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TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Wednesday, February 6, 2008
8:00 a.m.

TESTIMONY ON HOUSE BILL NO. 2796 – RELATING TO INSURANCE

TO THE HONORABLE JOSH GREEN, M.D., CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is J. P. Schmidt, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department has a number of concerns with this bill, which makes some health insurers pay higher reimbursements for healthcare services and other health insurers decrease the number of the uninsured. Our concerns are as follows.

First, it appears that the bill is intended to target insurers who provide health insurance in accordance with the Prepaid Health Care Act, Hawaii Revised Statutes ("HRS") chapter 393, and authorized under HRS chapters 432 and 432D. That should be specifically stated. We also have hundreds of insurers that provide accident and health or sickness insurance who are not the type of insurer this bill is intended to regulate. Because the bill is not properly targeted it creates an unlevel playing field that will distort the market.

Second, it creates an unlevel playing field to have some insurers providing higher reimbursements and other insurers reducing the number of the uninsured. Any rule to be applied to a market should be applied equally to all market participants so that there is no unfair competitive advantage given to one over the other.

Third, the bill refers to an exemption from premium taxes pursuant to HRS section 431:19-116. This section relates to the taxation of captives and has nothing to do with health insurance. Health insurers are subject to premium taxes pursuant to HRS section 431:7-202.

Fourth, we note that it is not a common practice for governments in the United States to mandate minimum price levels for sellers of goods and services.

Fifth, if there is to be an exemption from taxation for some insurers, the State should require the recipient to do things that benefit the community. Federal charitable organizations under section 501(c)(3) of the Internal Revenue Code must have a charitable purpose to receive their tax exemption. Many private businesses do charitable work in Hawaii just to be good citizens, but get no tax break for it.

We thank this Committee for the opportunity to present testimony on this matter and ask that this bill be held.

AlohaCare
Aloha is the difference

February 6, 2008

The Honorable Josh Green, M.D.
Chair, House Committee on Health

In **Opposition to** HB 2796 (written testimony only)

Thank you for the opportunity to testify in opposition to HB 2796.

AlohaCare is Hawaii's third largest health plan with more than 55,000 health plan members statewide. We are unique in that our entire mission as a health plan is to serve Hawaii's most fragile and vulnerable populations. We do so exclusively through State and Federal government contracts. AlohaCare was formed in 1994 by Hawaii's community health centers. Historically, the vast majority of Hawaii's uninsured citizens have received their health care at a community health center. We therefore, feel passionate about reducing the number of uninsured.

We greatly appreciate the Legislature's efforts to reduce the number of uninsured in Hawaii, however, HB 2796 would not accomplish this and would set a dangerous precedent by exempting for-profit health plans from paying the 4.265 percent premium tax on their gross revenue.

What this bill proposes is a serious overstep of tax authority. The Internal Revenue Service is the government agency that is set up to rigorously review and approve businesses to receive tax exempt status as a non-profit. The IRS grants this distinction to non-profit organizations, like AlohaCare, because the IRS has determined that the mission, structure and objective of the non-profit are to benefit the public.

For-profit health plans are in the business of paying profits to their owners and stockholders. This bill would improperly relieve these organizations from their tax obligations and advantage their owners and stockholders at a substantial cost to the State. This bill sets a very dangerous precedent by subsidizing for-profit companies.

Since our inception, AlohaCare has devoted significant amounts of money, time, and effort to decrease the number of uninsured in Hawaii. We are committed to continue to do so not because of a promise of a tax exemption, but because of our mission to help Hawaii's most medically fragile citizens.

We urge you to hold this bill.

Thank you for this opportunity to testify.

Sincerely,

John McComas
Chief Executive Officer

HAWAII PSYCHIATRIC MEDICAL ASSOCIATION
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Please deliver
5 copies to Clerk in Rm. 436
HLT: 2/6/08 at 8:00 in Rm. 329

COMMITTEE ON HOUSE HEALTH
Rep. Josh Green, MD, Chair
Rep. John Mizuno, Vice Chair

Re: HB 2077 Relating to Insurance
HB 2796 Relating to Insurance

SUPPORT

The Hawaii Psychiatric Medical Association (HPMA) submits its testimony in support of the intent of these measures.

