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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Friday, February 16, 2024
9:30 a.m.
State Capitol, Conference Room 229 and via Videoconference**

**On the following measure:
S.B. 2730, RELATING TO TRANSPARENCY**

Chair Keohokalole and Members of the Committee:

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

The purposes of this bill are to: (1) require not-for-profit mutual benefit societies to include in annual statements the compensation provided to each executive officer and board member for the preceding calendar year and a description of each position; (2) require the Insurance Commissioner to prepare and maintain a compilation of the information for each not for profit mutual benefit society; and (3) require the Insurance Commissioner or the Department of Commerce and Consumer Affairs to make the compilation available for public inspection and duplication.

We note that the information described in this bill "annual compensation provided to each executive officer and each member of the board of directors" is duplicative of the information in the "Supplemental Compensation Exhibit", which is already filed by

mutual benefit societies and includes information on the name, title, and compensation of the top ten officers and employees as well as information on the compensation of directors.

We respectfully suggest that instead of the amendments proposed in this bill, the committee amend Hawaii Revised Statutes (HRS) § 431:2-209 to provide authority for the Insurance Division to disclose the Supplemental Compensation Exhibit by creating a new subsection HRS § 431:2-209(h)

(h) The commissioner may disclose records submitted to the commissioner by an insurer under chapter 431; a mutual benefit society under chapter 432, article 1; a health maintenance organization under chapter 432D, or a dental insurer under chapter 432G; that describe the name, title, or compensation of the directors, trustees, officers, or employees of the insurer under chapter 431; the mutual benefit society under chapter 432, article 1; the health maintenance organization under chapter 432D, or the dental insurer under chapter 432G; including, but not limited to supplemental compensation exhibits. Disclosure of such records shall not constitute a clearly unwarranted invasion of personal privacy under section 92F-13.

This new subsection 431:2-209(h) would be more readily and efficiently implemented by the Insurance Division.

Thank you for the opportunity to testify.



February 16, 2024

The Honorable Jarret Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair
House Committee on Commerce and Consumer Protection

Re: SB 2730 – RELATING TO TRANSPARENCY

Dear Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to comment on SB 2730, which requires not for profit mutual benefit societies to include in annual statements the compensation provided to each executive officer and board member for the preceding calendar year and a description of each position, requires the Insurance Commissioner to prepare and maintain a compilation of the information for each not for profit mutual benefit society, and requires the Insurance Commissioner or the Department of Commerce and Consumer Affairs to make the compilation available for public inspection and duplication.

HMSA supports the efforts of this committee to promote transparency within the health insurance industry, as it promotes fairness, accountability, and consumer protection. We do believe this bill is duplicative as mutual benefit societies are already required, per HRS §432:1:404 to submit compensation information in their annual filing¹ in accordance with the National Association of Insurance Commissioners to the department of commerce and consumer affairs in the *Supplemental Compensation Exhibit*.

If this bill moves forward, we respectfully request that the language in this bill be amended for clarity to:

1. Remove language where not needed for conciseness,
2. Move original subsection (b) on Page 1 to the current HRS §432:1-404 as a new subsection (c) to promote transparency, and
3. Add new subsection (c) language to current reporting statuses for all health plans to encourage transparency across the health insurance industry.

We've respectfully attached language for the committee's consideration. Thank you for the opportunity to provide comments on this measure.

Sincerely,

Dawn Kurisu
Assistant Vice President
Community and Government Relations

¹ <https://cca.hawaii.gov/ins/insurers/annual-filing-instructions-and-tax-forms/>

A BILL FOR AN ACT

RELATING TO TRANSPARENCY.

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

1 ~~SECTION 1. Chapter 432, Hawaii Revised Statutes, is~~
2 ~~amended by adding a new section to article 1, part IV, to be~~
3 ~~appropriately designated and to read as follows:~~

4 ~~"§432:1- Not for profit mutual benefit societies;~~
5 ~~compilation of information; disclosure required. (a) Upon~~
6 ~~receipt of a statement required by 432:1-404(a) from a society~~
7 ~~that is not for profit, the commissioner shall prepare and~~
8 ~~maintain, for the purpose of making the information available to~~
9 ~~the general public, a compilation of each plan's annual~~
10 ~~compensation provided to each executive officer and each member~~
11 ~~of the board of directors for the preceding calendar year and a~~
12 ~~description of each position.~~

13 ~~(b) Notwithstanding any other law to the contrary, the~~
14 ~~commissioner or department of commerce and consumer affairs~~
15 ~~shall make the compilation prepared pursuant to subsection (a)~~
16 ~~available for public inspection and duplication pursuant to~~
17 ~~section 92F-12(a)(15)."~~

1 SECTION 21. §432:1-304, Hawaii Revised Statutes, is amended
2 by ~~amending~~ adding subsection (ac) to read as follows:

3 (a) Each society shall file with the commissioner
4 annually, on or before March 1 of each year, a statement under
5 oath, and in such form and detail as the commissioner shall
6 prescribe; ~~provided that a statement filed by a society that is~~
7 ~~not for profit shall include the annual compensation provided to~~
8 ~~each executive officer and each member of the board of directors~~
9 ~~for the preceding calendar year and a description of each~~
10 ~~position;~~ provided further that any association or society
11 organized and operating as a nonprofit medical indemnity or
12 hospital service association shall file a report with the
13 commissioner covering the preceding calendar year and verified
14 by at least two principal officers. Each mutual benefit society
15 shall file quarterly with the commissioner, on or before the
16 forty-fifth day after each quarter, a copy of its quarterly
17 report verified by at least two principal officers. The report
18 shall comply with sections 431:3-301 and 431:3-302. The
19 commissioner may prescribe the forms on which the report is to
20 be filed.

