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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
House Committee on Health  
Thursday, March 12, 2020  
9:00 a.m.  
State Capitol, Capitol Auditorium**

**On the following measure:  
S.B. 2439, S.D. 1, RELATING TO HEALTH INSURANCE**

Chair Mizuno and Members of the Committee:

My name is Colin Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to require insurers, mutual benefit societies, and health maintenance organizations to provide coverage for the cost of auto-injectable epinephrine for insured persons eighteen years of age or younger, beginning January 1, 2021.

Section 1 of the bill on page 1, lines 5 to 10; section 2 on page 2, lines 13 to 18; section 3 on page 3, line 17 to page 4, line 2; and section 4 on page 5, line 7 require coverage for auto-injectable epinephrine for individuals under eighteen years of age.

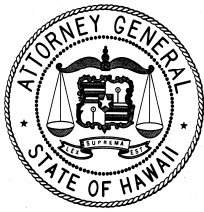
The Department is in communication with the federal Department of Health and Human Services (HHS) to seek guidance on state-required benefits. The HHS recently proposed rulemaking to the Patient Protection and Affordable Care Act (PPACA) that

addresses states' defrayment. The HHS proposed rule would require states to annually report to HHS "any state-required benefits applicable to the individual and/or small group market that are considered in addition to [the essential health benefits.]"<sup>1</sup>

Thank you for the opportunity to testify on this bill.

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<sup>1</sup> See Notice of Benefit and Payment Parameters for 2021; Notice Requirement for Non-Federal Governmental Plans (HHS Notice). This document was published on February 6, 2020 and has a comment period that ended on March 2, 2020. The PDF version is available at: <https://www.federalregister.gov/documents/2020/02/06/2020-02021/benefit-and-payment-parameters-notice-requirement-for-non-federal-governmental-plans>.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2020**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2439, S.D. 1, RELATING TO HEALTH INSURANCE.

**BEFORE THE:**

HOUSE COMMITTEE ON HEALTH

**DATE:** Thursday, March 12, 2020

**TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Capitol Auditorium

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Daniel K. Jacob, Deputy Attorney General

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Chair Mizuno and Members of the Committee:

The Department of the Attorney General makes the following comments.

The purpose of this bill is to require insurance companies to provide coverage for the cost of medically necessary auto-injectable epinephrine for individuals covered under the policy who are eighteen years of age or younger.

Under section 1311(d)(3)(B) of the Affordable Care Act and 45 C.F.R. section 155.170, a state may only require a Qualified Health Plan to add benefits if the state defrays the cost of the additional benefits, unless the proposed new benefit is directly attributable to State compliance with Federal requirements to provide Essential Health Benefits after December 31, 2011.

This bill would require Qualified Health Plans to provide coverage for the cost of medically necessary auto-injectable epinephrine for individuals covered under the policy who are eighteen years of age or younger. Because this benefit was neither mandated by state law prior to December 31, 2011, nor directly attributable to compliance with Federal requirements after December 31, 2011, it may be considered an additional mandate and the State would be required to defray the cost.

At this time, our department is unaware of a state that has been subjected to the obligation to defray the cost for additional benefits. Therefore, there are no prior examples of how the State would meet its obligation and what specific procedures would be necessary to fulfill the obligation. Our department's best understanding is that after the Qualified Health Plan issuer submits the issuer's costs attributable to the

additional mandate, the Legislature would need to appropriate the money during the following legislative session and propose a mechanism to distribute the money.

Thank you for the opportunity to comment.



March 10, 2020

The Honorable John M. Mizuno, Chair  
The Honorable Bertrand Kobayashi, Vice Chair  
House Committee on Health

Re: SB 2439, SD1 – Relating to Health Insurance

Dear Chair Mizuno, Vice Chair Kobayashi, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2439, SD1, which requires insurers, mutual benefit societies, and health maintenance organizations to provide coverage for the cost of auto-injectable epinephrine based on appropriate weight-based dosage for insured persons eighteen years of age or younger, beginning 1/1/2021.

HMSA appreciates the intent of this measure. However, because we already provide coverage for auto-injectable epinephrine under all of our drug plans, for members of all ages, we believe this measure is unnecessary. As this measure mandates new coverage, should this bill move forward, we ask that it be subject to an impact assessment report by the Auditor pursuant to Sections 23-51 and 23-52 of the Hawaii Revised Statutes.

Thank you for allowing us to testify on SB 2439, SD1. Your consideration of our comments is appreciated.

Sincerely,

Pono Chong  
Vice President, Government Relations