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February 1, 2010

TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
For Hearing on Tuesday, February 2, 2010  
9:00 a.m., Conference Room 309

BY

MARIE C. LADERTA, DIRECTOR

**House Bill No. 2637  
Relating to Medical and Rehabilitation Benefits**

**(WRITTEN TESTIMONY ONLY)**

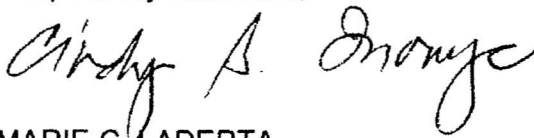
TO CHAIR KARL RHOADS AND MEMBERS OF THE COMMITTEE:

The purpose of H.B. No. 2637 is to clarify that a physician or surgeon may conduct diagnostic testing or engage in a one-time consult for a subspecialty diagnostic evaluation and treatment recommendations from a board certified or licensed specialist.

**The Department of Human Resources Development is strongly opposed to this bill as it deprives the self insured employer or insurance carrier of a fundamental right to challenge the referral on the basis of it not being reasonable or necessary or for a condition that is unrelated to the industrial injury.**

This bill will likely add to the current adversarial nature of the system and increase costs by removing one of the checks and balances currently afforded employers and insurance carriers.

Respectfully submitted,

  
for MARIE C. LADERTA

HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2010

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

Rep. Karl Rhoads, Chair  
Rep. Kyle T. Yamashita, Vice Chair

Hearing: Tuesday, February 2, 2010  
Time: 9:00 a.m.  
Place: Room 309, State Capitol

TESTIMONY OF ILWU LOCAL 142 RE:  
HB 2637 RELATING TO: MEDICAL AND REHABILITATION BENEFITS

Chair Rhoads, Vice Chair Yamashita, Members of the Committee:

Thank you for the opportunity to present testimony regarding HB 2637. We support this simple but constructive proposal.

The ability to render prompt medical services is a critical component of any effective workers' compensation system. HB 2637 amends Section 386-21 HRS by giving treating physicians the prerogative to engage in diagnostic testing or to make a referral to a single subspecialty consultation for evaluation and treatment without following the conventional medical treatment plan procedures.

Affording treating physicians this single tool will measurably enhance their ability to make a prompt diagnosis and accelerate the recovery of injured workers. Where diagnostic testing or referral to a sub-specialist is necessary, there is no sound reason to defer such action because the more rapidly clinicians reach an accurate diagnosis of an injury or illness and the more promptly sub-specialty care is commenced, the more rapidly the injured worker will recover and resume gainful employment. In this fashion, the ultimate expense and duration of disability will be minimized, and the employee and employer will enjoy the benefit of being restored to good health at the earliest feasible date.

It should also be noted that HB 2637 does not in any way sacrifice an Employer's right to contest or deny a claim. However, where a claim is eventually deemed non-compensable after it has been adjudicated, all parties will still benefit by the adoption of HB 2637. As a practical matter, when an employee who works more than half-time is injured, she will have regular medical coverage for at least three months after the month in which the industrial accident occurred because continuation of such coverage by the employer is mandated by the Hawaii Prepaid Health Insurance Act. Thus, if a physician undertakes diagnostic testing or a referral to sub-specialty care when the injury originally occurs and the claim is later denied, regular health care coverage will still be in place to absorb these expenses during this initial three month period. But rather than being

embroiled in a dispute over compensation that delays medical care, essential diagnostic testing and sub-specialty referral will have taken place and such timely intervention is beneficial to all interested parties.

Thoughtful participants in the workers' compensation process should therefore unanimously embrace this bill, and ILWU Local 142 enthusiastically supports its passage.

**Tuesday, February 2, 2010, 9:00 A.M., Conference Room 309**

**To: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT**

Rep. Karl Rhoads, Chair

Rep. Kyle T. Yamashita, Vice Chair

**From: Hawaii Medical Association**

Gary A. Okamoto, MD, Legislative Co-Chair

Linda Rasmussen, MD, Legislative Co-Chair

April Donahue, Executive Director

Lauren Zirbel, Government Affairs

Dick Botti, Government Affairs

**Re: HB2637 RELATING TO MEDICAL AND REHABILITATION BENEFITS**

**In Support**

**Chairs & Committee Members:**

Hawaii Medical Association supports HB 2637 Relating Medical and Rehabilitation Benefits as a measure to help expedite care for injured workers and avoid long delays with denials that may have no basis in medical need.

Thank you for the opportunity to testify.

**OFFICERS**

President - Robert Marvit, MD President-Elect - Morris Mitsunaga, MD Secretary - Thomas Kosasa, MD  
Immediate Past President - Gary Okamoto, MD Treasurer - Stephen Kemble, MD Executive Director - April Donahue

## TESTIMONY OF ALISON POWERS

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### HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Representative Karl Rhoads, Chair  
Representative Kyle T. Yamashita, Vice Chair

Tuesday, February 2, 2010  
9:00 a.m.

