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TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2010

Tuesday, January 26, 2010  
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 1896 – RELATING TO DENTAL SERVICES.**

TO THE HONORABLE RYAN I. YAMANE, 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 supports this bill which prohibits dental insurers from setting fees for procedures that are not covered by the dental plan.

It is logical that an insurer should not be able to dictate reimbursement levels to dentists unless the procedure in question is covered by the dental plan and is the subject of a participating provider agreement between the dentist and the dental insurer that addresses reimbursement levels. That said, we do not have any knowledge of how big a problem this is in the Hawaii market.

We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.

Hawaii State Legislature  
State House of Representatives  
Committee on Health

Representative Ryan I Yamane, Chair  
Representative Scott Y. Nishimoto, Vice Chair  
Committee on Health

Tuesday, January 26, 2010, 9:00 a.m. Room 329  
House Bill 1896 Relating to Dental Services

Honorable Chair Ryan I. Yamane, Vice Chair Scott Y. Nishimoto and  
members of the House Committee on Health,

My name is Russel Yamashita and I am the legislative representative for the Hawaii Dental Association and its 965 member dentists. I appreciate the opportunity to testify in support of HB 1896 Relating to Dental Services. The bill before you today would seek to prohibit health and dental insurance companies from setting fees for dental services which are not subject to the contract with the insurance company.

Health and dental insurance companies are now including clauses in their contracts with participating dentists which state that non-covered services would be subject to a fee schedule dictated by the insurance companies. Such price fixing and restraint of trade by these insurance companies harm not only the consumer, but in some cases will cause patients with insurance to be turned away from their dentist due to these onerous clauses.

For instance, if an insurance company provides that there is no reimbursement or coverage for a particular procedure, for instance a crown. The insurance contract provision would require that a participating dentist could not charge a fee for that service, thus requiring the patient to seek a non-participating dentist, who is not bound by a contract, to perform the procedure. This absurd result clearly provides an example of the law of unintended consequences when boiler plate provisions are included in contracts of adhesion by the insurance companies.

Additionally, should a patient with insurance seek the services of their family dentist for a serious dental problem or disease, the consumer could find that their trusted dentist is restricted or prohibited from providing full and complete professional services to their family due the onerous restrictions such a contract .

In the course of responding to other states which have adopted or are in the process of adopting similar laws to HB 1896, the Delta Dental Plans Association has attacked these laws by stating that patient benefits from a discounted service based on such provisions in their participation contracts. The HDA disputes this assertion and wishes to point out that in some situations the participating dentist is put into a losing proposition, especially on the neighbor islands where costs of doing business is much higher.

On the neighbor islands, patients may land up with dentists unwilling to participate with the insurance companies where fee schedules are based on Honolulu based dentists. The consequences of such a situation will even further burden the limited number of participating dentists and may result in further access to care problems in remote or rural areas.

In one of their documents, Delta Dental raised the question, "What give Delta the riht to set fees you don't even cover?". The response was:

"We believe every one deserves access to affordable oral health care. Just as you must adjust service, techniques and material to remain competitive in your community, so must Delta Dental adapt to the evolving needs of our enrollees."

The real response is that this is price fixing, pure and simple. It makes is easier for all the insurance companies to then run the business of the dental professionals. Without a federal antitrust exemption that most health insurance companies enjoy, dental and medical professionals are at the mercy of the insurance companies, unable to effectively negotiate like a union for fear of an antitrust or restraint of trade law suit. The only response the individual dentist can do is to reject the contract or sign a contract of adhesion.

Therefore, the HDA and its members urge your favorable consideration of this bill and I thank you for this opportunity to testify in support of this bill.

# HDS

**Hawaii Dental Service**

January 25, 2010

VIA E-MAIL: [hlttestimony@capitol.hawaii.gov](mailto:hlttestimony@capitol.hawaii.gov)

The Honorable Ryan I. Yamane, Chair  
Hawaii State House of Representatives  
House Committee on Health

Re: HB 1896-Relating to Dental Services

Dear Chair Yamane and Members of the Committee:

Hawaii Dental Service (HDS) appreciates the opportunity to testify on HB 1896 which would require residents having dental benefits to pay more for certain services received from their dentists. We believe that HB 1896 is anti-consumer and unnecessary at this time.

HB 1896 would allow dentists to charge HDS patients their retail fees (rather than their contracted HDS fees) for procedures performed under dental benefits plans covering the procedures, but with no copayment by HDS, such as when a patient reaches his/her annual maximum payment amount or when frequency or other limitations such as a wait period apply.