1 In addition, any association of society organized and
2 operating as a nonprofit medical indemnity or hospital service
3 association annually shall file with the commissioner the
4 following by the dates specified:

5 (1) An audit, by an independent certified public
6 accountant or and accounting firm designated by the
7 association or society, of the financial statements,
8 reporting the financial condition and results of
9 operations of the association or society on or before
10 June 1, or a later date as the commissioner upon
11 request or for cause may specify. The association or
12 society, on an annual basis and [~~prior to~~] before the
13 commencement of the audit, shall notify the
14 commissioner in writing of the name and address of the
15 person or firm retained to conduct the annual audit.
16 The commissioner may disapprove the association's or
17 society's designation within fifteen days of receipt
18 of the association's or society's notice, and the
19 association or society shall be required to designate
20 another independent certified public accountant or
21 accounting firm. The audit required by this paragraph

1 shall be prepared in accordance with the National
2 Association of Insurance Commissioners' accounting
3 practices and procedures manual and rule adopted by
4 the commissioner following the practices and
5 procedures prescribed by the National Association of
6 Insurance Commissioners; and

7 (2) A description of the available grievance procedures,
8 the total number of grievances handled through those
9 procedures, a compilation of the causes underlying
10 those grievances, and a summary of the final
11 disposition of those grievances on or before March 1."

12 (c) Notwithstanding any other law to the contrary, the
13 commissioner or department of commerce and consumer affairs
14 shall make the compilation prepared pursuant to subsection
15 (a) available for public inspection and duplication
16 pursuant to section 92F-12(a)(15).

17 SECTION 2. §432D:5, Hawaii Revised Statutes, is amended by
18 amending subsection (d) to read as follows:

19 (a) Every health maintenance organization shall file
20 annually, on or before March 1, a report verified by
21 at least two principal officers covering the preceding
22 calendar year. Each health maintenance organization
23 shall file quarterly with the commissioner, on or
24 before the forty-fifth day after each quarter, a copy
25 of its quarterly report verified by at least two

1 principal officers. These reports shall comply with
2 sections 431:3-301 and 431:3-302. The commissioner may
3 prescribe the forms on which the reports are to be
4 filed. In addition, the health maintenance
5 organization annually shall file with the commissioner
6 the following by the dates specified:

7 (1) An audit, by and independent certified public
8 accountant or an accounting firm designated by the
9 health maintenance organization of the financial
10 statements, reporting the financial condition and
11 results of operations of the health maintenance
12 organization on or before June 1, or a later date as
13 the commissioner upon request or for cause may
14 specify. The health maintenance organization, on an
15 annual basis and prior to the commencement of the
16 audit, shall notify the commissioner in writing of
17 the name and address of the person or firm retained
18 to conduct the audit. The commissioner may
19 disapprove the health maintenance organization's
20 designation within the fifteen days of receipt of
21 the health maintenance organization's notice, and
22 the health maintenance organization shall be
23 required to designate another independent certified
24 public accountant or accounting firm. The audit
25 required by this paragraph shall be prepared in

1 accordance with the National Association of
2 Insurance Commissioners' accounting practices and
3 procedures manual and ruled adopted by the
4 commissioner following the practices and procedures
5 prescribed by the National Association of Insurance
6 Commissioners;

7 (2) A list of the providers who have executed a
8 contract that complies with section 432D-8(d) on or
9 before March 1; and

10 (3) A description of the available grievance
11 procedures, the total number of grievances handled
12 through those procedures, a compilation of the
13 causes underlying those grievances, and a summary of
14 the final disposition of those grievances on or
15 before March 1.

16 (b) The commissioner may require additional reports as are
17 deemed necessary and appropriate to enable the
18 commissioner to carry out the commissioner's duties
19 under this chapter.

20 (c) The commissioner may suspend or revoke the certificate
21 of authority of any health maintenance organization
22 who fails to file any of the documents required under
23 subsection (a). In lieu or in addition to the
24 suspension or revocation of the certificate of
25 authority of any health maintenance organization, the

1 commissioner may fine the health maintenance
2 organization not less than \$100 and not more than \$500
3 for each day of delinquency.

4 (d) Notwithstanding any other law to the contrary, the
5 commissioner or department of commerce and consumer affairs
6 shall make the compilation prepared pursuant to subsection
7 (a) available for public inspection and duplication
8 pursuant to section 92F-12(a)(15).

9
10 SECTION 3. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect upon its approval.

Report Title:

DCCA; Insurance Commissioner; Not For Profit Mutual Benefit Society; Annual Statement; Compensation; Executive Officers; Board Members; Compilation; Disclosure

Description:

Requires not for profit mutual benefit societies to include in annual statements the compensation provided to each executive officer and board member for the preceding calendar year and a description of each position. Requires the Insurance Commissioner to prepare and maintain a compilation of the information for each not for profit mutual benefit society. Requires the Insurance Commissioner or the Department of Commerce and Consumer Affairs to make the compilation available for public inspection and duplication.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.