

Honolulu, Hawaii

FEB 14 2020

RE: S.B. No. 2278  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2020  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred S.B. No. 2278 entitled:

"A BILL FOR AN ACT RELATING TO HEALTH INSURANCE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish disclosure and consent requirements for nonparticipating health care providers;
- (2) Prohibit nonparticipating health care providers from balance billing patients in specific circumstances; and
- (3) Establish rate calculation requirements for reimbursement of nonparticipating providers.

Your Committee received testimony in support of this measure from Hawaii Health Systems Corporation, Hawai'i Pacific Health, Hawaii Medical Service Association, Kaiser Permanente Hawai'i, Hawai'i Primary Care Association, and AARP Hawaii. Your Committee received testimony in opposition to this measure from Hawaii Chapter of the American College of Emergency Physicians, Maui Emergent Medical Associates, Hawaii Emergency Physicians Associated, and Hawaii Medical Association. Your Committee received comments on this measure from the Department of Health, Department of Commerce and Consumer Affairs, The Queen's Health



Systems, Adventist Health Castle, Healthcare Association of Hawaii, and one individual.

Your Committee finds that, in emergency situations, consumers can unknowingly receive care from a provider who is not in their health insurance network. Under existing state law, there is no limit to what these out-of-network providers or facilities can charge. As a result, these "surprise bills" can put consumers at significant financial risk of medical debt from bills and has become a growing problem for the consuming public. This measure promotes transparency, helps protect consumers, and removes them from the middle of billing disputes between providers and insurance companies while ensuring out-of-network providers receive a market-based rate that covers their costs.

Your Committee heard the concerns raised in testimony that this measure, as written, poses significant challenges for the Department of Health due to its lack of investigative and enforcement authority. Further, requiring health insurance payors to use a transparent, third-party database (such as FAIR Health, for example) as a base upon which to establish out-of-network reimbursements for emergency care, and requiring health insurers and out-of-network providers to mediate their disputes, can help to protect consumers from being caught in the middle between their insurer and provider. Accordingly, amendments to this measure are necessary to address these concerns.

Your Committee has amended this measure by:

- (1) Removing language that would have established disclosure and consent requirements for health care providers, health care facilities, and hospitals that are nonparticipating providers in a patient's health care plan, and making conforming amendments;
- (2) Inserting language that requires an insurer, mutual benefit society, and health maintenance organization to use data from a transparent, third-party database upon which to calculate out-of-network reimbursements for emergency services;
- (3) Inserting language that requires any dispute between an insurer, mutual benefit society, or health maintenance

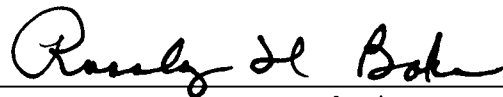


organization and a provider that arises pursuant to this measure to be submitted to mandatory mediation to be overseen by the Insurance Division of the Department of Commerce and Consumer Affairs;

- (4) Inserting a repeal date of January 2, 2025;
- (5) Inserting an effective date of January 2, 2050, to encourage further discussion;
- (6) Amending section 1 to reflect its amended purpose; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2278, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2278, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Health,



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ROSALYN H. BAKER, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

Bill / Resolution No.:*	Committee Referral:	Date:		
<b>SB2278</b>	<b>CPH, JDC</b>	<b>2/12/20</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
CHANG, Stanley (VC)	✓			
NISHIHARA, Clarence K.	✓			
RUDERMAN, Russell E.				✓
THIELEN, Laura H.	✓			
WAKAI, Glenn	✓			
FEVELLA, Kurt				✓
<b>TOTAL</b>	<b>5</b>			<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; margin-top: 10px;"> </div>				
Distribution:                     Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes