



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
House Committee on Consumer Protection and Commerce
Wednesday, March 11, 2020
2:00 p.m.
State Capitol, Conference Room 329**

**On the following measure:
S.B. 2876, S.D. 1, 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 (HRS) title 24 (Insurance Code) in a number of areas. Specifically, this measure will do the following:

Section 1 of this bill requires, in agreements between public adjusters and insureds, contractual terms, disclosures, and a cap on commissions that adjusters may charge insureds. This mandate will reduce the potential for exorbitant commissions and unreasonable contractual terms that are unfavorable to insureds.

Sections 2, 3, 4, and 12 of this bill establish a uniform standard of conduct agreement for various limited lines (motor vehicle rental, self-service storage, and

portable electronics) that are currently not subject to uniform standards, thereby reducing the potential for consumer misinformation and harm.

Sections 5, 15, 16, 17, 18, 19, and 20 of this bill give the Insurance Commissioner authority to waive, in part or whole, or reduce fees deposited in the Commissioner's Education and Training Fund and the Compliance Resolution Fund, when expenditures are not commensurate with the fees deposited into these accounts.

Section 6 of this bill mandates electronic payment for all service fees related to extensions of certificates of authority, thereby reducing processing errors and delays in the availability of funds paid to the State.

Section 7 of this bill amends HRS section 431:7-202(f) to correctly reference the electronic system used to facilitate insurers' electronic payment of premium taxes.

Section 8 and 9 of this bill mandate electronic filing of surplus lines reports and payment of surplus lines premium taxes, thereby reducing processing errors and delays in the availability of funds paid to the State.

Section 10 of this bill replaces "premiums" with "client funds" in HRS section 431:9-230 to accurately reference that adjusters and bill reviewers handle only funds from clients.

Section 11 of this bill reinserts in HRS section 431:9-235(e) the right to an administrative hearing and appeal from an order suspending, revoking, or refusing to extend any license for any cause specified in HRS chapter 431, article 9. Act 279, Session Laws of Hawaii 2019, inadvertently deleted this due process right in all cases, and not just when the suspension, revocation, or nonrenewal stems from defaults involving student loans or scholarship contracts.

Section 13 of this bill amends the Hawaii Joint Underwriting Program Board of Governors' composition to more accurately reflect member composition commensurate with plan size and operations and to eliminate outdated and nonexistent criteria from which board members are selected.

Section 14 of this bill clarifies that rewards under certain wellness programs established under health care plans do not constitute a rebate by insurers to insureds.

Thank you for the opportunity to testify, and we respectfully ask the Committee to pass this administration bill to provide clarity to the Insurance Code and enhance consumer protection.

TESTIMONY OF ALISON UEOKA

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

Wednesday, March 11, 2020
2:00 p.m.

SB 2876, SD1

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 supports the intent of this administration bill which amends various sections of the insurance code. We especially acknowledge and appreciate the Division's approach to managing the funds in the Compliance Resolution Fund as it pertains to insurance and the monies that insurers and producers pay to support the regulation of our industry.

Thank you for the opportunity to testify.

SB-2876-SD-1

Submitted on: 3/9/2020 1:43:35 PM

Testimony for CPC on 3/11/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephen Hadhazi	Hawaii Public Insurance Adjusters Association	Oppose	Yes

Comments:

This bill will all but end the Public Insurance Adjusting industry in the State of Hawaii. There will still likely be work for which Hawaii Public Adjusters would be able to assist policyholders, but it would only be on very large claims in the hundreds of thousands of dollars. So, essentially, millionaires could get some help. The average consumer, not so much.

The majority of property insurance claims on homes is likely around \$5k to 10k. This bill will make it nearly impossible for Public Adjusters to help these people when an insurer denies or underpays their claim. Certainly, no lawyer is going to take on a claim worth only 5k. The end result of this bill will be that insurers would be able to nearly deny or underpay claims with impunity. Many policyholders will just have to live with leaky roofs, mold growth from the roof leaks, their children walking on bare concrete floors because they had to throw out the wet carpet and the consumer will likely not have the funds to pay out of pocket.

Public Adjusters play a vital role in assisting consumers with the negotiations with their insurer to the end that the consumer will be paid a fair and reasonable amount on property claims. Please do the right thing and vote down this bill. The newly forming Hawaii Public Insurance Adjusters Association will work proactively with the Hawaii Division of Insurance to mitigate any issues that the Division of Insurance feels the need to address.

However, our biggest problem is that the Hawaii Division of Insurance is refusing to divulge what prompted them to create this legislation in the first place. They stated that it was due to a complaint from a consumer, but that due to privacy laws they would not be able to give any details at all about the complaint.

We do not need to know any of the information that would divulge the identity of the complainant. All we need to know is what the problem is about. Unfortunately, the Division of Insurance will not even divulge that information. So, the Division of Insurance is essentially saying that they have received a complaint, they cannot give us any information about the complaint, but due to this mysterious complaint, they want to essentially put Public Adjusters out of business in Hawaii and also ensure that anyone with a small claim would just be out of luck.

If you could please withdraw the bill and give us until the next legislative session to get any issues worked out, then the Hawaii Public Insurance Adjusters Association will work very hard with all of the Public Adjuster Licensees to prevent any more problems for the Division of Insurance.

Please also know that I spoke directly with the Commissioner of Insurance at the State Capitol after giving testimony for the companion House Bill. The Commissioner was not able to give us any idea what the complaint was about. He deferred me to speak to his staff at The Division of Insurance. I went to the Division of Insurance today, 03/09/2019 and spoke with some of the people to which the Insurance Commissioner had referred me, but they were not able to give us any additional information either.

In closing, I am wondering how penalizing Public Adjusters and consumers due to a mysterious hidden complaint could possibly help solve this "mystery problem", because whoever is doing whatever it is that the Insurance Commissioner does not approve of, will likely keep doing it because no one has told them it is wrong for them to that.

In closing, I implore you to vote against this bill and give our industry one year, until the next legislative session and I think that you will see that there will not be any more complaints or any new legislation brought against the Public Insurance Adjusting industry.

Mahalo for your time,

Stephen Hadhazi, Public Insurance Adjuster

Cell (808) 829-1028

Email: Steve@InsuranceClaim.com

www.InsuranceClaim.com



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Resubmission on 2-19-2020

To: Hon. Rosalyn H. Baker
Senate Committee on Commerce, Consumer Protection and Health (CPH)
Hawaii State Capitol Rooms 229

Re: **SB 2876 Testimony -SUPPORT- w/modifications**

Dear CPC Committee Members,

Date: January 29, 2020

To: Hon. Roy M. Takumi
House Committee on Consumer Protection and Commerce
Hawaii State Capitol Rooms 320

Via email to: cpctestimony@capitol.hawaii.gov

Re: **HB 2320 / SB 2876 Testimony -SUPPORT- w/modifications**

Dear CPC Committee Members,

My name is Robert Hugh Joslin and I am the President of Hawaii Public Adjusters Corp (“HPA”). Our family-owned business is located at 437 Liholiho Street, in Wailuku, Hawai‘i. Our firm is the only resident public adjusting firm with continuous Hawaii operations servicing our island communities. I have been licensed as a Public Adjuster (“PA”) by the State of Hawaii since October of 2002 pursuant to HRS Sections 431:9-201, 431:9-222 and 431:9-226. For most of my adult life, I’ve been involved in insurance and commercial development work. I have been active in Hawaii on commercial development projects dating back to 1984. In 2011, I became the first and only Hawaii resident to be designated as a Certified Professional Public Adjuster (“CPPA”) from the Insurance Institute of America (“The Institute”). The Institute remains the sole certifier of distinguished insurance gradations such as the Chartered Property Casualty Underwriter (“CPCU”). I also hold a

professional certification from the Wind Network as an Insurance Appraiser. I also hold the designation of Certified Insurance Appraiser from the national Insurance Appraiser and Umpire Association (“IAUA”).

