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PATRICIA MCMANAMAN
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STATE OF HAWAII
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February 2, 2012

TO: The Honorable John M. Mizuno, Chair
House Committee on Human Services

The Honorable Ryan I. Yamane, Chair
House Committee on Health

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 1689 - RELATING TO LONG-TERM CARE**

Hearing: Thursday, February 2, 2012; 10:00 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of the bill is to implement the long-term care partnership program, allowing individuals to qualify for Medicaid coverage for continued long-term care prior to exhausting their assets.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) respectfully opposes this bill.

Long-term care partnership programs have not been shown to increase the purchase of long-term care insurance or result in Medicaid savings. DHS recommends that attention instead be given to the positive recommendations made by the Hawaii Long-Term Care Commission (HLTCC).

The United States General Accounting Office published a report in June 2007 (GAO-07-231) on the effect of long-term care partnership programs on Medicaid and concluded that these programs do not result in savings for Medicaid. The report's findings include:

- Partnership and traditional long-term care insurance policyholders tend to have higher incomes and more assets at the time they purchase their insurance, compared with those without insurance.
- More than half of all households have assets of at least $350,000 at the time they purchase a Partnership policy.
- Partnership programs are unlikely to result in savings for Medicaid, and may increase spending.
- About 80 percent of surveyed Partnership policyholders would have purchased traditional long-term care insurance policies if Partnership policies were not available, representing a potential cost to Medicaid.
- About 20 percent of surveyed Partnership policyholders indicate they would have self-financed their care in the absence of the Partnership program.

In its final report, the HLTCC made many recommendations to address Hawaii's long-term care needs. However, the HLTCC did not endorse the long-term care partnership program:

The Hawaii Long-Term Care Commission considered this option but decided to neither recommend nor oppose this type of public-private partnership for Hawaii. Although it has some features to recommend it, this approach does not appear to be an effective way to increase purchase of long-term care insurance.

Thank you for the opportunity to testify on this bill.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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KEALI'I S. LOPEZ
DIRECTOR

GORDON I. ITO
INSURANCE COMMISSIONER

TO THE HOUSE COMMITTEES ON HUMAN SERVICES
AND HEALTH

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Thursday, February 2, 2012
10:00 a.m.

TESTIMONY ON HOUSE BILL NO. 1689 – RELATING TO LONG-TERM CARE.

TO THE HONORABLE JOHN M. MIZUNO AND RYAN I. YAMANE, CHAIRS, AND MEMBERS OF THE COMMITTEES:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department supports this bill.

The purpose of this bill is to create the Hawaii Partnership for Long-Term Care Program in the Department of Human Services (section 1 of the bill) and to amend Hawaii Revised Statutes ("HRS") § 431:10H-221 (section 2 of the bill). The Department limits its substantive comments to section 2 of the bill and defers to the Department of Human Services as to section 1 of the bill.

Section 2 adds a new subsection to HRS § 431:10H-221 on page 9, lines 20 to 22 and page 10, lines 1 to 5, expressly allowing the exchange of an existing long-term care insurance policy for a long-term partnership policy. The Department believes the exchange of policies is not problematic provided that policy benefits and premiums are equitable.

This bill is intended to encourage members of the public to purchase long-term care insurance policies and to reduce reliance upon the Medicaid program. Currently, 43 states have adopted a Partnership program, combining long-term care insurance and Medicaid to pay for long-term care.

We thank this Committee for the opportunity to present testimony on this matter.

TO : COMMITTEE ON HUMAN SERVICES
Rep. John M. Mizuno, Chair
Rep Jo Jordan, Vice Chair

COMMITTEE ON HEALTH
Rep Ryan I. Yamane, Chair
Rep. Dee Morikawa, Vice Chair

FROM: Eldon L. Wegner, Ph.D.
POLICY ADVISORY BOARD FOR ELDER AFFAIRS (PABEA)

HEARING: 10: 00 am Thursday, February 2, 2012
Conference Room 329, Hawaii State Capitol

SUBJECT: HB 1689 Relating to Long-Term Care

POSITION: The Policy Advisory Board for Elder Affairs, **opposes** HB 1689, which would implement a long-term care partnership, allowing individuals who purchase private long-term insurance to qualify for Medicaid coverage for continued care prior to exhausting their assets.

