptable to the commissioner, and shall provide that the bond may not be canceled or otherwise terminated until two years have elapsed from the last day the applicant was an administrator, unless the commissioner has given prior written consent. The surety

bond shall be undertaken and may be enforced in the name of "Commissioner of Insurance, State of Hawaii."

**§431- Written agreement required.** (a) An administrator shall have a written agreement between the administrator and insurer that contains all requirements of this article, except those that do not apply to administrator functions.

(b) The written agreement shall include a provision with respect to underwriting or other standards pertaining to the business underwritten by the insurer.

(c) The written agreement shall be retained as part of the official records of the administrator and the insurer for the duration of their agreement and five years thereafter.

(d) When an insurance policy is issued to a trustee, the administrator shall furnish the insurer a copy of the trust agreement and any amendments to it. The trust agreement shall be retained as part of the official records of the administrator and the insurer for the duration of the insurance policy and five years thereafter.

**§431- Effect of payments to administrator.** (a) Payment to the administrator of any insurance premiums or charges by or on behalf of the insured shall be deemed received by the insurer.

(b) Payment of return premiums or claims by the insurer to the administrator shall not be deemed payment to the insured until the insured receives the payment.

(c) This section does not limit any right of the insurer against the administrator resulting from failure of the administrator to make payments to the insurer or insured.

**§431- Recordkeeping required; commissioner's access to records.** (a) An administrator shall maintain and make available to the insurer complete books and records of all transactions between the administrator, insurers, and insureds. The books and records shall be maintained in accordance with prudent standards of

insurance recordkeeping and for the duration of the written agreement and five years thereafter.

(b) The commissioner shall have access to the books and records for examination, audit, and inspection. ~~[Trade secrets in the books and records, including the identity and addresses of insureds, shall be confidential and privileged. However, the commissioner may use the information in proceedings brought against the administrator.]~~ **Any documents, materials or other information in the possession or control of the commissioner that are furnished by the administrator, payor, insurance producer or an employee or agent thereof acting on behalf of the administrator, payor or insurance producer, or obtained by the commissioner in an investigation shall be confidential by law and privileged, shall not be subject to freedom of information or sunshine requests, shall not be not subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use such documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.**

(c) An administrator shall retain the right to continuing access to the books and records to fulfill its contractual obligations to the insurer and insureds, subject to any restrictions in the written agreement.

**§431- Advertising by administrator.** An administrator shall use only the advertising pertaining to the business an insurer has underwritten and approved in advance of its use.

**§431- Fiduciary duties of administrator; payment of claims by administrator.** (a) The administrator shall hold in a fiduciary capacity all charges, claim payments, or premiums that the administrator collects for or on behalf of an insurer and all return premiums that the administrator receives from the insurer. These

funds shall be immediately remitted to the person entitled to them or shall be deposited promptly in a fiduciary account established and maintained by the administrator in a federally insured financial institution.

(b) If charges, claim payments, or premiums deposited in a fiduciary account have been collected for or on behalf of more than one insurer, the administrator shall keep records clearly recording the deposits in and withdrawals from the account for or on behalf of each insurer. The administrator shall keep copies of the records and, upon request of an insurer, shall furnish the insurer with copies of records pertaining to the deposits and withdrawals.

(c) An administrator shall not pay claims by withdrawals from the fiduciary account in which premiums or charges are deposited.

(d) The written agreement shall provide that withdrawals from the fiduciary account shall be made only for:

- (1) Remittance to an insurer entitled to remittance;
- (2) Deposit in an account maintained in the name of the insurer;
- (3) Transfer to and deposit in a claims-paying account, with claims to be paid as provided in subsection (e);
- (4) Payment to a group policyholder for remittance to the insurer entitled to remittance;
- (5) Payment to the administrator of its commission, fees, or charges; and
- (6) Remittance of return premiums to the person entitled to return premiums.

(e) All claims the administrator pays from funds collected for or on behalf of an insurer shall be paid only as authorized by the insurer.