As a Hawaii Public Adjuster, I submit to oversight from the State of Hawaii’s Insurance Department, the SOHID Commissioner and to his very dedicated staff. I am, by design, a public advocate for the Hawaii policyholder. I have a firm duty under HRS 431:9-226 to investigate for, report to and adjust on behalf of insureds (only) as one of this state’s very few resident PAs. Lisa Joslin, my wife and Ryan Joslin, my son, are also Hawaii Public Adjusters. Our family, along with our other fellow PAs and employees, make up the only active full-time resident PA firm in this state. We are well-versed in nearly every facet concerning Hawaii property insurance claims. We exist solely for the use and benefit of your Hawaii policyholders.

It is with the upmost respect that I offer up certain minor issue we have with HB 2320 / SB 2876. It is my hope that the esteemed committee members will agree with my position.

1) As to HB2320 / SB 2876 at page 2, lines 14 thru 17, the following should be deleted:

...

(b) No public adjuster shall charge, agree to, or accept as compensation or reimbursement any payment, commission, fee, or other thing of value equal to more than eight percent of any insurance settlement or proceeds.

...

At Issue:

1. There is no U. S. state that has such a low fee cap of 8%. Most states (30) do not have fee caps. Some states (9) have a fee cap of 10%, but only some (5) during a declared catastrophe. Several other states’ fee caps (6) range from 20% down to 10% while the few remaining states (5) do not have any public adjusting regulations at all.
2. 50+ years of historical legislative experience concerning the capping of public adjuster fees has only proven one thing, people who have smaller claims or need small supplements to larger claims, won't get the assistance they need.

2) As to HB2320 / SB 2876 at page 3, lines 1 thru 5, the following should be deleted:

...

(1) Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;

...

At Issue:

1. All states that have Public Adjusting laws, allow PAs to charge a percentage contingency fee with the exception of one, that being Louisiana.
2. Without the percentage fee option, a policyholder will be burdened with making payments regardless of risk.
3. The fact of the matter is, percentage fees are the norm because many consumers of insurance products could not afford to pay a public adjuster on an hourly rate basis.
4. Like hiring a professional realtor, attorney or a stockbroker, percentage fees are a part of a policyholder's decision for retaining assistance without having to turn to others, or even worse, to simply not pursue being made whole after suffering through the initial fortuitous event.

Other than those preceding comments, I wholly support the legislation and acceptance of the balance of HB 2320 and SB 2876.

Respectfully,

Robert Hugh Joslin

Robert Hugh Joslin- CPPA
National Secretary for the National Association of Public Insurance Adjusters ("NAPIA")

Direct Office Line: 808-856-3043

Natori Law Office LLC

A LIMITED LIABILITY LAW COMPANY



ATTORNEYS

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March 9, 2020

Rep. Roy M. Takumi, Chair
House Committee on Consumer Protection & Commerce
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Senate Bill 2876 SD1

Dear Chair Takumi and members of the Committee:

Thank you for the opportunity to testify in **opposition to Senate Bill Number 2876 SD1's eight percent (8%) cap on what can be earned by a licensed Hawaii public insurance adjuster.**

The American Association of Public Insurance Adjusters ("AAPIA") is a leading professional organization representing not just public adjusters but also consumers nationwide, and has worked on some of the largest issues facing the industry, including the National Association of Insurance Commissioners ("NAIC") Public Adjuster Model Act, drafted in 2005. AAPIA works to help our member firms protect the interests of homeowners and business owners who have sustained property damage.

AAPIA supports the goals of the Governor to help those residents of Hawaii who have suffered property damage. Those provisions of **Senate Bill Number 2876** that deal with public adjusters mirror the NAIC Model Act in many ways and we believe that the bills can accomplish the goal of protecting the consumers of Hawaii. Unfortunately, we cannot support the bill in its entirety due to the fee provisions in Section 431:9 (b) which would impose an across-the-board fee cap on public adjusters. Such proposed limitations on fees would hurt the consumers of Hawaii, as well as prevent the public adjusting industry from remaining a sustainable profession in Hawaii.

We have worked on this issue most recently in Nebraska, Maryland, Rhode Island, and Utah. It was the goal of remaining business-friendly, while at the same time protecting consumers, that we believe ultimately guided those states to **join the two-third majority of states and adopt public adjuster legislation without caps on fees.** Attached to this letter is a list of those two-thirds of states without fee caps, including California.



