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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Tuesday, March 12, 2019
2:00 p.m.
State Capitol, Conference Room 329**

**On the following measure:
S.B. 25, S.D. 2, RELATING TO INSURANCE**

Chair Takumi 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 purpose of this bill is to update and improve Hawaii Revised Statutes title 24 (Insurance Code) in a number of areas. Specifically, this measure will do the following:

Sections 1, 5, 10, 11, 12, 13, and 23 of this bill allow the Department and the Insurance Commissioner to determine whether an applicant's request to add or change a trade name or an assumed name satisfies Insurance Code and corporation law requirements. This will ensure that both the Department and the Insurance Commissioner will receive notice of a proposed name change and that both have express authority to permanently retire or bar the use of a trade name or an assumed name associated with a revoked license.

Sections 2 and 14 of this bill move the newly enacted section 431:10-104(5) from article 10 to article 10A, which is the more appropriate section for the short-term health insurance pre-existing disclosure requirement. In addition, sections 2, 4, 15, 16, 28, and 32 of this bill clearly provide for reimbursement to providers who deliver coverage managed by chapter 431, article 10A and chapter 432, article 1 and delete reimbursement mandates added to the Insurance Code in conjunction with medical service provider practice acts. These amendments do not remove any existing mandates. Instead, these amendments will clarify that coverage for services mandated by chapter 431, article 10A should include reimbursement to providers and will discourage the practice of creating reimbursement mandates in the Insurance Code to accompany expansions in provider practice acts.

Sections 3 and 31 of this bill move the limited benefit health insurance provision from part I to part VI of article 10A, which clarifies that this provision applies to both individual and group policies.

Section 6 of this bill eliminates optional language in the NAIC's Standard Valuation Model Law to streamline how changes to the valuation manual become effective.

Sections 7 and 9 of this bill remove references to class 1 money market mutual funds to conform with the NAIC Securities Valuation Office Purposes and Procedures Manual of the NAIC Investment Analysis Office.

Section 8 of this bill amends the title to part VI of article 6 to reflect amendments to this part.

Sections 17, 29, and 30 of this bill correct a technical drafting error by replacing "designed" with "assigned" in the definition of "perceived gender identity" and accordingly conform State law to federal guidance on gender identity.

Sections 18, 19, 20, and 21 of this bill remove obsolete language and clarify existing language to avoid ambiguity for insurers submitting rate filings.

Section 22 of this bill amends section 431:14G-105 by removing obsolete language and clarifying existing language to avoid ambiguity for managed care plans submitting rate filings.

Section 24 of this bill amends section 431:19-115 to give the Insurance Commissioner additional regulatory authority to supervise or liquidate a captive, rather than simply suspending or revoking its insurance license.

Sections 25 and 26 of this bill temporarily allow the Insurance Division to create stopgap measures to implement the NAIC's Network Adequacy Model Act and to promulgate administrative rules with the benefit of any future NAIC guidance and input from other jurisdictions.

Section 27 of this bill removes the opt-out provision for long-term care insurance under the Interstate Insurance Product Regulation Commission (IIPRC) to give states the option of using the IIPRC's proven stricter standards of substantive rate review or conducting their own review.

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

TESTIMONY OF ALISON UEOKA

COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Roy M. Takumi, Chair
Representative Linda Ichiyama, Vice Chair

Tuesday, March 12, 2019
2:00 p.m.

SB 25, SD2

Chair Takumi, Vice Chair Ichiyama, and members of the Committee on Consumer Protection & Commerce, my name is Alison Ueoka, President of the Hawaii Insurers Council. The Hawaii Insurers Council 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 is neutral on all sections of the bill, with the exception of Sections 18, 19, 20, and 21 which we support.

We appreciate the Division's work to update laws in the area of rate making. These provisions benefit both insurer and consumer by removing redundancy and time and cost barriers. These four sections have to do with streamlining the rate process including provisions to make submissions via electronic means through a system called, SERFF. We believe these modernizing provisions are necessary and removes antiquated processes that were required prior.

Thank you for the opportunity to testify.

Testimony of
Jonathan Ching
Government Relations Specialist

Before:
House Committee on Consumer Protection & Commerce
The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair

March 12, 2019
2:00 p.m.
Conference Room 329

Re: SB25 SD2, Relating to Insurance

Chair Takumi, Vice Chair Ichiyama, and committee members, thank you for this opportunity to provide testimony on SB25 SD2, which amends various portions of the Hawaii Insurance Code under Hawai'i Revised Statutes title 24 to updates existing Insurance Code provisions.