RATIONALE:

The Policy Board for Elder Affairs has a statutory obligation to advocate on behalf of the senior citizens of Hawaii. While we advise the Executive Office on Aging, we do not speak on behalf of the Executive Office of Aging.

- The Long-Term Care Commission submitted its recommendations to the Legislature on January 18, 2012. The Commission decided to note this program as a possible incentive to purchasing private long-term care insurance way of financing long-term care, however, the Commission decided against recommending this program.

- Studies in other states which adopted this program found that it did not increase the numbers purchasing private long-term care insurance, thus not serving the intended purpose. Apparently, those who enrolled were persons who would have purchased private insurance regardless of the program.

- Furthermore, those who did participate in the program were overwhelmingly affluent. Thus, effect of the program is to protect the assets of affluent individuals so they could pass them to their beneficiaries. This result is not consistent with the intended purpose of Medicaid to provide services to the indigent.

- The purpose of initiatives to finance long-term care should be to reduce the dependency on Medicaid rather than to increase its enrollees. Medicaid is a welfare program and the funding for Medicaid already fall short of being able to provide the much needed medical and long-term care services by the truly needy.

- Thus, we oppose this proposal as perhaps well-intended, but having detrimental effects in benefiting only the relatively affluent at the expense of resources needed by the truly needy and increasing the burden on public revenues.

Thank you for allowing me to testify on this bill.

NAIFA

HAWAII

House Committees on Human Services & Health
Hearing Date: February 2, 2012
Time: 10:00 am

RE: HB 1689 – Relating to Long Term Care

Chair Mizuno, Chair Yamane, and members of the Committees, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii is made up of life and health insurance agents throughout Hawaii, who primarily market life, annuities, long term care and disability income insurance products.

We support this measure to implement the "Hawaii Partnership for Long Term Care Program".

The LTC partnership has been adopted by 44 states to reduce Medicaid expenditures by delaying or eliminating reliance on Medicaid. 6 states have no plan – Alaska, Utah, New Mexico, Mississippi, Michigan and Hawaii. Originally, 4 states – California, New York, Connecticut, Indiana – began a demonstration project funded by the Robert Wood Johnson Foundation in 1987.

The Deficit Reduction Act of 2005 allows states to create a LTC partnership plan. It requires programs to include consumer protections tied to the NAIC's model LTC regulations that Hawaii was already adopted.

The LTC partnership program once enacted by the Hawaii Legislature will allow consumers to purchase "certified" LTC insurance partnership policies that include inflation protection for those under age 76. DHS, as the Medicaid administrator will administer the program. The state will establish minimum coverages, set the percentage of assets to determine eligibility and enter into agreements with insurer(s) that will be selected.

Consumers who are primarily moderate to middle income will then purchase amounts of LTC insurance that will be used pay for their LTC benefits before being able to access Medicaid. For example, a consumer who bought a policy benefit of $100,000 would be entitled up to $100,000 worth of nursing home or community based LTC services from the policy and if further care was necessary, then apply for Medicaid while retaining $100,000 in assets. This model is known as the "dollar for dollar" model that promotes more affordable policies. Currently, individuals cannot have more than $2000 in assets (plus their home) to meet the eligibility threshold.

These LTC partnership policies will allow the policyholders to protect some or all of their assets from the Medicaid spend down requirements during the eligibility process. They will no longer have to become impoverished to qualify for Medicaid. Also, there will be income requirements for the policyholders and eligibility criteria that the state will determine.

Policyholders will take responsibility for their initial phase of LTC through private insurance before accessing Medicaid. Consumer education and agent training are key components in the complexity of LTC insurance choices. Current Hawaii law is in place to ensure agent training – Act 233, 2007 SLH – a one time 8 hour training course and ongoing training of 4 hours every 24 months (431:10H-106.5, HRS).

We encourage any and all options for consumers to choose how to finance their LTC needs.

Mahalo for the opportunity to testify.

Cynthia Takenaka, Executive Director
Phone: 391-3451

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON HOUSE BILL 1689, RELATING TO LONG TERM CARE

February 2, 2012

Via e mail: hustestimony@capitol.hawaii.gov

Hon. Representative John M. Mizuno, Chair
Committee on Human Services
Hon. Representative Ryan I. Yamane, Chair
Committee on Health
State House of Representatives
Hawaii State Capitol, Room 329
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Mizuno, Chair Yamane and Committee Members:

Thank you for the opportunity to comment on HB 1689, relating to Long Term Care.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association, who represents more than three hundred (300) legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies account for 90% of the assets and premiums of the United States Life and annuity industry. ACLI member company assets account for 91% of legal reserve company total assets. Two hundred thirty-five (235) ACLI member companies currently do business in the State of Hawaii; and they represent 93% of the life insurance premiums and 92% of the annuity considerations in this State.