**§431- Compensation of administrator.** Compensation to an administrator for adjusting or settling claims shall not be **increased** contingent on claim experience. This

section shall not prevent the compensation of an administrator from being based on premiums or charges collected or number of claims paid or processed.

**§431- Written notice to insureds required.** (a) When the services of an administrator are used, the administrator shall provide written notice approved by the insurer to insureds, advising the insureds of the identity of and relationship between the administrator, insurer, and insured.

(b) When an administrator collects funds, the administrator shall identify the reason for collecting each item and show each item separately from the premium. Additional charges shall not be made for services to the extent the insurer has already paid for those services.

(c) The administrator shall disclose to the insurer all charges, fees, and commissions the administrator receives from services the administrator provides the insurer, including any fees or commissions paid by insurers providing reinsurance.

**§431- Delivery of written information to insured.** Any policies, certificates, booklets, termination notices, or other written communications delivered by the insurer to the administrator for delivery to the insured, shall be delivered by the administrator promptly after receipt of instructions from the insured to deliver them.

**§431- Annual report required.** (a) An administrator shall file an annual report for the preceding calendar year with the commissioner on or before March 1 of each year, in a form and manner prescribed by the commissioner.

(b) The annual report shall include the names and addresses of all insurers with which the administrator had an agreement during the preceding calendar year.

**§431- License denial, nonrenewal, suspension, or revocation; fines.** (a) After notice and hearing, the commissioner shall impose a fine pursuant to section 431:2-203 and issue a cease and desist order against any person who acts or holds out as an administrator without a license.

(b) After notice and hearing, the commissioner shall deny, refuse to renew, suspend, or revoke the license of an administrator if the commissioner finds that the administrator:

(1) Is in an unsound financial condition;

(2) Is using methods or practices in the conduct of business that renders the administrator's further transaction of business in this State hazardous or injurious to insureds or the public; or

(3) Has failed to pay a judgment rendered against the administrator in this State within sixty days after the judgment has become final.

(c) The commissioner may deny, refuse to renew, suspend, or revoke the license of an administrator if the commissioner finds the administrator:

(1) Has violated any lawful rule or order of the commissioner or this code;

(2) Has refused examination or production of the administrator's accounts, records, and files for examination, or if any individual responsible for or who exercises control or influence over the affairs of the administrator has refused to give information about the administrator's affairs, or has refused to perform any other legal obligation as to an examination, when required by the commissioner;

(3) Has, without just cause:

(i) Refused to pay proper claims or perform services arising under the administrator's contracts;

(ii) Caused insureds to accept less than the amount due to the insureds; or

(iii) Caused insureds to employ attorneys or bring suit against the administrator to secure full payment or settlement of claims;

(4) Has failed at any time to meet any qualification for which issuance of the license could have been refused, had the failure then existed and been known to the commissioner;

(5) Has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony without regard to whether adjudication was withheld;



(6) Is under suspension or has a license revoked in another state; or

(7) Has failed to timely file the annual report pursuant to section 431- .

(d) The commissioner may immediately suspend the license of an administrator, without advance notice or hearing, if the commissioner finds the following:

(1) The administrator is insolvent or impaired;

(2) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the administrator has been commenced in any state; or

(3) The financial condition or business practices of the administrator otherwise are an imminent threat to the public health, safety, or welfare of the residents of this State.

(e) If the commissioner finds one or more grounds exist for the denial, nonrenewal, suspension, or revocation of the license, the commissioner may additionally impose a fine upon the administrator pursuant to section 431:2-203.

