

SB3010

Measure Title: RELATING TO HEALTH.

Report Title: Health; Hospice and Palliative Care and Quality of Life Advisory Council; Establishment; Insurance; Hospice Care; Palliative Care; Reimbursement; Prescription Medication Coverage; Continuing Education

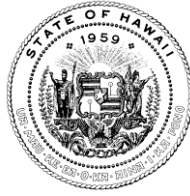
Description: Establishes the hospice and palliative care and quality of life advisory council within the department of health to advise the director of health on hospice and palliative care matters. Requires the advisory council to assist health care facilities and health care services in the State to establish a system for identifying patients or residents who could benefit from hospice or palliative care and provide information on accessing these services. Permits an insured to receive hospice care and palliative care services without first obtaining a referral from a primary care provider or other physician. Requires insurers that offer payment or reimbursement for hospice care and palliative care to accept, as eligible for coverage, persons with a life expectancy certification of two years or less and provide reimbursement for all prescription medications needed for pain and symptom management. Requires reports to the legislature.

Companion:

Package: None

Current Referral: CPH, WAM

Introducer(s): GREEN, Kim, Shimabukuro, Wakai



DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

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TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Monday, February 6, 2016
9:00 a.m.

TESTIMONY ON SENATE BILL NO. 3010 – RELATING TO HEALTH.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department takes no position on this bill, but offers the following comments.

The definition of “palliative care” on Page 4, line 11, to page 5, line 16, is focused on end of life care. However, the concept of relieving suffering is not restricted to end of life care.

The proposed definition of “palliative care” in the bill affects chapter 321, Hawaii Revised Statutes, and not the various insurance regulatory statutes on the hospice mandated benefit listed later in the bill, resulting in these mandated benefits having no operative definition of the word “palliative.” This is problematic given the broad scope of situations involving relieving suffering. In addition, adding the words “and palliative care” may create a new mandated benefit that requires cost defrayment by the State pursuant under the Affordable Care Act (“ACA”) section 1311(d)(3)(B)(ii) and 45 CFR 155.170.

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

February 6, 2016

The Honorable Rosalyn Baker, Chair
Senate Committee on Commerce, Consumer Protection, and Health

The Honorable Michelle Kidani, Vice-Chair
Senate Committee on Commerce, Consumer Protection, and Health

Re: SB 3010 – Relating to Health

Dear Chair Baker, Vice-Chair Kidani and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to submit comments supporting the intent of SB 3010, which establishes the Hospice and Palliative Care and Quality of Life Advisory Council within the Department of Health and expands palliative care services for insured individuals.

HMSA recognizes the ongoing and growing need for earlier and better coordination of care for patients with an advanced illness. Our focus on palliative care services for our members is evidenced through our support of Kokua Mau which received funding for a two-year Palliative Care Capacity Building Project from the HMSA Foundation to train health care professionals in palliative care and to stimulate the development of palliative care programs in local hospitals. In addition, HMSA received funding from Office of Personnel Management (OPM) to conduct a pilot program on palliative care coordination for Federal Plan 87 members. The main goal of the program was to expand and improve quality of care for patients with an advanced or terminal illness.

We appreciate the Committee highlighting the need for increased attention on palliative services in SB 3010, however, we would like to highlight the following issues:

- Ensuring our members receive quality and coordinated care from providers is of utmost concern – especially with regard to serious illness or end-of-life care. We have concerns that, as written, SB 3010 would no longer require an insured person to obtain a referral from a primary care provider or other physician prior to receiving hospice care and palliative care services.
- Currently palliative care is not a Medicare benefit; therefore, if these services are to be covered there would need to be discussion around, or further details pertaining to the specific services to be covered, expected costs, and funding.

These and other considerations could be addressed by the Hospice and Palliative Care and Quality of Life Advisory Council which would be created if SB 3010 is enacted into law. HMSA would encourage the Committee to consider requiring a representative(s) from the health plan community as part of the advisory council.

Thank you for allowing us to testify on SB 3010.

