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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, February 7, 2023
9:15 a.m.**

State Capitol, Conference Room 229 and via Video Conferencing

**On the following measure:
S.B. 1326, RELATING TO TITLE 24, HAWAII REVISED STATUTES**

Chair Keohokalole and Members of the Committee:

My name is Gordon Ito, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department supports this administration bill.

The purpose of this bill is to provide amendments to external review procedures to improve consistency with the National Association of Insurance Commissioners Uniform Health Carrier External Review Model Act and require health insurers, mutual benefit societies, and health maintenance organizations to cover mandated services for mammography at least as favorably as coverage for other radiological examinations.

Sections 1 and 2 will ensure a base level of coverage for breast cancer screening under current insurance mandates based on coverage for other radiological exams.

The external review process for health plans codified at HRS chapter 432E, Part IV, is based on the National Association of Insurance Commissioners Uniform Health

Carrier External Review Model Act (Model Act) but deviates in significant part from the Model Act with respect to provisions that allow the Commissioner to review health plan determinations that indicate cases are not eligible for external review. The existing language compels the Commissioner to follow a procedure that requires rendering a determination as to whether an enrollee is eligible for external review, regardless of whether there is sufficient information or whether the determination is complicated by issues outside the Commissioner's jurisdiction. **Sections 3, 4, and 5** of this bill will align this review provision of the external review process with the Model Act, which provides the Commissioner with permissive authority to send a case to external review if the Commissioner determines that the case is eligible. Sections 3,4, and 5 also clarify that health plans must provide any documents they have received related to an external review request to the independent review organization assigned to conduct an external review.

Thank you for the opportunity to testify, and we respectfully ask the Committee to pass this administration bill.

LATE



February 3, 2023

Senator Keohokalole, Chair
Senate Committee on Commerce and Consumer Protection

Re: S.B. 1326 Relating to Title 24, Hawaii Revised Statutes

**Hearing: Tuesday, February 7, 2023, 9:15 AM, Room 229 & Via
Videoconference**

Dear Chair Keohokalole and Members of the Committee on Commerce and Consumer Protection:

Hawaii Women Lawyers is a lawyer's trade organization that aims to improve the lives and careers of women in all aspects of the legal profession, influence the future of the legal profession, and enhance the status of women and promote equal opportunities for all.

Hawaii Women Lawyers submits testimony in **strong support of S.B. 1326** which amends Hawaii Revised Statutes Title 24, Sections 431, 432, and 432E to require insurers, mutual benefit societies, and health maintenance organizations to cover mandated services for mammography at least as favorably as coverage for other radiological examinations, and to amend external review procedures to improve consistency with the National Association of Insurance Commissioners Uniform Health Carrier External Review Model Act.

The American Cancer Society ("ACS") describes mammograms as "low-dose x-rays of the breast", and recommends regular mammograms as a very successful tool in finding breast cancer at an early stage, which is when treatment is most likely to be successful. In fact, the ACS has determined that a mammogram can often find breast changes that could be cancerous years before physical symptoms develop.¹

However, there are several recognized barriers that prevent women from seeking and obtaining routine screening. According to the Centers for Disease Control and Prevention, these include barriers related to knowledge/attitude, physicians/providers, and most importantly and likely the hardest to overcome – simple access. Without favorable coverage under insurance plans, women are often faced with choosing between what is generally seen as an "elective procedure" and challenges that rank higher in priority in their

¹ American Cancer Society Recommendations for the Early Detection of Breast Cancer; available at <https://www.cancer.org/cancer/breast-cancer/screening-tests-and-early-detection/american-cancer-society-recommendations-for-the-early-detection-of-breast-cancer.html>, last revised on January 14, 2022.

lives, such as paying rent or buying food for their families.² This has also been greatly exasperated by the COVID-19 pandemic, which in addition to negatively impacting household economies, also initially resulted in most elective procedures being put on hold, leading to many people not getting screened for cancer.³

Amending HRS Sections 431 and 432 to require that insurers, mutual benefit societies, and health maintenance organizations to cover mandated services for mammography at least as favorably as coverage for other radiological examinations under S.B. 1326 would be a huge step in increasing access to mammograms and removing some of those financial concerns.

In addition to the roadblock of simple coverage, women also face administrative challenges in navigating the often complicated and usually frustrating endeavor of seeking authorization from health insurance companies to pay for or authorize a treatment or a service. Patients often feel that they are being denied eligibility unfairly, or that the appeal process is too complicated to navigate – particularly as they are already dealing with a potentially life altering condition.

In response to these challenges, the National Association of Insurance Commissioners adopted the Uniform Health Carrier External Review Model Act, last amended in 2010 (the “Act”). The stated purpose of the Act is to provide uniform standards for the establishment and maintenance of external review procedures to assure that covered persons have the opportunity for an independent review of an adverse determination or final adverse determination.⁴ For reference, “external review” is a process where a covered person may seek an independent review of a health insurance company decision to refuse to pay for or authorize a treatment or service.⁵

By amending HRS Section 432E, S.B. 1326 updates our existing statutes regarding the process by which a patient may request an external review, as well as the method in which such request is processed. These amendments bring our statutes closer to the national standards for external review as covered by the Act. Hawaii Women Lawyers believes that that these amendments will provide a degree of uniformity for patients and medical providers while balancing the business needs of insurers.

HWL strongly supports S.B. 1326 and respectfully requests that the Committee pass this measure.

Thank you for the opportunity to testify in strong support of this measure.

² The Manual of Intervention Strategies to Increase Mammography Rates; available at [cdc_11516_DS1.pdf](#), last accessed February 3, 2023.

³ American Cancer Society Recommendations for the Early Detection of Breast Cancer; available at <https://www.cancer.org/cancer/breast-cancer/screening-tests-and-early-detection/american-cancer-society-recommendations-for-the-early-detection-of-breast-cancer.html>, last revised on January 14, 2022.

⁴ Uniform Health Carrier External Review Model Act; available at <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/naic-uniform-review-model-act.pdf>, last accessed February 3, 2023.

⁵ External Review Process Overview; available at <https://www.mass.gov/service-details/external-review-process-overview#:~:text=What%20is%20an%20external%20review,decisions%20based%20on%20medical%20necessity,> last accessed February 3, 2023.

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