Kaiser Permanente supports the intent of the bill and requests an AMENDMENT.

To be consistent with Section 2, Pages 2-3, we request the following amendment to Section 4, Page 5, Lines 8-19 as follows:

"§432:1- Reimbursement to providers. (a) Coverage for services required by this part shall include reimbursement to health care providers who perform services required by this article, or to the insured member, as appropriate.

(b) ~~[Notwithstanding any law to the contrary,]~~ Whenever an individual or group policy, contract, plan, or agreement that provides health care coverage under this article provides for reimbursement for any service, a health care provider who performs a service shall be eligible for reimbursement for the

performed service to the extent the health care provider is eligible for such reimbursement under the policy, contract, plan, or agreement, and is acting within the scope of the provider's license or certification under state law.

(c) For purposes of this section, "health care provider" has the same meaning as in section 431:10A -B(c)."

Furthermore, we note that Section 25, Pages 43-44 and Section 26, Pages 44-47 seeks to temporarily allow the Insurance Division to create stopgap measures to implement the National Association of Insurance Commissioner's (NAIC) Health Benefit Plan Network Access and Adequacy Model Act, MDL-74 ("Model Act").

While we appreciate the Insurance Commissioner's intent to streamline the process to implement the Model Act, we prefer the manner and form for a health carrier to file its network plan via the public rule making process, pursuant to Hawai'i Revised Statutes Chapter 91, or via legislation to make amendments to Act 191, Session Laws of Hawai'i 2017.

We note that the justification for Section 29 and Section 30 (see Justification Sheet page 3) of SB1210, which it appears to be consistent with Section 25 and 26 of SB25 SD2, is that such amendments are necessary to allow such authority to "be **temporarily** carried out by order of the Commissioner". Given that the intent is to be temporary, we would suggest a sunset date be included for Section 26 and Section 26 of SB25 SD2.

Thank you for the opportunity to testify on SB25 SD2.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN SUPPORT OF SB 25, SD 2, IN PART, RELATING TO INSURANCE

March 12, 2019

Honorable Representative Roy M. Takumi, Chair
Committee on Consumer Protection and Commerce
State House of Representatives
Hawaii State Capitol, Room 329
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Takumi and Committee Members:

Thank you for the opportunity to testify in support of SB 25, SD 2, in part, Relating to Insurance.

Our firm represents the American Council of Life Insurers (“ACLI”). ACLI advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers’ financial and retirement security. 90 million American families depend on our members for life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, dental and vision and other supplemental benefits. ACLI represents member companies in state, federal and international forums for public policy that supports the industry marketplace and the families that rely on life insurers’ products for peace of mind. ACLI members represent 95 percent of industry assets in the United States. Two hundred twenty-one (221) ACLI member companies currently do business in the State of Hawaii; and they represent 95% of the life insurance premiums and 99% of the annuity considerations in this State.

Sections 3 and 31 of SB 25, SD 2, amends Article 10A of Hawaii’s Insurance Code.

HRS §431:10A-102.5 currently excludes from the definition of “accident insurance”, “health insurance” or “sickness insurance” limited benefit health insurance contracts that pays benefits directly to the insured . . . and in which the amount of the benefit paid is not based upon the actual costs incurred by the insured.” This section, therefore, expressly excludes disability income insurance, long term care and other limited benefit health insurance contracts as being “accident insurance”, “health insurance” or “sickness insurance.”

Unfortunately, §431:10A-102.5 currently is in Part I of Article 10A of the Insurance Code. Part I of Article 10A only governs Individual Accident and Health or Sickness Insurance Policies. I’ve attached Part I of Article 10A which is the receptacle of §431-10A-102.5 for your information. Provisions governing group and blanket disability insurance is set forth in Part II of Article 10A. I’ve attached the 1st page of Part II of Article 10A for your information.

Thus, because §431:10A-102.5 is currently in Part I of Article 10A of the Insurance Code and that part only governs Individual Accident and Health or Sickness Insurance Policies, Group disability insurance is considered “accident insurance”, “health insurance” or “sickness insurance” under current law.

Sections 3 and 31 of SB 25, SD 2, amend Hawaii's Insurance Code by moving the definition of Limited Benefit Health Insurance, currently in Part 1 (§431:10A-102.5), to Part VI of Article 10A of the Code (Miscellaneous Provisions). I've attached the 1st page of Part VI of Article 10A for your information.

ACLI supports this amendment and concurs with the bill's sponsor that the relocation of this provision will finally clarify that the definition of Limited Benefit Health Insurance applies to both individual and group disability income insurance policies – and not merely individual policies as dictated by its current location in the Insurance Code.

