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## Testimony of the Department of Commerce and Consumer Affairs

### Office of Consumer Protection

Before the Senate Committees on Health and Human Services

And

Commerce and Consumer Protection

Friday, February 6, 2026

9:00 AM

Via Videoconference

Conference Room 229

**On the following measure:  
SB 2277, Relating to Hospital Price Transparency**

Chairs San Buenaventura and Keohokalole and Members of the Committee:

My name is Melissa Enright, and I am an Enforcement Attorney at the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department offers comments.

Medical expenses are one of the few things that consumers in the United States pay for without always being able to easily estimate the costs in advance. Unlike shopping for a car, consumers generally do not "shop around" when facing a medical procedure, in part because the costs are not made readily available to the general public. By making the cost of a hospital item or service publicly available, consumers will benefit by being able to shop and compare prices across hospitals and estimate the cost of care ahead of time.

This bill enumerates the requirements a hospital, or debt collector acting on behalf of a hospital, must satisfy before initiating a collection action against a patient. A “willful or knowing” failure to comply is deemed an unfair and deceptive act or practice in violation of chapter 480, Hawaii Revised Statutes (HRS). (Page 17, lines 1-3). The bill creates new remedies in the form of civil penalties.

The inclusion of an “intent” requirement, i.e., “willful or knowing violation,” in this bill adds a required element of proof not required in existing consumer protection statutes. For example, to prove a deceptive act or practice prohibited by HRS section 480-2, no intent must be established; “a plaintiff must show '(1) a representation, omission, or practice that (2) is likely to mislead consumers acting reasonably under the circumstances where (3) the representation, omission, or practice is material.’” *State ex rel. Shikada v. Bristol-Myers Squibb Co.*, 152 Haw. 418, 443, 526 P.3d 395, 420 (2023). Likewise, no intent must be established to prove an unfair act or practice; a plaintiff must show that the practice “(1) offended public policy, (2) was immoral, unethical, oppressive, or unscrupulous, or (3) substantially injured Hawai’i consumers.” *Id.*

Requiring law enforcement in a civil enforcement action to prove the defendant intended to violate the law, as this bill currently does, threatens to undermine effective civil enforcement. In civil proceedings, unlike criminal proceedings, life and liberty are typically not threatened, and adding intent as an element of proof is generally misguided.

The civil penalties remedies in this bill are not the same as the civil penalties remedies provided in existing law for unfair and deceptive acts or practices in violation of HRS section 480-2. Section 480-3.1 sets forth language concerning civil penalties that may be collected by the Attorney General or the Director of the Office of Consumer Protection in an action brought for a violation of section 480-2. The civil penalties section of this bill would benefit from inserting a provision clarifying which law enforcement officials are authorized to bring a civil action to collect civil penalties.

Existing law governing debt collectors (HRS chapter 443B) and collection practices (HRS chapter 480D) are not referenced in this bill. Those chapters prohibit various conduct by debt collectors and entities collecting on their own debts and violations are deemed unfair or deceptive acts or practices in trade or commerce in violation of HRS

480-2. While this bill does not reference those statutes, the remedies established under those existing laws should be expressly preserved and available to law enforcement in any civil enforcement action brought under this bill.

Should the Committee wish to pass this bill, we respectfully request the following amendments:

- (1) Delete existing language at page 17, lines 1-3, and replace with “(b) Any violation of this section shall be deemed an unfair or deceptive act or practice in violation of chapter 480.”
- (2) On page 13, insert language clarifying which agencies may bring an action to collect civil penalties; and
- (3) Insert a new section to read as follows: “**§321-\_\_ Remedies not exclusive.** The remedies provided for in this chapter are in addition to and not exclusive of any other remedies provided by law.”

Thank you for the opportunity to testify on this bill.



**STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY**  
DEPARTMENT OF HEALTH - KA 'OIHANA OLAKINO

**JOSH GREEN, MD**  
GOVERNOR OF HAWAII  
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII

**KENNETH S. FINK, MD, MGA, MPH**  
DIRECTOR OF HEALTH  
KA LUNA HO'ŌKELE

**JOHN C. (JACK) LEWIN, MD**  
ADMINISTRATOR

**LATE**

February 4, 2026

**TO:** SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES  
Senator Joy A. San Buenaventura, Chair  
Senator Angus L.K. McKelvey, Vice Chair

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
Senator Jarrett Keohokalole, Chair  
Senator Carol Fukunaga, Vice Chair  
Honorable Members

**FROM:** John C. (Jack) Lewin, MD, Administrator, SHPDA, and Sr. Advisor to  
Governor Josh Green, MD on Healthcare Innovation

**RE: SB 2277 -- RELATING TO RELATING TO HOSPITAL PRICE  
TRANSPARENCY.**

**HEARING:** Friday, February 6, 2026 @ 09:00 am; Conference Room 229

**POSITION:** SUPPORT with COMMENTS

SHPDA supports SB 2277 because price transparency affects whether families can anticipate costs, compare options, and avoid preventable medical debt. This is especially important for neighbor island residents who often have fewer choices, for Native Hawaiian and Pacific Islander communities disproportionately burdened by chronic disease and cost barriers, and for low-income patients who are most exposed to aggressive collections when information is unclear or withheld. DOH is assigned oversight responsibility.

Our central implementation concern is whether DOH will have the practical capacity, staffing, enforcement, and legal support to monitor compliance and take timely action. If enforcement is under-resourced, the predictable result is selective compliance, continued opacity, and "business as usual" collections practices that shift risk onto patients rather than onto institutions that fail to meet disclosure requirements. For that reason, SHPDA defers to DOH on the operational details and costs required to effectively monitor, investigate, and enforce this measure statewide.

In a concentrated market, voluntary disclosure will not hold. If there is no monitoring and consequence, the incentive is to cherry-pick what looks good, bury what

*SB 2277 testimony of SHPDA (2026), continued.*

does not, and shift financial risk onto patients through confusion, delay, and debt collection.

The hospital price transparency aim of this bill aligns completely with the AHEAD Grant and the federal vision.

Therefore, we should consider how to achieve this in a way that does not overburden DOH.

For these reasons, SHPDA supports SB 2277 with comments and urges the Legislature to pair these consumer protections with enforceable, adequately resourced implementation led by DOH.

Thank you for hearing SB 2277.

Mahalo for the opportunity to testify.

■ -- Jack Lewin, MD, Administrator, SHPDA



**February 6, 2026 at 9:00 am**  
**Conference Room 229**

**Senate Committee on Health and Human Services**

To: Chair Joy A. San Buenaventura  
Vice Chair Angus L.K. McKelvey

**Senate Committee on Commerce and Consumer Protection**

To: Chair Jarrett Keohokalole  
Vice Chair Carol Fukunaga

From: Paige Heckathorn Choy  
Vice President, Government Affairs  
Healthcare Association of Hawaii

**Re: Testimony in Opposition**  
**SB 2277, Relating to Hospital Price Transparency**

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the healthcare continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 30,000 people statewide.

Thank you for the opportunity to provide testimony in **opposition** to this measure, which seeks to impose state-level hospital price transparency requirements that are duplicative of existing federal rules and, if passed, would create unnecessary regulatory burdens on healthcare providers. While transparency in healthcare pricing is a worthy goal, this bill risks imposing conflicting and excessive requirements.

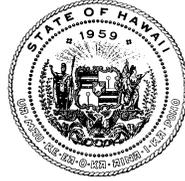
Hospitals are already required to comply with extensive federal price transparency rules established by the Centers for Medicare & Medicaid Services (CMS). These federal requirements mandate that hospitals post machine-readable files of standard charges and provide consumer-friendly displays of pricing information for shoppable services. Compliance with these regulations demands significant financial and administrative resources, including legal reviews, IT system upgrades, and continuous monitoring to ensure adherence. Layering additional state-level mandates on top of these existing federal rules will create additional complexity and costs for hospitals, diverting resources away from direct patient care. The

requirement in this measure would also create conflicting interpretations of compliance requirements at both the state and federal levels.