HDS maintains a standard fee schedule for procedures that are clinically necessary and commonly performed by Hawaii general dentists and specialists. Hawaii dentists participating with HDS accept this fee schedule for all procedures for which a fee is set. HDS does not hold dentists to a standard fee for cosmetic procedures requested by the patient or for procedures where HDS does not have sufficient data to set a fee. This single contracted fee per procedure for which a fee is set is simple to administer and assures a fair fee for both dentist and patient whenever that procedure is performed.

HDS's experience is that dentists' retail fees vary widely and it is often difficult for the consumer to comparison shop for the lowest fee for a dental procedure. HDS's fee policy protects the HDS patient and allows the dentist to charge his contracted fee, but no more, to HDS patients who receive services for which an HDS standard fee is set. Dentists who disagree with HDS's fee policy can, and do refuse to participate in the HDS network.

HDS is not aware of any HDS patients indicating that they cannot receive major clinically necessary services under their dental plans because of HDS standard fees.

The Honorable Ryan I. Yamane, Chair  
Hawaii State House of Representatives, House Committee on Health  
Re: HB 1896-Relating to Dental Services  
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HB 1896 will raise costs for dental care; the consumer will bear the entire burden. We believe that raising the cost of healthcare for consumers in today's challenging economy is not appropriate and therefore would respectfully request the Committee hold HB 1896. Thank you for the opportunity to testify today.

Sincerely,

A handwritten signature in black ink, appearing to read "Faye W. Kurren", followed by a horizontal line.

Faye W. Kurren  
President and CEO

## **nishimoto2-Ashley-Nicole**

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**From:** Darrell [teruyadt@worldnet.att.net]  
**Sent:** Saturday, January 23, 2010 12:36 PM  
**To:** HLTtestimony  
**Cc:** Darrell  
**Subject:** testimony HB 1896 RELATING TO DENTAL SERVICES Tuesday, January 26, 2010; 9:00 a.m.;Conference Room 329

### COMMITTEE ON HEALTH

Honorable Rep. Ryan I. Yamane, Chair; Rep. Scott Y. Nishimoto, Vice Chair

Honorable Rep. Della Au Belatti; Rep. Joe Bertram, III; Rep. Tom Brower; Rep. Mele Carroll;  
Rep. Lynn Finnegan; Rep. John M. Mizuno; Rep. Maile S.L. Shimabukuro

Tuesday, January 26, 2010; 9:00 a.m.; Conference Room 329

### HB 1896 RELATING TO DENTAL SERVICES.

Prohibits a accident and health or sickness insurer, mutual benefit society, health maintenance organization, or dental service organization from requiring a dentist who provides services to its subscribers to accept a fee set by the accident and health or sickness insurer, mutual benefit society, health maintenance organization, or dental service organization unless the services are covered under the applicable subscriber agreement.

Thank you for the opportunity to testify in support of House Bill 1896 which would prevent third party payors from imposing payment limits on non-covered dental services.

I am a general dentist practicing in the state of Hawaii for over 25 years. I strive to deliver dentistry to the best of my abilities for the benefit of my patients. To this end, I feel that there is an unfair ability by the insurance companies allowing them to interfere with the provision of these services.

As it stands now, a third party payor has the ability not only to deny payment on a non-covered service but in addition can limit what a dentist can collect on that service. This restricts what I can offer and provide to my patients. My fees have to be able to cover the costs of my services as well as to justify the efforts involved in the provision of those services. There may be additional lab fees and other attendant expenses. All too often the insurance company will recognize the necessity for the extra efforts but deny or restrict the amount that can be assessed. This strikes me as an effort by the third party payor to effectively restrict trade.

It is a specious argument that, by these practices, the insurance company keeps the cost of dental premiums down for the patient. This doesn't make sense to me as the maximum dental benefit is limited by the insurance carrier for each individual. This maximum has typically not been changed for 30 years or more. Conversely, I seriously doubt that the premiums have been kept in check at the previous levels.

Dentistry, through efficiency and advances in technology, has proven itself as health care that works. To deny the people of Hawai'i optimal levels of treatment through such exclusionary means is to deny choice.

Thank you for the opportunity to present this testimony in favor of HB 1896.

Darrell T Teruya, DDS

Former president (2009), Hawai'i Dental Association