ACLI is in strong support of Section 6 of the bill which amends §431:5-307 by deleting the optional language in the NAIC's Standard Valuation Model Law that requires the Insurance Commissioner to adopt a rule whenever a change in the valuation manual is adopted by the NAIC.

Again, thank you for the opportunity to testify in support in part of SB 25, SD 2, Relating to Insurance.

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SB-25-SD-2

Submitted on: 3/11/2019 10:33:41 AM

Testimony for CPC on 3/12/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Timothy Johns	Zephyr Insurance Company, Inc.	Support	No

Comments:

Mahalo for this opportunity to submit testimony in support of Sections 18, 19, 20 and 22 of this Bill. We take no position on the other sections of the Bill

We applaud the Insurance Division's efforts to update and modernize Hawaii's laws relating to insurance ratemaking. These updates will benefit both insurers and consumers by streamlining many processes, reducing time and costs. We support these modernizing provisions. Mahalo.

**TESTIMONY ON SENATE BILL NO. 25, SENATE DRAFT 2
RELATING TO INSURANCE**

HOUSE OF REPRESENTATIVES
COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Roy M. Takumi, Chair
Representative Linda Ichiyama, Vice Chair

Tuesday, March 12, 2019, 2:00 p.m.
Conference Room 329
State Capitol
415 South Beretania Street

To Representative Roy M. Takumi, Chair; Representative Linda Ichiyama, Vice Chair; and members of the House Committee on Consumer Protection & Commerce:

My name is Matthew Takamine and I am submitting this testimony as a director and President of the Hawaii Captive Insurance Council (“HCIC”). The HCIC is a nonprofit corporation that is committed to promoting, developing, and maintaining a quality captive insurance industry in the State of Hawaii. In partnership with the State of Hawaii Insurance Division, the HCIC provides information and education on issues affecting captive insurance companies, and assists the State of Hawaii in promoting Hawaii as a quality captive insurance domicile on the local, national, and international level.

The HCIC **supports** Sections 23 and 24 of Senate Bill No. 25, Senate Draft 2 (“SB25 SD2”), which amend Sections 431:19-103 and 431:19-115 of Article 19 of the Hawaii Insurance Code. The HCIC takes no position regarding the other sections of SB25 SD2.

Section 23 of SB25 SD2 requires captive insurance companies to apply to the Hawaii Department of Commerce and Consumer Affairs and the Hawaii Insurance Commissioner (“Commissioner”) for approval of the use or change of a trade name or an assumed name.

Section 24 of SB25 SD2 adds Article 15 to the list of other articles or sections within the Hawaii Insurance Code that are applicable to all captive insurance companies licensed in Hawaii. Article 15, which does not currently apply to certain captive insurance companies, pertains to Insurers Supervision, Rehabilitation, and Liquidation, and provides the Commissioner with broad oversight powers in the event of certain adverse circumstances, such as financial difficulty or insolvency.

Thank you for this opportunity to submit testimony on SB25 SD2.

Respectfully submitted:
Matthew Takamine
Director and President
Hawaii Captive Insurance Council

SB-25-SD-2

Submitted on: 3/9/2019 1:19:41 PM

Testimony for CPC on 3/12/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Wilson Datario	Individual	Support	No

Comments:

CHAD KAWAKAMI PHARM.D., BCPS,CDE

95-1060 Inana Street, Mililani, HI 96789 | chadkkaw@hawaii.edu

February 13, 2019

Dear Senator Committee Members:

My name is Dr. Chad Kawakami and I am an Assistant Professor of Pharmacy Practice with the Daniel K. Inouye College of Pharmacy. Thank you very much for your time in considering this bill and my testimony.

Integration of clinical pharmacists in patient care may offer increased access to health care and improved patient care outcomes. Pharmaceutical care involves pharmacist collaboration with health team members to optimize therapeutic outcomes. The scope of practice for clinical pharmacists includes pharmaceutical care or comprehensive medication management for patients with chronic diseases in addition to less complex services, such as counseling patients on medications or responding to questions about drug information.

A 2014 systematic review evaluated outpatient medication therapy management interventions.¹ The researchers concluded that pharmacists may reduce the frequency of medication-related problems and decrease some health care use and costs. Another 2016 review published in the *Annals of Internal Medicine*² concluded that pharmacist-led chronic disease management was associated with effects similar to those of usual care for resource utilizations and may improve physiologic goal attainment.