Sincerely,



An Independent Licensee of the Blue Cross and Blue Shield Association

A handwritten signature in black ink, appearing to read "JD", is positioned above the name Jennifer Diesman.

Jennifer Diesman
Vice President, Government Relations

MCCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

February 5, 2016

Honorable Rosalyn H. Baker, Chair
Honorable Michelle N. Kidani, Vice Chair
Committee on Commerce, Consumer Protection and Health
The Senate
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Re: S.B. NO. 3010 RELATING TO HEALTH.

Dear Chair Baker, Vice Chair Kidani, and Committee Members:

On behalf of the American Family Life Assurance Company of Columbus (AFLAC), we respectfully submit the following written comments on Senate Bill No. 3010, relating to health insurers assessments, which is to be heard by your Committee on Commerce, Consumer Protection and Health on February 6, 2016.

One of the purposes of Senate Bill No. 3010 is to require that insurers that offer payment or reimbursement for hospice care and palliative care accept, as eligible for coverage, persons with a life expectancy certification of two years or less and provide reimbursement for all prescription medications needed for pain and symptom management. AFLAC's concern with Senate Bill No. 3010 is that, as drafted, these mandates could be interpreted to apply to AFLAC's limited benefit policies, which are not reimbursement policies.

AFLAC's limited benefit policies may include a hospice benefit, but such benefit is a supplemental amount that is intended to assist the insured with the costs related to receiving services or treatment, rather than to reimburse the insured for the costs of the services or treatment itself, which are covered by the insured's primary health insurance. These limited benefit insurance policies provide benefits directly to the insured, based on specific occurrences of treatment (or disease), without regard to the cost to the insured, *i.e.*, are not reimbursement policies. Thus, requiring that a limited benefit policy provide reimbursement for prescription medications needed for pain and symptom management would not be appropriate because the insured under a limited benefit policy can determine the use of the supplemental benefit, and the benefit is not a reimbursement.

For the foregoing reasons, we respectfully request that the amended subsection (b) to be added to section 431:10A-119, Hawaii Revised Statutes, by Section 5 of Senate Bill No. 3010 be amended as follows:

(b) All authorized insurers that provide for payment of or reimbursement for hospice care and palliative care, other than insurers offering only accident-only, specified disease, hospital indemnity, long-term care, disability, dental, vision, medicare supplement, or other limited benefit health insurance contract that pays benefits directly to the insured or the insured's assigns and in which the amount of the benefit paid is not based upon the actual costs incurred by the insured, shall:

- (1) Accept as eligible for hospice care and palliative care coverage, persons with a life expectancy certification of two years or less; and
- (2) Provide reimbursement for prescription medications needed for pain and symptom management for each insured policyholder covered for hospice care and palliative care.

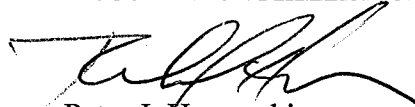
(Additional language underscored.)

The proposed exception is based upon similar exceptions in mandated coverage for limited benefit health insurance policies contained in section 431:10A-102, Hawaii Revised Statutes.

Thank you for your consideration of the foregoing.

Very truly yours,

MCCORRISTON MILLER MUKAI MACKINNON LLP



Peter J. Hamasaki

PJH:fk



American Cancer Society
Cancer Action Network
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808.432.9149
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Senate Committee on Commerce, Consumer Protection and Health
Senator Rosalyn Baker, Chair
Senator Michelle Kidani, Vice Chair

SB 3010 – RELATING TO HEALTH

Cory Chun, Government Relations Director – Hawaii Pacific
American Cancer Society Cancer Action Network

Thank you for the opportunity to provide comments on SB 3010, which establishes the hospice and palliative care and quality of life advisory council within the department of health to advise the Director of Health on hospice and palliative care matters, as well as provisions to increase access to palliative care services.

Palliative care is also called supportive care. It's aimed at relieving suffering and improving quality of life. It's designed to help people live as well as they can for as long as they can, even though they have a serious illness. We feel palliative care is a vital component to cancer treatment options.

