



The Official Sponsor of Birthdays

LATE

March 21, 2011

Committee on Health
Senator Josh Green, M.D., Chair
Senator Clarence Nishihara, Vice Chair

Committee on Commerce and Consumer Protection
Senator Rosalyn Baker, Chair
Senator Brian Taniguchi, Vice Chair

Hearing:

March 22, 2011, 9:45 a.m.
Hawaii State Capitol, Conference Rm. 229

RE: HB1134, HD1 – Relating to Prepaid Health Care Act

Testimony in Support

Chair Green, Chair Baker and members of the Committee on Health and the Committee on Commerce and Consumer Protection. On behalf of the American Cancer Society Hawaii Pacific Inc., thank you for the opportunity to offer these comments on HB1134, HD1, which repeals part V of the Hawaii Prepaid Health Care Act (PHCA), relating to the future termination of the prepaid health care act..

For over 60 years, the American Cancer Society in Hawaii has led the fight against cancer in Hawaii, which takes the lives of almost 6,700 of our family members, friends, and co-workers each year. Nationally, approximately 1.5 million people will die of cancer this year. For this and other reasons, the American Cancer Society supported legislation that would offer meaningful improvements to the health care system for cancer patients, survivors, and their caregivers. Now that the Affordable Care Act is law, the Society is diligently working to ensure that it is implemented as strongly as possible for people with cancer and their families. Making the health care system work effectively for cancer patients will not only save lives, it will benefit the population as a whole.

When passed in 1974, Hawaii became the first state to enact laws creating a near universal health care coverage system. This system became the gold standard for the nation, and many of its provisions served as a blueprint for the healthcare reform and passage of the Patient Protection and Affordable Care Act (ACA).

In passing the ACA, Congress granted Hawaii a waiver keeping our Prepaid Health Care Act intact:

“(b) Rule of Construction Regarding Hawai’i’s Prepaid Health Care Act.- - Nothing in this title (or an amendment made by this title) shall be construed to modify or limit the application of the exemption for Hawai’i Prepaid Health Care Act (Haw. Rev. Stat. 393-1 et seq.) as provided for under section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1144(b)(5)).”

Also in 1974, Congress passed The Employee Retirement Income Security Act (ERISA). In doing so, Congress preempted the states from passing any law or making any rule to change any provision of ERISA, meaning that only Congress can act to make changes.

Hawaii’s Prepaid Health Care Act – Termination Clause:

[§393-51 Termination of chapter.] This chapter shall terminate upon the effective date of federal legislation that provides for voluntary prepaid health care for the people of Hawaii in a manner at least as favorable as the health care provided by this chapter, or upon the effective date of federal legislation that provides for mandatory prepaid health care for the people of Hawaii. [L 1974, c 210, pt of §2].

Since passage of the Affordable Care Act, there has been much discussion as to, if and when our prepaid health care would sunset - upon passage last year or in 2014, when various health insurance mandates kick in? Also, will removing the sunset provisions void the law in its entirety? Is it considered a substantive change? If so, what are the implications for Hawaii’s people and the business community? Does the waiver language in the ACA constitute Congress’ intent to allow the State of Hawaii to make changes to ERISA provisions in Hawaii? This concern still persists and resulted in a floor amendment being offered in the House and rejected.

The committees may remember that during hearings on the Senate version of this bill, SB41, we offered comments regarding the questions noted above. Having investigated these issues further, we fully support the repeal of the sunset provision.

In Hawaii, we have the advantage of our Prepaid Health Care Act, which, because of the exemption granted to it, should allow us to mix and match benefits and provisions, incorporating the best of both, as we address the myriad of implementation issues. By utilizing the best of both, we believe that Hawaii can maintain its predominance of having the best health insurance coverage and health delivery system in the United States.

Thank you for the opportunity to offer our testimony here today.

Respectfully,



George S. Massengale, JD
Director of Government Relations