Mental health integration in primary care is becoming a standard of practice in order to break down barriers to care. More than half of all patients with depression receive their care exclusively from their primary care providers. The pharmacologic management of depression in primary care has been reported as inadequate with suboptimal clinical outcomes. Depression is frequently treated for an inadequate length of time or with insufficient antidepressant doses. Furthermore, patients often discontinue medication because of adverse effects, lack of benefit, or cost.³⁻⁶ Depression has a huge negative impact on our

economy. Published in the Journal of Clinical psychiatry in 2015, Greenberg and colleagues examined trends in costs associated with major depressive disorder (MDD).⁷ Among their major findings is that the total economic burden of MDD is now estimated to be a \$210.5 billion per year. Nearly half of these costs are attributed to the workplace, including absenteeism (missed days from work) and presenteeism (reduced productivity at work), where as 45%-47% are due to direct medical costs which are shared by employers, employees, and society. In mental health, pharmacists have shown improve the quality of care and outcomes by enhancing compliance, adjustment of medications, and monitoring and managing adverse effects. Pharmacists can also facilitate the use of patient assistance programs if cost is a barrier to treatment.⁸

Pharmacist are trained to recognize and manage many chronic diseases that include high blood pressure, diabetes, and depression. We are the drug experts. Pharmacists have been shown to improve therapeutic outcomes when working in conjunction with prescribers. Pharmacists are the most accessible health care providers in the community allowing us to help improve access to- and quality of care while helping to decrease the overall cost of health care. Thank you very much for your time in considering my testimony.

Very Humbly Submitted,

Chad Kawakami Pharm.D., BCPS,CDE

References:

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5. Katon W, Robinson P, Von Korff M et al. A multifaceted intervention to improve treatment of depression in primary care. *Arch Gen Psychiatry.* 1996; 53:924- 32.
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8. Capoccia, K., Boudreau, D., Blough, D., Ellsworth, A., Clark, D., Stevens, N., . . . Sullivan, S. (n.d.). Randomized trial of pharmacist interventions to improve depression care and outcomes in primary care. *American Journal of Health-system Pharmacy: AJHP.*, 61 (4), 364-372.

SB-25-SD-2

Submitted on: 3/11/2019 6:47:43 AM

Testimony for CPC on 3/12/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Deb	Individual	Support	No

Comments:

Representative Roy M. Takumi, Chair

Representative Linda Ichiyama, Vice Chair

Committee on Consumer Protection and Commerce

Deborah Ann Taira; 7413 Makaa Street; Honolulu, HI 96825

March 11, 2019

Support for SB 25 SD2 relating to insurance

I support SB 25 SD2 because it will allow pharmacists to be reimbursed for providing services that are within their scope of practice.

This will allow greater access, particularly in areas where there are physician shortages.

Thank you for this opportunity to testify.

SB-25-SD-2

Submitted on: 3/11/2019 1:09:47 PM

Testimony for CPC on 3/12/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Wesley Sumida	Individual	Support	No

Comments:

Dear Chair Takumi, Vice Chair Ichiyama, and Members of the Committee,

I am a pharmacist and faculty member at the Daniel K. Inouye College of Pharmacy. I strongly support this bill.

Thank you for this opportunity to provide testimony.



March 11, 2019

The Honorable Roy Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Consumer Protection & Commerce

Re: SB 25, SD2 – Relating to Insurance

Dear Chair Takumi, Vice Chair Ichiyama, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 25 SD2, which amends various portions of the Hawaii Insurance Code under title 24, Hawaii Revised Statutes, to update and improve existing Insurance Code provisions. This measure also identifies requirements regarding proposed name changes and the use of a trade name or assumed name which are to be effective 10/1/19.

HMSA supports this bill with the following amendment. We respectfully request that the language placed in Section 2 by the previous committee, regarding reimbursement to providers, also be placed in Section 4 for consistency:

S432:1- Reimbursement to providers. (a) Coverage for services required by this part shall include reimbursement to health care providers who perform services required by this article, or to the insured member, as appropriate.

~~(b) Notwithstanding any law to the contrary, whenever~~ (b) Whenever an individual or group policy, contract, plan, or agreement that provides health care coverage under this article provides for reimbursement for any service, a health care provider who performs a service shall be eligible for reimbursement for the performed service to the extent the health care provider is eligible for such reimbursement under such policy, contract, plan, or agreement, and is acting within the scope of the provider's license or certification under state law.

(c) For purposes of this section, "health care provider" has the same meaning as in section 431:10A-B(c)."



Thank you for allowing us to testify on SB 25, SD2. Your consideration of our comments is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD', is written over a faint, light blue watermark of the hmsa logo.

Jennifer Diesman
Senior Vice-President-Government Relations