We are not opposed to a legislatively created palliative care advisory group; we have supported similar measures in other states. To this issue, we have been working with Kokua Mau to determine if an advisory group would be feasible. We have not advocated for an advisory group because of the potential to confuse or interfere with the great work that Kokua Mau is doing for palliative care in the State. We are willing to work with Kokua Mau and other parties involved on this issue if the committee wishes to move this legislation forward.

Feb 4, 2016

RE: SB 3010, Bill Relating to Health

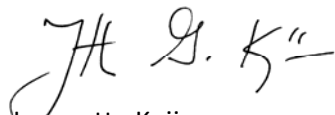
Dear Senators Green, Kim, Shimabukuro and Wakai,

My name is Jeannette Koiwane and I serve as Executive Director of Kōkua Mau, Hawaii’s Hospice and Palliative Care Organization. Kōkua Mau has worked for the last 17 years to improve care for seriously ill people and their loved ones in Hawaii. We are coalition of engaged professionals and lay people from across the community, including hospices, health plans, hospitals, and a variety of other groups involved with this topic. We have a long standing collaboration with the Department of Health and members of the legislature. For instance, we successfully collaborated on POLST legislation in 2014, expanding signing privileges to include APRN.

Kōkua Mau welcomes any effort to improve the quality of life for people who are facing serious illness. However, we have not had time to study the short and long-term implications for the various provisions of this bill. At this time, we would ask that the bill be held in committee for further discussion. Kōkua Mau and the experts that we work with stand ready to collaborate with the committee to improve palliative care and quality of life for people facing serious illness and end of life in our state. However we want to make sure that the steps taken will improve the current situation and make meaningful change.

Please contact me if you have additional questions.

Aloha,



Jeannette Koiwane
Executive Director

jkoiwane@kokuamau.org

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: kzeri@hospicehawaii.org
Subject: Submitted testimony for SB3010 on Feb 6, 2016 09:00AM
Date: Friday, February 05, 2016 11:46:13 AM

SB3010

Submitted on: 2/5/2016

Testimony for CPH on Feb 6, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kenneth Zeri	Hospice Hawaii	Comments Only	Yes

Comments: To: Senator Roz Baker, Chair, Committee on Commerce, Consumer Affairs and Health From: Kenneth Zeri, President and CPO Hospice Hawaii Subject: Testimony on SB 3010 I am providing this testimony on behalf of the Chief Executive Officers of Hospice Hawaii, Kauai Hospice, Hospice Maui, Hospice of Hilo and North Hawaii Hospice. We have carefully reviewed SB 3010 and would respectfully request that this bill be on HOLD in committee for a short period so that we might coordinate a response from key stakeholders. We appreciate the intent of the bill's author; to improve access to hospice and palliative care, to sponsor a study by an advisory council established in the Department of Health, to mandate reimbursement for palliative care and to increase the amount of time for hospice care from 6 months to two years. However, the current version of this bill has several elements that are inconsistent with CMS regulations or based upon incorrect assumptions, such as in Section 5 of the bill, related to payment of palliative care. Additionally, the proposed advisory council actually reflects the best of what is being accomplished in the private community through both Kokua Mau and the competitive marketplace. We are grateful for the ongoing support of the Hawaii legislature to reach towards the best that palliative care and hospice can provide to our state's residents. I can be available for questions on this issue through my office at 924-9255.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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A 1998 project of the Hawaii Medical Association (HMA) & Hawaii Family Forum (HFF)

**Hawaii Medical
Association**

**Hawaii Nurses
Association**

**Hawaii Psychiatric
Medical Association**

**Physicians for
Compassionate Care**

**Healthcare Association
of Hawaii**

**St. Francis Healthcare
Systems of Hawaii**

St. Francis Hospice

**Hawaii Centers for
Independent Living**

Not Dead Yet

The Arc in Hawaii

Hawaii Helps Disabilities

Hawaii Family Forum

**Hawaii Catholic
Conference**

**Hawaii Family
Advocates**

Aloha Life Advocates

DATE: February 5, 2016

TO: Hawaii Senate Committee on Commerce, Consumer Protection and Health
Senator Rosalyn Baker, Chair
Senator Michelle Kidani, Vice Chair

FROM: Joy Yadao, RN, Spokesperson

RE: SB 3010: Testimony in Support

Hawaii's Partnership for Appropriate and Compassionate Care (HPACC) is a coalition of health care, disability rights, advocacy, and educational organizations united in strong opposition to the legalization of physician-assisted suicide and physician-assisted death.