The reasons for the lack of adequate supply of psychiatric services in rural areas are several. Among the chief reasons cited is the low reimbursement rate for medical specialty care in all areas but most especially where the cost of living is higher.

The State is paying for insurance coverage for mental health services and has been since 1994 when Med-QUEST was first introduced.. However, patients in areas such as the Big Island are not able to access psychiatric care due to the lack of an adequate number of providers and providers willing to accept new Med-QUEST patients. Because of the low reimbursement, physicians are economically unable see more than a small percentage of Med-QUEST patients. Psychiatrist Janice Strickler, MD emailed in December 2007 to state she had moved to the Mainland and cited low rate of reimbursement as the major reason.

DHS Med-QUEST is a privatized $1.2 billion dollar program. Insurers such as HMSA, Kaiser, AlohaCare, Summerlin, etc. all bid for the Med-QUEST contracts to provide insurance coverage for specific geographic areas. It is a capitated program which means they are paid by the number of insurance enrollees, regardless of utilization. Therefore, there is actually a disincentive for the Med-QUEST insurers to provide access. The less the insurance is utilized, the greater the profit.

A recent Letter to the Editor by Lillian Koller gives just a glimpse to the extent of the problem. In that letter Ms. Koller states "…..there is a serious shortage of psychiatrists on

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the Big Island. Meanwhile, during the first five months of 2007, HMSA retained nearly $936,000 in unused QUEST funds earmarked for outpatient psychiatric services..."

HB 2077 calls for HMSA to return 50% of its GET savings to community health programs. The Health Committee may want to consider encouraging HMSA to review its profit margins on state contract or to spend down its reserves by expanding the funds for community health services.

Another good option would be to increase the reimbursement paid to private practice providers and Med-QUEST providers. There is nothing in the state's contract with the Med-QUEST insurers to limit the reimbursement level. Increased reimbursement rates would encourage providers to treat the Med-QUEST client and help us to retain those providers who are considering leaving or opting out of seeing Med-QUEST patients.

We feel both of the bills covered by this testimony are important to help build psychiatric and other medical specialty services for underserved areas of Hawaii. Thank you for your consideration.

HAWAII PSYCHIATRIC MEDICAL ASSOCIATION

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON H.B. 2796, RELATING TO INSURANCE

February 6, 2008

Via E Mail: testimony@capitol.hawaii.gov

Representative Josh Green, M.D., Chair
Committee on Health
Representative Maile S. L. Shimabukuro, Chair
Committee on Human Services & Housing
House of Representatives
Hawaii State Capital, Conference Room 329
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Green, Chair Shimabukuro and Committee Members:

Thank you for the opportunity to comment on House Bill 2796, relating to Insurance.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred fifty-three (353) member companies account for 93% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI member company assets account for 93% of legal reserve company total assets. Two hundred sixty-one (261) ACLI member companies currently do business in the State of Hawaii.

As currently drafted House Bill 2796 applies to all insurers that provide accident and health or sickness coverage.

ACLI submits that the reimbursements for health care services mandated by the bill are intended to apply only to "health insurance".

However, "accident and health or sickness insurance" is defined in Section 431: 1-205, to include disability insurance issued by life insurers.

In order to dispel any confusion that House Bill 2796 applies to anything other than health insurance ACLI suggests that Section 2 of the Bill be amended in relevant part as follows:

> §431: 10A-____ Health insurers; market-share-based reimbursement rates. (a) Any insurer with fifty per cent or more of the market share that provides accident and health or sickness coverage, *other than disability income insurance,* shall provide reimbursements for health care services at a rate of one hundred thirty-five per cent of the current medicare fee schedule.

(b) Any insurer with less that fifty per cent of the market share that provides accident and health or sickness coverage, *other than disability income insurance,* shall be exempt from payment of taxes on gross premiums pursuant to section 431: 19-116 . . . .

Again, thank you for the opportunity to comment on House Bill 2796.

CHAR HAMILTON
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Healthcare Association
of Hawaii

HOUSE COMMITTEE ON HEALTH
Rep. Josh Green, M.D., Chair

Conference Room 329
February 6, 2008 at 8:00 a.m.

Testimony in support of HB 2796.