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When it comes to public adjuster fees, the NAIC Model Act merely states that “a public adjuster may charge the insured a reasonable fee” (Section 14 NAIC Model Act). This type of language gives regulators broad oversight and power to enforce penalties on public adjusters who charge fees that are clearly excessive or unreasonable, while allowing the public adjuster to charge a higher percentage fee on small claims where the actual dollar amounts are low.

In contrast to the broader “reasonable” standard, a cap on fees would prevent public adjusters from helping consumers on small to average sized claims, since such a small percentage fee is not enough to cover time and expenses in real dollars on those claims.

Small claims actually make up the majority of claims. According to the 2010 Insurance Information Fact Book published by the Insurance Information Institute, **eighty-seven percent of all claims nationwide are valued at between \$2,494 and \$7,163. That same publication as updated in 2015 lists the average sized homeowners claim nationally from 2008-2012 at \$8,384.**

With a fee cap, public adjusters are not able to help homeowners with the majority of claims sustained. Empirical data has been collected to support this statement, through an independent study commissioned by AAPIA. In states with fee caps, **75% of public adjuster firms surveyed have not handled a claim of under \$8,000.00 in the last year**, and of those 25% who have done so, one half of the firms surveyed said that those claims made up less than 5% of their claims and the other 10% stated that those claims made up less than 10% of their business. Yet, claims of this size make up the vast majority of claims. *These numbers evidence that in states with fee caps, homeowners are left to fend for themselves on most claims, since public adjusters can't afford to handle these claims.*

Public adjusters offer consumers great value during the claims process. Most people do not have the time and/or expertise to properly evaluate their insurance coverage or to estimate the actual damage and effectively negotiate with the insurance company adjuster who does have such expertise. This inequality leads to the undervaluing of claims. The consumer with these types of claims is less able to hire an attorney for representation either, due to the prohibitive cost of paying the attorney on an hourly basis or finding an attorney to charge a contingent fee on a small claim. **Historically, homeowners who used public adjusters on non-catastrophic claims received, on average, a 574%¹ higher settlement amount than homeowners who did not use a public adjuster. Instead of losing a portion of the recovery to a public adjuster, the homeowner is receiving a greater recovery than without that public adjuster.**

As advocates for homeowners who have suffered damage, we understand the problems they face after such an event. Our members are on the ground fighting for policyholders every day and have seen the heartbreak that results from loss and damage to one's home. Unfortunately, the claims process can be long and difficult, and the homeowner must navigate many obstacles to

¹ OPPAGA report, pp. 7-8.



ATTORNEYS

recovery. Public adjusters help homeowners through this complex process. A fee cap would take away the ability of the public adjusters to help many of the homeowners of Hawaii.

Further, not all professional services within the industry are equal. Consumers deserve the right to choose a firm they feel can best serve their needs. Firms with greater expertise and more years of experience may charge a premium for their services and the consumer has the right to make that decision to protect the largest asset that most Americans own, which is their home.

Please feel free to contact me should you have any comments or questions regarding the above.

Very truly yours,

Natori Law Office LLLC

A handwritten signature in black ink that reads 'Nathan T. Natori'.

Nathan T. Natori



STATES WITHOUT ACROSS THE BOARD FEE CAPS FOR PUBLIC ADJUSTERS

Arizona
California
Colorado
Georgia
Hawaii
Idaho
Illinois
Indiana
Kentucky
Louisiana**
Maine
Maryland
Minnesota
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming

** Percentage fees not allowed

SB-2876-SD-1

Submitted on: 3/9/2020 2:28:43 PM

Testimony for CPC on 3/11/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
James Campbell	Individual	Oppose	Yes

Comments:

This bill will all but end Public Insurance Adjusting Industry here in the state of Hawaii. All small claims here in Hawaii will be put to an end and only large claims will be handled by bigger companies if this bill is passed. The average person or family will lose help since the time put into smaller claims wouldn't make Public Adjusters any money. It is hard enough getting claims approved as it is. I help negotiate claims with the insurance company for the consumer and this bill would make it nearly impossible to help them. Policy holders will now have to live with leaky roofs among other things that go wrong in the common household. I am not sure what prompted this but the insurance division won't even let us know what we did wrong so we can try to fix the situation. The insurance division says there is a complaint we cannot know about due to privacy laws. We need to know this information to fix the problem. Please again do not pass this bill and put me out of business.