We are in support of the intent of SB 3010 and thank this committee for its proactive approach to addressing quality of life issues for Hawaii's most vulnerable populations.

One of the hallmarks of this bill is the concept of forming an advisory group of Palliative Care professionals to explore, examine and recommend opportunities for the advancement of truly compassionate care for our people. The composition and size of the group can be further defined to include appropriate members most knowledgeable on quality end-of-life care.

Collaboration and healthy exchange of ideas is a familiar strategy to resolving complex issues in Hawaii. It sets us apart from other states who have only just begun this conversation. Our rich cultural values unite us into thoughtful action, promoting the utmost of quality healthcare for our citizens.

This advisory group may have the capacity to look at access to appropriate healthcare, including palliative care services, advance care planning, compassionate and honest conversations, caregiving options, and coverage and payment issues.

In Hawaii, there have been tremendous advancements in the provision of quality care for people with serious illness. We appreciate the clear and consistent effort of Kokua Mau, HMSA, UHA, Kaiser and others to bring amazing innovation to this field and would not want to interfere, but rather to compliment their work.

HPACC supports constructive and positive alternatives, including more effective pain and symptom management, expansion of services for people with disabilities, better diagnosis and treatment of depression and greater utilization of hospice and palliative care services.

As we continue to improve our work, ever mindful of the necessity to hear the concerns of our people, we thank you for the opportunity to share our views and look forward to working with this Committee in the future.

Mahalo for the opportunity to testify in support.



ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII
DIOCESE OF HONOLULU
Witness to Jesus



DATE: February 2, 2016

TO: Senate HUS Committee

FROM: Walter Yoshimitsu, Executive Director – Hawaii Catholic Conference

POSITION: Strong Support for SB 3010 Relating to Palliative Care

Mahalo for the opportunity to testify. I am Walter Yoshimitsu, the executive director of the Hawaii Catholic Conference which is the public policy voice of the Roman Catholic Church in the State of Hawaii. We support SB3010 that establishes an advisory council within the Department of Health to establish a system of identifying people in the community that would benefit from its services.

Palliative care is part of the foundation of Catholic health care. That is, when delivered according to the overall vision of church, palliative care represents the very best of what we believe as Catholics. Good palliative gives us the ability to reach out to and care for the sick, the poor, the marginalized, the vulnerable and the dying. We do this willingly because we recognize in every suffering person, the very face of God.

To some misinformed people, euthanasia and assisted suicide may appear to be a reasonable and compassionate solution. Instead of helping someone end their life, we strongly believe that improving their care during the time they feel the most vulnerable, is very important. Hospices, including St. Francis Hospice, continue to provide excellent palliative care services.

As a community, we are called to help build a culture of life and of love, in which seriously ill persons and their families are never abandoned, but supported with services, friendship, and love. We must continue to reach out to those who are dying, particularly those who are at risk of dying alone, and keep company with them; provide support to their extended family; encourage people to volunteer or provide assistance; and finally to encourage physicians and other health professionals to provide appropriate palliative care.

This bill is a step in the right direction and we strongly support its passage. Mahalo for the opportunity to testify.

HAWAII CATHOLIC CONFERENCE

(The public policy voice for the Roman Catholic Church in the State of Hawaii)

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ONLINE TESTIMONY SUBMITTAL

Senate Committee on Commerce, Consumer Protection & Health
Hearing on Tuesday, February 6, 2016 @9:00 a.m.