### **H.B. 2637**

Chair Rhoads, Vice Yamashita, and members of the Committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. 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 45% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **supports** H.B. 2637, **with amendments**. This bill would allow a physician or surgeon to conduct diagnostic testing or engage in a one-time consultation for a subspecialty diagnostic evaluation and treatment recommendations that shall not be subject to contest by an insurer or employer.

Hawaii Insurers Council does not object, provided that the referral is within occupational medical guidelines and the physician or surgeon has no financial interest in the diagnostic testing, the subspecialty diagnostic evaluator's practice or in the licensed specialist's practice. We believe that if such language is not inserted, this could lead to a potential abuse of the system.

Hawaii Insurers Council proposes the following amendment:

**"The physician or surgeon may conduct diagnostic testing or engage in a one-time consultation for a subspecialty diagnostic evaluation and**

treatment recommendations from a board certified or licensed specialist, ***provided the referral is within occupational medical guidelines and the referring physician or surgeon has no financial interest in conducting the diagnostic testing, no financial interest in the subspecialty diagnostic evaluator's practice, or no financial interest in the licensed specialist's practice***; and the request for or provision of such diagnostic services shall not be subject to contest by an insurer or employer."

Thank you for the opportunity to testify.



**HAWAII INJURED WORKERS ALLIANCE**  
**715 SOUTH KING STREET SUITE #410**  
**HONOLULU, HAWAII 96813**

February 2, 2010

The Twenty-Fifth Legislature, State of Hawaii  
Regular Session 2010  
House of Representatives  
Committee on Labor and Public Employment

H.B. 2637 clarifies that a physicians or surgeon may conduct diagnostic testing or engages in a one-time consultation for subspecialty diagnostic evaluation and treatment recommendations from a board certified or licensed specialist.

The Hawaii Injured Workers Alliance strongly supports this measure.

The ability to move quickly and accurately to resolve an injury is foremost in the mind of doctors. By giving doctors this one-time consultation would help bring about faster resolution of the injury.

We believe this bill will bring about a faster resolution to claimant injury.

We agree this is a positive step for injured workers in the State of Hawaii.

Your passage of this bill would be greatly appreciated.

George M. Waialeale  
Executive Director  
Hawaii Injured Workers Alliance  
383-0436

# TESTIMONY

Date: January 28, 2010

To: Chairman Karl Rhoads, Committee on Labor and Public  
Employment and fellow committee members

From: Scott McCaffrey, MD

Re: HB 2637 relating to medical and rehabilitation benefits

Honorable Chair and Members of the Health Committee:

My name is Scott McCaffrey and I serve as Chief of Staff of the Hawaii Medical Center-West. However, today I come to you as a member of the Board of Advisors of the Hawaii Injured Workers Alliance. My specialty is Emergency, Occupational and Rehabilitative Medicine with over 24 years of clinical experience.

I urge you to support the measure before you today and any other bills this session that impact patient access to care and our island's physicians' ability to practice the skills they have been trained so thoroughly to provide.

The ability to expediently and accurately an injury or illness should be an incontrovertible right of all licensed physicians. However, in this state that ability is frequently thwarted by payers who undermine treating doctor's efforts using tactics such as "denial pending investigation", "denial pending IME" and sometimes simply silence and non-response to doctors' efforts to clarify an injured workers condition.



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Though done in the name of “cost control” and “utilization management” these efforts put the patient in a state of medicolegal “limbo” by undermining the treating doctors’ abilities to clarify the patient’s condition and efficiently focus available treatments on the etiology of the condition. Delaying the treating Primary Care Providers’ (PCP) diagnostic workup is detrimental to care efficiency causing delays in targeted treatment of the disorder often allowing the disease or injury to deteriorate, forces the patient to seek legal council leading to costly litigation, and, most importantly, adds a additional psychological burden and stress to legitimately injured citizens already suffering from pain, loss of function and financial setback.

These negative consequences, aside from being morally at question, are antithetic to effective care and undermine the WC System efficiencies we, at the Hawaii Injured Workers Alliance, seek to restore. They also serve as deterrents to many of our community's physicians who are currently boycotting our workers compensation system by simply refusing to see or treat anyone who gets hurt at or ill from employment. This raises addition practical and moral question regarding access to care for Hawaii’s citizens since, most adult’s who experience significant injury do so at the places they are most active—the work place.

By passing the measure before you will be sending a message to both doctor and injured workers that they will be better protected and cared for by safety-net the Hawaii Workers Compensation System was designed to be.

Mahalo nui loa,

Scott McCaffrey, MD  
Emergency, Occupational and Rehabilitative Medicine