**§431- Rules and regulations.** The commissioner may adopt rules to implement and enforce this article."

~~SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding to part II of article 2 a new section to be appropriately designated and to read as follows:~~

~~"§431:2- **Variations, waivers, or no-action letters.** (a) Subject to the limitations specified in subsection (b):~~

~~(1) The commissioner may issue a variance, waiver, or no-action letter relating to a requirement of title 24 if a person or entity subject to title 24 demonstrates that the public policy goals of title 24 may be achieved by other means and that the application of the requirement may inhibit or discourage the introduction of new, innovative, or more efficient insurance products, services, or technologies;~~

~~(2) "Innovative" means the use or incorporation of new or emerging technology or the reimagination of uses for existing technology to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism that is not known by the commissioner to have a comparable widespread offering in this State;~~

~~(3) A variance, waiver, or no-action letter issued pursuant to this section shall be of a duration deemed appropriate by the commissioner; and~~

~~(3) The commissioner may issue variances, waivers, or no-action letters of differing or limited durations and scope.~~

~~(b) The commissioner shall not issue a variance, waiver, or no-action letter related to any provision of title 24 governing:~~

~~(1) Assets, deposits, investments, capital, surplus, or other solvency requirements applicable to insurance companies;~~

~~(2) Licensing and certificate of authority requirements applicable to any person or entity required to hold a license under this chapter;~~

~~(3) Required participation in any assigned risk plan, residual market, or guaranty fund;~~

~~(4) Requirements that the insurance division maintain its accreditation by the National Association of Insurance Commissioners, unless the issuance of a permit, variance, waiver, or no-action letter is permitted;~~

~~(5) The application of any tax or fee;~~

~~(6) The privacy of consumer financial information, including required consumer notices and the right of consumers to opt out of disclosure as specified in article 3A of chapter 431;~~

~~(7) The minimum required contents of motor vehicle policies and any required offers of additional coverage under those policies as specified in article 10C of chapter 431;~~

~~(8) Extended reporting period requirements for commercial general liability coverage as specified in section 431:10-211.3;~~

~~(9) The rights of insurance applicants or policyholders who are victims of domestic abuse as specified in section 431:10-217.5;~~

~~(10) Prohibited policy provisions as specified in section 431:10-221;~~

~~(11) Restrictions on retroactive annulments of policies as specified in section 431:10-227;~~

~~(12) Restrictions on insurability of punitive damages as specified in section 431:10-240;~~

~~(13) Restrictions on insurers with respect to the use of insurance inquiries as specified in section 431:10E-124;~~

~~(14) The right of a policyholder or person who has acquired the rights of the policyholder or beneficiary under the policy to be awarded reasonable attorney's fees and the costs of suit, in addition to the benefits under the policy, as specified in section 431:10-242; and~~

~~(15) Any other requirement that the commissioner deems ineligible for the issuance of a variance, waiver, or no-action letter.~~

~~(c) When an application for a variance, waiver, or no-action letter is granted, the commissioner shall provide public notice of the application for or grant of a variance, waiver, or no-action letter. The notice shall include:~~

~~(1) The specific statute to which the variance, waiver, or no-action letter applies;~~

~~(2) The name of the applicant for the variance, waiver, or no-action letter; and~~

~~(3) The duration of the variance, waiver, or no-action letter.~~

~~The requirements of this subsection may be satisfied by the publication of a notice on the insurance division's website.~~

~~(d) The commissioner shall adopt rules pursuant to chapter 91 that establish a procedure for the submission, granting, or denying of an application petition for a variance, waiver, or no-action letter; provided that the rules shall:~~

~~(1) Include procedures for granting or denying a variance, waiver, or no-action letter within sixty days of the receipt of the application;~~

~~(2) Authorize the commissioner to revoke a variance, waiver, or no-action letter issued pursuant to this section if the commissioner has reasonable cause to believe that a recipient of a variance, waiver, or no-action letter has:~~

~~(A) Engaged in a violation of title 24 that was not waived by the granting of the variance, waiver, or no-action letter;~~

~~(B) Not produced and will not likely produce identifiable benefits to consumers; or~~

~~— (C) Failed to abide by the terms, conditions, or limitations of any variance, waiver, or no-action letter;~~

