
HOUSE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO ASSESS BOTH THE SOCIAL AND FINANCIAL
EFFECTS OF PROPOSED MANDATED HEALTH INSURANCE COVERAGE FOR
THE COSTS OF MEDICALLY NECESSARY TRANSPORTATION TO THE
CONTINENTAL UNITED STATES FOR QUALIFYING PATIENTS.

1 WHEREAS, critically ill patients in Hawaii may require
2 treatment on the continental United States; and
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4 WHEREAS, commercial flights are not an option for these
5 patients because each patient requires life-supporting equipment
6 and a medical support team; and
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8 WHEREAS, the cost of transportation by an air ambulance can
9 be a significant financial burden that may not be covered by
10 insurance; and
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12 WHEREAS, although Medicaid currently covers the cost of
13 transportation to the continental United States for Hawaii's
14 most needy families, those who are middle-income earners and
15 working full-time do not receive comparable coverage; and
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17 WHEREAS, for many patients requiring transportation to the
18 continental United States, their only options are to mortgage
19 their homes, drain retirement savings, borrow from family or
20 friends, or establish an online campaign to raise funds; and
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22 WHEREAS, during the time that a family is fundraising for a
23 sick loved one, the patient's condition may rapidly deteriorate
24 and reduce the chance of recovery; and
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26 WHEREAS, if a delay in treatment is too long, then the
27 accepting facility on the mainland may give the patient's bed to
28 another individual, and the patient is forced to find another
29 accepting facility; and



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2 WHEREAS, due to Hawaii's unique position in the middle of
3 the Pacific Ocean, the State's residents deserve to receive
4 life-saving medical care that is not available in the State; and
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6 WHEREAS, H.B. No. 687, H.D. 2, considered during the
7 Regular Session of 2018, proposes to require insurance coverage
8 for the costs of medically necessary transportation to the
9 continental United States for qualifying patients; and
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11 WHEREAS, in testimony submitted to the House of
12 Representatives Standing Committee on Consumer Protection and
13 Commerce regarding H.B. No. 687, H.D. 1, which is the preceding
14 draft of H.B. No. 687, H.D. 2, and contains a similar insurance
15 coverage mandate, the Department of the Attorney General noted
16 that:
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- 18 (1) Section 1311(d)(3)(B) of the Patient Protection and
19 Affordable Care Act allows a state to require
20 qualified health plans to add benefits, as long as the
21 state defrays the cost of the additional benefits;
22
- 23 (2) Title 45 Code of Federal Regulations section 155.170
24 provides that unless the enactment of a benefit is
25 directly attributable to state compliance with federal
26 requirements, a benefit is in addition to essential
27 health benefits if the benefit was required by a state
28 after December 31, 2011, and directly applies to
29 qualified health plans;
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- 31 (3) Because Hawaii law did not mandate insurance coverage
32 of transportation to the continental United States
33 before December 31, 2011, a new mandate for this
34 coverage may be considered an additional mandate for
35 which the State of Hawaii would be required to defray
36 the cost; and
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- 38 (4) If a state mandates a benefit in addition to the
39 essential health benefits, title 45 Code of Federal
40 Regulations section 155.170 requires qualified health
41 plan issuers to quantify the cost attributable to each
42 additional state-required benefit and report their



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1 calculations to the state, which is then required to
2 defray the cost by making the payment either to an
3 individual enrolled in a qualified health plan offered
4 in the state, or on behalf of an individual enrolled
5 in a qualified health plan directly to the plan; and
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7 WHEREAS, in testimony submitted to the House of
8 Representatives Standing Committee on Consumer Protection and
9 Commerce regarding H.B. No. 687, H.D. 1, the Insurance
10 Commissioner expressed similar concerns; and
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12 WHEREAS, in testimony submitted to the House of
13 Representatives Standing Committee on Consumer Protection and
14 Commerce regarding H.B. No. 687, H.D. 1, the Hawaii Medical
15 Service Association suggested that the measure be amended by
16 amending the term "qualifying patient" to mean a patient who is,
17 among other qualifying criteria, on medically-necessary
18 extracorporeal membrane oxygenation or mechanical circulatory
19 support (including percutaneous ventricular assist devices and
20 intraaortic balloon pump therapies) in order to qualify for the
21 mandated coverage proposed in the measure; and
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23 WHEREAS, H.B. No. 687, H.D. 2, does not incorporate the
24 foregoing requested amendment; and
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26 WHEREAS, pursuant to section 23-51, Hawaii Revised
27 Statutes, before any legislative measure that mandates health
28 insurance coverage for specific health services, specific
29 diseases, or certain providers of health care services as part
30 of individual or group health insurance policies, can be
31 considered, concurrent resolutions shall be passed that
32 designate a specific legislative bill for the auditor to prepare
33 a report, which is commonly known as a "sunrise review", for
34 submission to the Legislature that assesses both the social and
35 financial effects of the proposed mandated coverage under that
36 legislative bill; now, therefore,
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38 BE IT RESOLVED by the House of Representatives of the
39 Twenty-ninth Legislature of the State of Hawaii, Regular Session
40 of 2018, the Senate concurring, that the Auditor is requested to
41 assess, pursuant to section 23-51, Hawaii Revised Statutes, both
42 the social and financial effects of the proposed mandated health



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1 insurance coverage under H.B. No. 687, H.D. 2, Regular Session
2 of 2018, which requires insurance coverage for the costs of
3 medically necessary transportation to the continental United
4 States for qualifying patients; and

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6 BE IT FURTHER RESOLVED that in the course of conducting its
7 assessment, the Auditor is requested to assess:

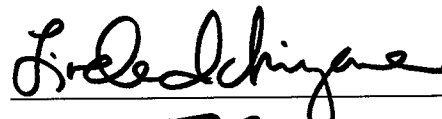

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9 (1) Whether Section 1311(d)(3)(B) of the Patient
10 Protection and Affordable Care Act would require the
11 State to defray the costs of the coverage mandate
12 imposed under H.B. No. 687, H.D. 2, if that bill were
13 to become law; and

14
15 (2) The social and financial effects of amending the
16 existing definition of the term "qualifying patient",
17 as it appears in H.B. No. 687, H.D. 2, to include a
18 provision that requires a patient be on medically-
19 necessary extracorporeal membrane oxygenation or
20 mechanical circulatory support (including percutaneous
21 ventricular assist devices and intraaortic balloon
22 pump therapies) to qualify for the mandated covered
23 benefit proposed in the measure; and

24
25 BE IT FURTHER RESOLVED that the Auditor is requested to
26 submit a report of its findings and recommendations, including
27 any proposed legislation, to the Legislature no later than
28 twenty days prior to the convening of the Regular Session of
29 2019; and

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31 BE IT FURTHER RESOLVED that a certified copy of this
32 Concurrent Resolution be transmitted to the Auditor.
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OFFERED BY:

MAR 09 2018

