
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



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



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



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

- 3
- 4 (1) Whether Section 1311(d)(3)(B) of the Patient
5 Protection and Affordable Care Act would require the
6 State to defray the costs of the coverage mandate
7 imposed under H.B. No. 687, H.D. 2, if that bill were
8 to become law; and
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 - 10 (2) The social and financial effects of amending the
11 existing definition of the term "qualifying patient",
12 as it appears in H.B. No. 687, H.D. 2, to include a
13 provision that requires a patient be on medically-
14 necessary extracorporeal membrane oxygenation or
15 mechanical circulatory support (including percutaneous
16 ventricular assist devices and intraaortic balloon
17 pump therapies) to qualify for the mandated covered
18 benefit proposed in the measure; and
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20 BE IT FURTHER RESOLVED that the Auditor is requested to
21 submit a report of its findings and recommendations, including
22 any proposed legislation, to the Legislature no later than
23 twenty days prior to the convening of the Regular Session of
24 2019; and
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26 BE IT FURTHER RESOLVED that a certified copy of this
27 Concurrent Resolution be transmitted to the Auditor.