~~— (3) Authorize the commissioner to require reasonable terms, conditions, or limitations on the conduct or activity permitted under a variance, waiver, or no-action letter; provided that the terms, conditions, or limitations may include a requirement that the recipient of a variance, waiver, or no-action letter shall take reasonable steps to protect consumers, mitigate risks, or submit data or analysis to the commissioner on the market impact of the variance, waiver, or no-action letter;~~

~~— (4) Authorize the commissioner to collect an application fee of \$500 per application. A separate application shall be submitted for each new, innovative, or more efficient insurance product, service, or technology;~~

~~— (5) Authorize the commissioner to require a recipient of a waiver, variance, or no-action letter to provide each consumer with a disclosure stating that:~~

~~— (A) The innovative insurance product or service is authorized pursuant to a waiver, variance, or no-action letter;~~

~~— (B) The State of Hawaii does not endorse or recommend the innovative insurance product or service;~~

~~— (C) The innovative insurance product or service is temporary for a limited duration and may end unless the waiver, variance, or no-action letter is extended by the commissioner, including the expected end date; and~~

~~— (D) Consumers may contact the commissioner to file complaints regarding the innovative insurance product or service and provide the commissioner's telephone number and website address where complaints may be filed;~~

~~— (6) Authorize the commissioner to have regularly scheduled communications with the recipient of a variance, waiver, or no-action letter; provided that the communication shall be, at a minimum, once per quarter each calendar year;~~

~~— (7) Authorize the commissioner to establish periodic reporting requirements for the recipient of a variance, waiver, or no-action letter; provided that the periodic reporting requirements shall be, at a minimum, once per quarter each calendar year; and~~

~~— (8) Authorize the commissioner to seek records, documents, and data as requested from the recipient of a variance, waiver, or no-action letter.~~

~~— (e) Notwithstanding the provisions of subsection (c), the following shall be considered trade secrets and confidential information and shall not be subject to public disclosure:~~

~~— (1) A petition for a variance, waiver, or no-action letter;~~

~~— (2) Information contained in an application for a variance, waiver, or no-action letter;~~

~~— (3) All information provided to the commissioner by an applicant for or recipient of a variance, waiver, or no-action letter; and~~

~~— (4) Any communication between the insurance division and the recipient that is required pursuant to the terms of the variance, waiver, or no-action letter.~~

~~— (f) The commissioner's authority to grant a variance, waiver, and no-action letter under this section shall not be construed to limit or otherwise affect the authority of the commissioner to exercise discretion to waive or enforce requirements as permitted under any other law.~~

~~— (g) No later than twenty days prior to the convening of each regular session, the commissioner shall submit an annual report to the legislature that includes the following information for the previous year:~~

~~— (1) The total number of applications for a variance, waiver, or no-action letter granted or denied by the commissioner;~~

~~— (2) For each variance, waiver, or no-action letter granted by the commissioner, the information required under subsection (c);~~

~~— (3) For each provision in title 24 to which a variance, waiver, or no-action letter applies, the commissioner's recommendation as to whether the provision should be continued, eliminated, or amended in order to promote innovation and establish a uniform regulatory system for all regulated entities; and~~

~~“(4) A list of variances, waivers, or no-action letters that have lapsed or been revoked and, if revoked, a description of other regulatory or disciplinary actions, if any, that resulted in, accompanied, or resulted from the revocation.”]~~

SECTION ~~2~~3. Section 431:7-101, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The commissioner shall collect, in advance, the following fees:

(1) Certificate of authority:

(A) Application for certificate of authority..... \$900

(B) Issuance of certificate of authority..... \$600

(C) Application for motor vehicle self-insurance. \$300

(2) Organization of domestic insurers and affiliated corporations:

(A) Application for solicitation permit..... \$1,500

(B) Issuance of solicitation permit..... \$150

(3) Producer's license:

(A) Issuance of regular license..... \$50

(B) Issuance of temporary license..... \$50

(4) Nonresident producer's license: Issuance..... \$75

(5) Independent adjuster's license: Issuance..... \$75

(6) Public adjuster's license: Issuance..... \$75

(7) Claims adjuster's limited license: Issuance..... \$75

(8) Administrator's license: Issuance ..... \$150

~~[(8)]~~ (9) Independent bill reviewer's license:

Issuance..... \$80

~~[(9)]~~ (10) Limited producer's license: Issuance..... \$60

~~[(10)]~~ (11) Managing general agent's license: Issuance.. \$75

~~[(11)]~~ (12) Reinsurance intermediary's license: Issuance. \$75

~~[(12)]~~ (13) Surplus lines broker's license: Issuance... \$150

~~[(13)]~~ (14) Service contract provider's registration:

Issuance..... \$75

~~[(14)]~~ (15) Approved course provider certificate:

Issuance..... \$100

~~[(15)]~~ (16) Approved continuing education course certificate: Issuance \$30

~~[(16)]~~ (17) Vehicle protection product warrantor's registration: Issuance \$75

~~[(17)]~~ (18) Criminal history record check; fingerprinting: For each criminal history record check and fingerprinting check, a fee to be established by the commissioner.

~~[(18)]~~ (19) Limited line motor vehicle rental company producer's license: Issuance \$1,000

~~[(19)]~~ (20) Legal service plan certificate of authority:

Issuance before July 1, 2014..... \$1,000

Issuance on or after July 1, 2014..... \$500

~~[(20)]~~ (21) Life settlement provider's license:

Issuance before July 1, 2014..... \$150

Issuance on or after July 1, 2014..... \$75

~~[(21)]~~ (22) Life settlement broker's license:

Issuance before July 1, 2014..... \$150

Issuance on or after July 1, 2014..... \$75

~~[(22)]~~ (23) Examination for license: For each examination, a fee to be established by the commissioner.

(b) The fees for services of the department of commerce and consumer affairs subsequent to the issuance of a certificate of authority, license, or other certificate are as follows:

(1) \$600 per year for all services (including extension of the certificate of authority) for an authorized insurer;

(2) \$50 per year for all services (including extension of the license) for a regularly licensed producer;

(3) \$75 per year for all services (including extension of the license) for a regularly licensed nonresident producer;

(4) \$45 per year for all services (including extension of the license) for a regularly licensed independent adjuster;

(5) \$45 per year for all services (including extension of the license) for a regularly licensed public adjuster;

(6) \$45 per year for all services (including extension of the license) for a claims adjuster's limited license;

(7) \$150 per year for all services (including extension of the license) for an administrator's license;

~~[(7)]~~ (8) \$60 per year for all services (including extension of the license) for a regularly licensed independent bill reviewer;

~~[(8)]~~ (9) \$45 per year for all services (including extension of the license) for a producer's limited license;

~~[(9)]~~ (10) \$75 per year for all services (including extension of the license) for a regularly licensed managing general agent;

~~[(10)]~~ (11) \$75 per year for all services (including extension of the license) for a regularly licensed reinsurance intermediary;

~~[(11)]~~ (12) \$45 per year for all services (including extension of the license) for a licensed surplus lines broker;

~~[(12)]~~ (13) \$75 per year for all services (including renewal of registration) for a service contract provider;



~~[(13)]~~ (14) \$65 per year for all services (including extension of the certificate) for an approved course provider;

~~[(14)]~~ (15) \$20 per year for all services (including extension of the certificate) for an approved continuing education course;

~~[(15)]~~ (16) \$75 per year for all services (including renewal of registration) for a vehicle protection product warrantor;

~~[(16)]~~ (17) A fee to be established by the commissioner for each criminal history record check and fingerprinting;

~~[(17)]~~ (18) \$600 per year for all services (including extension of the license) for a regularly licensed limited line motor vehicle rental company producer;

~~[(18)]~~ (19) \$1,000 per year for all services provided before July 1, 2014, (including extension of the certificate) for an authorized legal service plan;

~~[(19)]~~ (20) \$500 per year for all services provided on or after July 1, 2014, (including extension of the certificate) for an authorized legal service plan;

~~[(20)]~~ (21) \$1,200 per year for all services (including extension of the license) for a regularly licensed life settlement provider; and

~~[(21)]~~ (22) \$150 per year for all services (including extension of the license) for a regularly licensed life settlement broker.