James Campbell

(808) 799-6037

Info@nokaoipa.com

SB-2876-SD-1

Submitted on: 3/10/2020 8:54:24 AM

Testimony for CPC on 3/11/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Pete johnson	Americas Realty	Oppose	No

Comments:

It is unconscionable to limit Public Adjuster's commission to 8% as it will certainly limit your constituents ability to be made whole after a property damage loss.

Thank you,

Pete Johnson

Americas Realty

SB-2876-SD-1

Submitted on: 3/10/2020 12:52:00 PM

Testimony for CPC on 3/11/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tred Eyerly	Individual	Oppose	No

Comments:

I oppose SB 2876 and do not understand its origin or need. Public Adjusters play a vital role in assisting consumers with the negotiations with their insurer to the end that the consumer will be paid a fair and reasonable amount on property claims. This not only assists the insureds in their ability to present a claim, but also assists insurers who receive a comprehensible claim that has been adjusted.

Please do not enact SB 2876.

SB-2876-SD-1

Submitted on: 3/10/2020 1:53:57 PM

Testimony for CPC on 3/11/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Hughes	Individual	Oppose	No

Comments:

This new bill will greatly hurt the typical consumers when dealing with their insurance claims. Nobody will be available to help the average citizen in dealing with the well funded insurance companies that have tremendous assets and knowledge. Most cases that Public Adjusters do are too small for the attorneys to work on. The new RATE limitations will drive the few Public Adjusters out of business because their compensation will not be adequate. I have been helped by a Public Adjuster and they are a great help to the average citizen in times of great need which is when we need their help. Thank you for working for the good of the common voters. Mahalo and Aloha.



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March 10, 2020

Committee on Consumer Protection & Commerce
Hawaii State Legislature

Subject: SB 2876 Testimony

Aloha CPC Committee Members,

Mahalo for the opportunity to voice our testimony regarding this bill and the impact it has on the insurance industry. Aloha Public Adjusters has been servicing the state of Hawaii since 2017. Although our firm is fairly new to the insurance industry, APA has serviced hundreds of policyholders all around the state including but not limited to Maui, Kauai, and Oahu. Our services aided many policyholders who suffered tragic losses to their property and was able to indemnify them to what their insurance policy owes.

The concern of this bill to allow an 8% fee cap for public adjusters' services will not only be the lowest percentage in the country but will limit the amount of resources for homeowners to have a licensed public adjuster properly assess their claim. Public adjusters will be forced to being selective to who they can service. Contingency fees is the decision of the public. We are respectfully requesting that this bill be withdrawn.

Sincerely,

Eddie Bernard
Public Adjuster | Aloha Public Adjusters, LLC

SB-2876-SD-1

Submitted on: 3/10/2020 2:01:53 PM

Testimony for CPC on 3/11/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark	Individual	Oppose	No

Comments:

Aloha,

I am writing this letter in regards to Bill SB2876 - This bill will hurt homeowners trying to get coverage from their insurance companies. If approved, Public Adjusters like me, cannot afford to take on small claims that pay less than \$50,000. That means the majority of homeowners will not get the help they need since most claims average below \$15,000. If homeowners cannot afford public adjusters or lawyers to help with their claims, many families will suffer.

In my experience, 100% of claims we've worked with have been "underpaid." We have helped many clients get the funds they need to ensure their home is repaired from wind damage, water damage, fire, collapsed ceilings, mold, etc. SB2876 will prevent many families from getting the coverage they need to ensure they have a safe and livable environment.

We also worked with many clients who were denied coverage and received no help whatsoever. Fortunately, with our help, we were able to prove to the insurers that the homeowners were owed compensation for the damages that occurred. If SB2876 gets approved, this will prevent Public Adjusters from helping these homeowners.

We ask that you please withdraw the bill.