Conference Room #229

DATE: February 3, 2016

TO: Senate Committee on Commerce, Consumer Protection & Health
Sen. Rosalyn Baker, Chair
Sen. Michelle Kidani, Vice Chair

FROM: Eva Andrade, President

RE: Strong Support for SB 3010 Relating to Palliative Care

Aloha and thank you for the opportunity to submit testimony in support of this measure. Hawaii Family Forum is a non-profit, pro-family education organization whose mission is to energize people of faith in Hawai'i through education, motivation and activation. We are advocates and educators for public policy that impacts our families, neighborhoods and communities.

We support this bill because for many patients nearing the end of their life, palliative care helps them manage their pain and provide them with a better quality of life. Utilizing Hospice services provides unique and special care not only for the patient but also for their family. Hawai'i, in many ways, is leading the charge. For example, Queen's Hospital is a leader in the field, and according to its website it is "one of the few hospitals in the nation to combine the two disciplines of pain and palliative care with an extensive multi-disciplinary team approach to meet any and all of a patient's needs."¹

Research shows² that palliative care and its many components are extremely beneficial not only to the patient, but to their families as well. A number of studies in recent years have shown that patients who have their symptoms controlled are able to better communicate their emotional needs and in so doing have a better experience with their medical care. When that happens, their quality of life understandably improves.

In addition, we support this bill because promoting better palliative care will benefit many people in the community and not just a select few. While specific hospice and palliative care providers in Hawai'i may differ in how they extend services, they all provide a common thread as is stated on the website of Hospice Hawaii: "respect and value the dignity and worth of each individual by helping patients and their families live each day to the fullest"³.

¹ <http://queensmedicalcenter.org/2006-news-stories/72-2006-news-stories/428-two-pain-and-palliative-care-staff-at-the-queen-s-medical-center-honored-by-hospice-hawaii> (02/01/16)

² <http://www.who.int/mediacentre/factsheets/fs402/en/> (02/01/16)

³ <http://www.hospicehawaii.org/about-us/history/> (02/01/16)



PAGE TWO

SB 3010 Relating to Palliative Care

In fact, St. Francis Healthcare System was the first to introduce hospice care to the Islands⁴ in 1978 and it is still providing excellent care to this day. But even before that, Father Damien and Mother Marianne Cope exemplified caring for the sick and dying among us.

Today, many other excellent Hospice organizations and hard-working physicians and nurses are providing palliative services in neighborhoods all over Hawai'i and we applaud their continued work in the islands to promote life. These heroes are helping our vulnerable kupuna live each and every day to the fullest.

We are proud of the fact that Hawai'i is leading the way and we understand that there are many ways we can become even better. For the details, we will leave that to the experts. As for the people of faith, we remain committed to promoting life and the respect and dignity for each and every human being from the moment of conception until natural death. Seeking better hospice and palliative care isn't about giving up hope or hastening death. It is, in fact, a way to get the most appropriate care in the last phase of life and that care is what the people of Hawai'i deserve.

Mahalo for the opportunity to testify in support.

⁴ <http://www.stfrancishawaii.org/services/hospice> (02/01/16)

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: craig.nakatsuka@kp.org
Subject: Submitted testimony for SB3010 on Feb 6, 2016 09:00AM
Date: Thursday, February 04, 2016 8:29:12 PM

SB3010

Submitted on: 2/4/2016

Testimony for CPH on Feb 6, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Craig Nakatsuka	Individual	Support	Yes

Comments: As a palliative care physician who consults with individuals with advanced illnesses and their families, I have found that most are woefully unaware of their options regarding their preferences for medical treatment as well as the knowledge and reassurance of good symptom management at the end of life. It is critical that there be a greTer awareness of palliative care. Therefore I strongly support the objective of this bill

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From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: dfischberg@mac.com
Subject: Submitted testimony for SB3010 on Feb 6, 2016 09:00AM
Date: Thursday, February 04, 2016 7:51:07 PM

SB3010

Submitted on: 2/4/2016

Testimony for CPH on Feb 6, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Fischberg, MD, PhD	Individual	Support	No

Comments: Hospice and palliative care have been proven to dramatically prevent and relieve the pain, symptoms and stress related to a serious illness. I strongly support the intent of SB3010 to explore ways to ensure earlier and wider access to hospice and palliative care for all people of Hawaii living with serious illness.

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