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EXECUTIVE CHAMBERS
HONOLULU
June 20, 2002

COPY

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 202

Honorable Members
Twenty-First Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 202, entitled "A Bill for an Act Relating to Health Insurance."

The purpose of this bill is to establish parity in health insurance benefits under chapter 431M (mental health and alcohol and drug abuse treatment insurance benefits), Hawaii Revised Statutes, for minors for mental illness and alcohol and drug dependence, while carving out coverage for minors eligible to receive these benefits from the Department of Education under the *Felix Consent Decree*.

The bill is unnecessary. It purports to clarify issues involving minors and proposes to provide mental health and substance abuse benefits for minors covered by insurance. However, these benefits for minors are covered already under the existing language of chapter 431M, which makes no exclusion from existing coverage for benefits for minors.

Section 2 of this bill proposes to amend section 431M-4 to add a subsection (d)(2) that states, "Nothing in this chapter shall be construed to require coverage of mental health services for minors eligible to receive such services prescribed by the state department of education." I believe that this provision will cause confusion in its implementation as to what mental health benefits are covered by the State Department of Education (DOE) versus the coverage by private insurers. Although the legislative committee reports indicate that the Legislature intended that the carve out from the bill's scope of coverage is meant to apply to minors eligible for these services under the

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Felix Consent Decree, the wording of the bill does not reference *Felix* or special education and instead appears to broadly apply to minors directed to receive these benefits by the State DOE. The class of minors receiving benefits from the DOE would be much broader than the minors included within the *Felix Consent Decree* and could lead to confusion as to whether the DOE or private insurers provide coverage.

In addition, section 5 of the bill proposes to amend section 431M-5 to add a subsection (d) that states in part, "This chapter shall not apply to individual contracts; provided that benefits for minors shall be provided under QUEST medical plans under the department of human services." I believe that this provision may cause confusion in its implementation as to what benefits for minors "shall be provided" under QUEST by the Department of Human Services. QUEST is the State's Medicaid managed health care program that is subject to federal Medicaid regulations. Not all minors are eligible for benefits under QUEST.


Furthermore, the bill's proposed subsection (d)(3) to be added to section 431M-4 appears to permit managed care plans to unilaterally establish standards of care, treatment guidelines, and utilization review techniques and to require treatment providers to adhere to these standards, guidelines, and utilization review. This provision appears to conflict with the letter and spirit of the Patients' Bill of Rights and Responsibilities Act, chapter 432E, Hawaii Revised Statutes. To the extent that a plan could limit the universe of treatment options under the proposed language of this bill, it would not be in harmony with the protections afforded to patients under chapter 432E, such as the patient's right stated in section 432E-4 to be fully informed before making any decision about any treatment, benefit, or nontreatment. Although section 432E-9(a)

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mandates plans to establish procedures for continuous review of such matters as the quality of care, performance of providers, and utilization of health services, the plans are not free to adopt these matters to the detriment of the patient and to the exclusion of the treating provider's professional judgment. For example, section 432E-9(c) provides that "utilization review requirements and administrative treatment guidelines of the health maintenance organization shall not fall below the appropriate standard of care and shall not impinge upon the independent medical judgment of the treating health care provider." The provision to be added by this bill as section 431M-4(d)(3) appears to impinge upon the independent medical judgment of the treating provider.

For the foregoing reasons, I am returning House Bill No. 202 without my approval.

Respectfully,


BENJAMIN J. CAYETANO
Governor of Hawaii

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P R O C L A M A T I O N

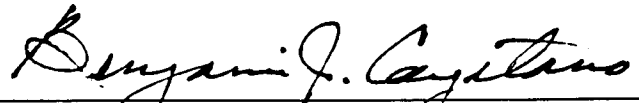
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 202, entitled "A Bill for an Act Relating to Health Insurance," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 202 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 202 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 20
day of June, 2002.



BENJAMIN J. CAYETANO
Governor of Hawaii