Thank you,

Mark Francis, Public Adjuster

SB-2876-SD-1

Submitted on: 3/10/2020 3:31:49 PM

Testimony for CPC on 3/11/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Travis Gilmore	Individual	Oppose	No

Comments:

Aloha,

This bill (SB2876) is similar to bill's like (SB2422) Relating to Roofing and (HB1809) Relating to Consumer Protection. All three bills basically do the same thing to discourage professional from assisting with insurance claims. These Bill's being introduced are portrayed to protect consumers, but it's doing the exact opposite. For this reason I oppose this bill. (SB2422) If a contractor wants to offer to assist any insured with their deductible, this helps most families who are living paycheck to paycheck in Hawaii. The reason why the insurance companies have an issue with anyone assisting with the deductible, it opens the public to be informed on claims that are covered by their insurance policy increasing claims and knocks down profitability. (SB2422) Discourages contractors assisting homeowner with any type of property claim which leaves consumers vulnerable from Insurance companies paying the least amount on a claim instead of what's fully owed to the policyholders who is paying monthly premiums. There are only about (5) active Public Adjusters in the State of Hawaii. These (5) public adjusters will not be able to cover the entire State in the event of a major storm, fire, flood, or yearly wind event our island is faced with in the future.

They have also introduced a Bill (HB2320) that hinders Public Adjusters. During the hearing on 1/30/2020, I attended this matter and a Public Adjuster testified that it takes 3 months or more going back and forth to settle a claim with the insurance company in good faith. If they are going to restrict the amount they are able to charge for their services the public adjuster would have to find another job and wouldn't be able to afford to operate. This puts other Public Adjusters from being able to stay in business leaving Hawaii people with nearly no Public Adjusters left in our State. During this hearing, the board had asked the Insurance Commissioner if the Insurance companies are behind this Bill for an Act and the Insurance Commissioner didn't respond.

I attended another hearing recently on 2/11/2020 for (SB2422) and (HB1809) dealing with Roofing Contractors and Consumer Protection which State Farm testified in both pushing and influencing the Bill for an Act. In 2014 I met a veteran State Farm insurance adjuster. He shared with me that all Insurance companies have been making large profits in Hawaii for over 20+ years because of the public being unaware of what is covered by their property insurance coverage, which all property owners pay every month.

Introducing a Bill that hinders Public Adjusters won't allow these licensed professionals to grow their industry or worse making it impossible to operate to help consumers with property claims or any type of claim. Insurance companies will continue collecting monthly premium payments from the people of Hawaii with no one to help the public who has no ties to these insurance companies in the event of a catastrophe, fire, flood, etc. These bills introduced from the Insurance companies to the House and Senate are clearly to stop consumers from being properly informed on what's covered in their policy from any licensed professionally working on the other side of the fence.

Mahalo,

Kevin Medeiros



March 10, 2020

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

Re: SB 2876, SD1 – Relating to Insurance

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

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2876, SD1, which amends various portions of Hawaii Revised Statutes title 24 to update and improve existing Insurance Code provisions.

HMSA supports this bill. However, we respectfully request the committee consider amending the portion of Section 14 that appears on pages 31 – 32, aimed at prohibiting discriminatory wellness programs. Wellness programs are currently governed by a host of Federal rules. Having a separate requirement under State law is unnecessary and could potentially lead to confusion, to the extent that the rules conflict with one another. We recommend that the section either be removed or amended as follows:

- (E) A reward under a wellness program established under a health care plan that is consistent with Federal law 45 CFR 146.121(f). ~~[favors an individual if the wellness program meets the following requirements:~~
- ~~(i) The wellness program is reasonably designed to promote health or prevent disease;~~
 - ~~(ii) An individual has an opportunity to qualify for the reward at least once a year;~~
 - ~~(iii) The reward is available for all similarly situated individuals;~~
 - ~~(iv) The wellness program has alternative standards for individuals who are unable to obtain the reward because of a health factor;~~
 - ~~(v) Alternative standards are available for an individual who is unable to participate in a reward program because of a health condition;~~
 - ~~(vi) The insurer provides information explaining the standard for achieving the reward and discloses the alternative standards; and~~
 - ~~(vii) The total rewards for all wellness programs under the health insurance policy do not exceed twenty per cent of the cost of coverage;]~~

Thank you for allowing us to testify on SB 2876, SD1. Your consideration of our comments is appreciated.

Sincerely,

Jennifer Diesman
Senior Vice-President-Government Relations