I am Rich Meiers, President and CEO of the Healthcare Association of Hawaii, which represents the entire spectrum of health care, including acute care hospitals, two-thirds of the long term care beds in Hawaii, as well as home care and hospice providers. Thank you for this opportunity to testify in support of HB 2796, which requires any health care insurer with at least 50% of the market share to pay for health care services at a rate of at least 135% of the Medicare fee schedule.

In recent weeks the media have featured a number of articles highlighting the complex and multi-faceted crisis that is plaguing Hawaii's health care system. Payments for health care from Medicare, Medicaid, and private insurance are too low. Medical malpractice insurance premiums are too high. Some physicians have already left Hawaii to practice on the mainland where financial conditions are more reasonable. Kahuku Hospital was on the verge of bankruptcy a year ago and about to close its doors before it was acquired by the Hawaii Health Systems Corporation (HHSC). Meanwhile, HHSC itself is requesting emergency funding during the current session in order to pay its suppliers. This bill addresses one aspect of Hawaii's health care crisis.

Due to historical and other reasons, Hawaii's health care insurance market is characterized by the dominance of a single entity. That company and a few smaller insurers contract with numerous providers for health care services that are received by insurance plan subscribers. This type of market structure, where there are a few buyers and many sellers, is called an oligopsony. It predicts that insurance companies will under-pay health care providers for services. In this case, theory is corroborated by actual experience because health care providers are suffering financially.

This bill seeks to create a sense of fairness in financing health care in Hawaii. I would like to make it clear that my testimony is not an attack or even a criticism of any particular company. Rather, the market structure is unfair to health care providers, and there is precedent for government to intervene when market structures are unfair.

This bill will improve the financial condition of health care providers in Hawaii. More needs to be done because the health care crisis is so complex. But this bill represents a significant advance in improving the condition of Hawaii's health care system.

For the foregoing reasons, the Healthcare Association supports HB 2796.

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HMSA

Blue Cross Blue Shield of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

February 6, 2008

The Honorable Josh Green, M.D., Chair
The Honorable John Mizuno, Vice Chair

House Committee on Health

Re: HB 2796 – Relating to Insurance

Dear Chair Green, Vice Chair Mizuno and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in opposition to HB 2796 which would require that health plans with more than 50 per cent of the market share provide increased insurance reimbursements and for-profit health plans with less than 50 per cent of the market share be afforded an exemption from premium taxation provided they work toward decreasing the number of uninsured in Hawaii.

Unfortunately, we believe that the current language of this measure raises many issues and concerns. Including:

Fairness and Equity

HB 2796 would essentially create different regulatory requirements for health plans operating in the State. We believe that this would create an unlevel playing field and that all health plans should have to adhere to the same set of regulatory guidelines.

Legislating Reimbursement Policies is Potentially Dangerous

- Once a bill's language has been approved and becomes statute it is essentially static in nature. Unless the Legislature sees fit to revisit an issue and amend existing law while in session, changes cannot be made swiftly.
- Medical services and technologies are changing quickly as scientific advances are made. Again a reimbursement rate set in statute would be unable to rapidly change to keep up with medical advances.
- The current methods that health plans use to determine reimbursement rates consist of different factors and components and are not solely based on the rates contained in the Medicare fee schedule. When developing rates, HMSA takes into account the make up of our member population which, being mostly employer-based, differs significantly from the Medicare population. Since these populations differ, the types and amounts of services being utilized differ as well. Additionally Hawaii's unique geographic makeup presents distinct challenges when it comes to the availability of health care resources.

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Creating a Loophole to Acquire Non-Profit Status

HMSA's non-profit status benefits not only the 11,000 businesses in the State that purchase our health plans and our 700,000 members but the entire community. Our health and wellness initiatives are funded through the HMSA Foundation and HMSA's corporate giving. Under the language of HB 2796, a for-profit health plan would be able to enjoy the benefits of tax exemption not through meeting the statutory requirements existing in law today but by complying with the language in HB 2796. We believe that this would be precedent setting in nature for all businesses operating in the State.

For the reasons listed above, we would respectfully request the Committees consider holding this measure. Thank you for the opportunity to testify in opposition to HB 2796.

Sincerely,

Jennifer Diesman
Director, Government Relations