The services referred to in paragraphs (1) to ~~[(21)]~~ (22) shall not include services in connection with examinations, investigations, hearings, appeals, and deposits with a depository other than the department of commerce and consumer affairs."

SECTION **3[4]**. Section 432:1-102, Hawaii Revised Statutes, is amended to read as follows:

**"§432:1-102 Applicability of other laws.** (a) Part III of article 10A, and article 10H of chapter 431 shall apply to nonprofit medical indemnity or hospital service associations. Such associations shall be exempt from the provisions of part I of article 10A; provided that such exemption is in compliance with applicable federal statutes and regulations.

(b) Article 2, article 2D, parts II and IV of article 3, article 6, part III of article 7, article 9A, article 13, article 14G, and article 15 of chapter 431, sections 431:3-301, 431:3-302, 431:3-303, 431:3-304, 431:3-305, 431:10-102, 431:10-225, 431:10-226.5, and 431:10A-116(1) and (2), and the powers granted by those provisions to the commissioner, shall apply to managed care plans, health maintenance organizations, or medical indemnity or hospital service associations that are owned or controlled by mutual benefit societies so long as the application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations.

(c) Article of chapter 431 shall apply to mutual benefit societies.

~~[(e)]~~ (d) The commissioner may adopt rules pursuant to chapter 91 for the implementation and administration of this chapter."

SECTION 4[5]. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5[6]. This Act, upon its approval, shall take effect on January 1, 2020.

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE  
HAWAII ASSOCIATION FOR JUSTICE (HAJ)  
OPPOSING S.B. 1212**

Date: Friday, February 15, 2019

Time: 9:30 a.m.

Room: 229

To: Chair Rosalyn H. Baker and Members of the Senate Committee on Commerce,  
Consumer Protection and Health.

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) opposing S.B. 1212, Relating to Authority of the Insurance Commissioner.

The bill grants the insurance commissioner unlimited power to alter the current insurance laws and established procedures. The bill as drafted, is extremely broad, and its operation would be detrimental to consumers in all facets of everyday life.

The amendments in this bill at page 16, line 14, would allow a person or entity to apply to the commissioner to deviate from almost every insurance law in the insurance code for any amount of time and in any scope. The few exceptions in section (b) at page 17, line 16, have to do with such corporate issues like investments and solvency, licensing of an insurance agent, national accreditations and taxes. However, it does not limit the commission from approving an application for all other areas of the insurance code. In addition, the application process and all information and communication related to the exemption would be kept secret from the public even after it is approved.

For example, Insurance Company A could apply for a waiver from having to provide Personal Injury Protection to its insureds and if the Commissioner approves it, the public would learn about this only after the approval. The other insurance companies

and insureds never had a chance to weigh in and there would be no uniformity in the insurance industry.

Although the bill states that the person or entity must “demonstrate that the public policy goals of title 24 may be achieved by other means and that the application of the requirement may inhibit or discourage the introduction of new, innovative, or more efficient insurance products, services, or technologies,” that demonstration only lies with the commissioner and not in a public forum with the opportunity for fair transparency, subject to public scrutiny or legislative approval.

Requirements that are important enough to merit legislative action to codify in our insurance code are important enough to require legislative oversight for any modifications. HAJ does not oppose improvements in efficiencies. If proponents desire modifications to existing law such proposals should be more narrowly crafted to address the specific areas of concern, provide transparency in the process, and opportunity to review by those aggrieved by agency action in accordance with ordinary principles of administrative agency procedures. To allow almost limitless exercise of governmental power in almost total secrecy is unacceptable and contrary to sound public policy.

As you can see, this bill provides unlimited authority for the commissioner to alter the operation and purpose of the insurance code without the consumers’ opportunity to have any say in the process.

Thank you for the opportunity to testify regarding this measure. Please contact me if there are any questions or concerns.