In 2007 the legislature passed Act 233 which enabled the State of Hawaii to establish the Public Private Long Term Care Partnership Program enacted by Congress in 2006 as part of the Deficit Reduction Act (DRA).

ACLI generally believes that as a matter of policy the State of Hawaii should encourage families to provide for their own financial well-being. If a family is unable to support its long-term care needs, the State will need to spend its scarce resources for that purpose.

The partnership program allows people to preserve some of their assets and still qualify for Medicaid by purchasing a "partnership" long term care policy or exchanging an existing policy for a partnership policy.

The purpose and intent of HB 1689 is to enable the filing of the State Plan Amendment by Medicaid.

While ACLI is in full support of the intent and purposes of HB 1689, as drafted the bill is inconsistent with and contradicts many of the requirements of DRA. We have outlined below a number of the current bill's inconsistencies with DRA. In place of the bill's provisions ACLI would strongly urge this Committee to enact into law provisions that have been enacted or adopted (via legislation or regulation) by other states throughout the country where a Long-Term Care Partnership Program is in place. For the Committee's convenience, we have attached a representative copy of provisions that have been adopted by the State of West Virginia. The Senate Health Committee has already substituted West Virginia's provisions in place of those originally in the Senate companion bill to HB 1689, SB 2309.

Current Bill's Inconsistencies With the Deficit Reduction Act:

<u>SECTION 1 OF THE BILL</u>.

Section ____ 1: Purpose.

The purpose of the long-term care (LTC) partnership program is not to combine funds - it is to encourage more people to purchase LTC insurance in return for allowing the total amount of benefits paid under a qualified individual LTC policy as an asset disregard, dollar for dollar, when applying for Medicaid.

Further, the amount of benefits available under a DRA Partnership program has nothing to do with the applicant's assets.

Section ____ 2: Definitions

Certified Long-Term Care Insurance Partnership Policy

The second requirement stated in the definition of a Certified LTC Insurance Partnership Policy should be corrected to state "was issued not earlier than the effective date of the state plan amendment".

Partnership

The "partnership" is between the federal government [Deficit Reduction Act (DRA) of 2005] and state Medicaid agencies. The insurance company is not a party to the Partnership, other than issuing a Partnership qualified policy as a vehicle for the asset disregard calculation (which is the amount of benefits paid under the policy by the time one applies for Medicaid).

Section ____ 4: Eligibility for Long-Term Care benefits Under Medicaid; Assets Not Considered

There is no minimum level of coverage under the partnership program.

Section ____ 6: Certification of Policies or Plans

In all states that have adopted the partnership program, certification is done by a State's department of insurance, not state Medicaid agency – the agency has no knowledge of how forms are filed and approved, or what these are required to include. In most cases, forms already approved by the State's department of insurance which meet the DRA requirements can be certified for use under a Partnership Program.

Section ____ 7: Rules

Rules 1, 2, 3 and 5 would violate the DRA requirements – Partnership requirements are not allowed to be more restrictive than qualified LTC plans. As for item 4, under the DRA, companies are required to use the federally created and funded Clearinghouse to report in-force Partnership data. There is no need to establish other reporting requirements.

SECTION 2 OF THE BILL.

The proposed amendments to HRS §431:10H-221 are unnecessary for the filing of a State Plan Amendment. The topic of exchanges would be addressed in the implementation vehicle, which is how all 34 states which have implemented the LTC Partnership Program have handled it. As stated in each state's implementation rules, an exchange is not considered "replacement".

ACLI strongly supports Hawaii's adoption of the Long-Term Care Partnership Program.

If HB 1689 were, therefore, to be amended in the form set forth in West Virginia's enabling statute ACLI would support the bill.

Again, thank you for the opportunity to comment on HB 1689, relating to Long Term Care.

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Enrolled Version - Final Version

OTHER VERSIONS - Introduced Version |

Senate	House	Joint	Bill Status	WV Code	Audits/ Reports	Educational	Contact

ENROLLED

H. B. 2884

(By Delegates Campbell, Border, Perdue,

Webster and White)

[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §9-4E-1, §9-4E-2 and §9-4E-3, all relating to Medicaid; the development of a public-private long-term care partnership program.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §9-4E-1, §9-4E-2 and §9-4E-3, all to read as follows:

ARTICLE 4E. Long-Term Care Partnership Program.

§9-4E-1. Purpose.

(a) The purpose of this program shall be to reduce Medicaid costs for long-term care by encouraging the purchase of private long-term care insurance policies that are covered under the "qualified state long-term care insurance partnerships."

(b) It is the intent of the long-term care partnership to do all of the following:

(1) Provide incentives for individuals to insure against the costs of providing for their long-term care needs.

(2) Provide a mechanism for individuals to qualify for coverage of the cost of their long-term care needs under Medicaid without first being required to substantially exhaust their resources.

(3) Alleviate the financial burden on the state's medical assistance program by encouraging the pursuit of private initiatives.

§9-4E-2. Definitions.

(a) "Asset disregard" means, with regard to the state's medical assistance program, disregarding any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a qualified long-term care insurance partnership policy.

(b) "Long-term care insurance" means a policy described in section four (a), article fifteen (A), chapter thirty-three of this code.

(c) "Long-term care partnership program" means a qualified state long-term care insurance partnership as defined in 42 U.S.C. 1396, Section 1917(b) of the Social Security Act.

(d) "Medicaid" means that assistance provided under a state plan implemented by subchapter nineteen, chapter seven, Title 42, United States Code, as that chapter has been and may hereafter be amended.

§9-4E-3. Authority.

(a) The program shall be administered by the Bureau for Medical Services. The bureau shall establish a long-term care partnership program in West Virginia in order to provide for the financing of long-term care through a combination of private insurance and Medicaid in accordance with federal requirements on qualified state long-term care insurance partnerships.

(b) Not later than ninety days after the effective date of this article, the Bureau for Medical Services shall file a state plan amendment, pursuant to Title XIX of the United States Social Security Act and any amendments thereto, to the United States Department of Health and Human Services to establish that the assets an individual owns and may retain under Medicaid and still qualify for benefits under Medicaid at the time the individuals applies for benefits is increased dollar-for-dollar for each dollar paid out under the individuals's long-term care insurance policy if the individual is a beneficiary of a qualified long-term care partnership program policy.

(c) An individual who is a beneficiary of a West Virginia long-term care partnership program and meets eligibility requirements is eligible for assistance under the state's medical assistance program using the asset disregard as provided under

subsection (b).

(d) The Bureau of Medical Services shall pursue reciprocal agreements with other states to extend the asset disregard to West Virginia residents who purchased long-term care partnership policies in other states that are compliant with Title VI, Section 6021 of the Federal Deficit Reduction Act of 2005, PL 109-171, and any applicable federal regulations or guidelines.

(e) Upon diminishment of assets below the anticipated remaining benefits under a long-term care partnership program policy, certain assets of an individual, as provided under subsection (b), shall not be considered when determining any of the following:

(1) Medicaid eligibility;

(2) The amount of any Medicaid payment;

(3) Any subsequent recovery by the state of a payment for medical services or long-term care services.

(f) If the long-term care partnership program is discontinued, an individual who purchased a West Virginia long-term care partnership program policy before the date the program was discontinued shall be eligible to receive asset disregard if allowed as provided by Title VI, Section 6021 of the Federal Deficit Reduction Act of 2005, PL 109-171.

Testimony for HUS/HLT 2/2/2012 10:00:00 AM HB1689

Conference room: 329
Testifier position: Support
Testifier will be present: No
Submitted by: Lynn Murakami-Akatsuka
Organization: Individual
E-mail: lkakatsu@hawaii.rr.com
Submitted on: 1/31/2012

Comments:
I strongly support HB 1689. This bill will implement a long term partnership program that will allow individuals to qualify for medicaid coverage for continued long term care prior to exhausting their assets. Currently it seems imbalanced. You either have to be very wealthy to cover your long term care needs or near poverty to qualify for Medicaid coverage. It doesn't help the middle class or those who plan in advance through acquiring long term care insurance. Our parents who are in their 70's, 80's, and 90's didn't anticipate the high cost of care for nursing homes, etc. and weren't prepared financially. This bill will provide a seamless transition of maintaining the individual's care.
Thank you for the opportunity to testify.