An equally pressing concern is the uncertainty surrounding the regulatory landscape at the federal level. The current administration recently issued a request for feedback from stakeholders on new proposed rules and standards regarding price transparency, with the comment period closing on February 23, 2026. It is likely that further regulations and changes will result from this effort, creating potential new conflicting mandates if this measure passes. While we understand the legislature's interest in this matter, passing this measure could create a redundant and potentially inconsistent regulatory framework. Instead, we ask for the opportunity to focus on complying with federal standards.

Lastly, we are concerned about the bill's punitive measures—such as publicly listing hospitals deemed "poor performers" and restricting their ability to collect payment for services—could have severe consequences. Compliance with transparency regulations is a complex process that requires continuous updates to reflect shifting payer contracts and regulatory changes. Penalizing hospitals for unintentional errors or minor discrepancies could result in financial instability, particularly for rural and safety-net hospitals that already struggle to remain viable.

We appreciate that patients can and should have access to the information they need to make important healthcare decisions. However, the duplicative and potentially conflicting requirements in this law could cause confusion for providers and patients alike, and we would ask for this measure to be deferred. Thank you for the opportunity to provide our testimony on this important matter.



**LATE**

**STATE OF HAWAII  
DEPARTMENT OF HEALTH**

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**JOSH GREEN, M.D.**  
GOVERNOR OF HAWAII  
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**KENNETH S. FINK, M.D., M.G.A., M.P.H.**  
DIRECTOR OF HEALTH  
KA LUNA HO'OKELE

**Testimony COMMENTING on SB2277  
RELATING TO HOSPITAL PRICE TRANSPARENCY.**

**SENATOR JOY A. SAN BUENAVENTURA, CHAIR  
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

**SENATOR JARRETT KEOHOKALOOLE, CHAIR  
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

Hearing Date: February 6, 2026

Room Number: 229

1 **Fiscal Impact:** An undetermined general fund appropriation amount and permanent FTE are  
2 required to implement this measure.

3 **Department Testimony:** The Department of Health (DOH) regulates hospitals via a licensing  
4 program for the primary purpose of patient health and safety. Licensing standards do not include  
5 financial transactions of hospitals with payers, which may include health plans and consumers.  
6 DOH may not be the appropriate agency to regulate private financial transactions and  
7 commercial activity, including debt collection, between businesses and consumers. DOH does  
8 not have the resources, capacity, or expertise to enforce federal price transparency laws or  
9 collection of debt.

10 In lieu of DOH enforcement of commercial pricing activity between a hospital and a patient, the  
11 department recommends amending chapter 323, Hawaii Revised Statutes (HRS), "Hospitals and  
12 Medical Facilities," with the substance of SB2277, but requiring hospitals to contract with a  
13 third-party entity to intake complaints, determine compliance, represent patient interests, and  
14 report aggregate data back to the hospital and potentially to the public.

1 This alternative is similar to regulatory schemes in chapter 432E, HRS, “Patient’s Bill of Rights  
2 and Responsibilities Act,” wherein patients have a right to an independent external review of  
3 insurance determinations. Health insurance carriers are required to contract with External  
4 Review Orgnaization by Hawaii law, and this model may be appropriate for hospital price  
5 transparency. This precedent of HRS requiring private entities to afford certain rights to  
6 consumers that include contracting with external entities will be more effective that oversight by  
7 a public health agency.

8 Thank you for the opportunity to testify.

9

**LATE**



**WRITTEN TESTIMONY IN SUPPORT OF SB2277  
Hawaii Hospital Price Transparency Act**

**Ilaria Santangelo  
Director of Research, PatientRightsAdvocae.org**

**February 6, 2026**

Aloha Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong support of SB2277.

My name is Ilaria Santangelo, and I am the Director of Research at PatientRightsAdvocate.org, a non-profit, non-partisan organization focused on protecting patients and advocating for real prices, real choices, and a functional marketplace in healthcare. We strongly believe that the single most important way to achieve this is through systemwide healthcare price transparency.

SB2277 is simple, fair, and long overdue. It ensures that hospitals in Hawaii comply with existing federal hospital price transparency requirements, while providing patients with basic protections and recourse when hospitals fail to post their prices.

Since 2021, hospitals have been required under federal law to publicly post the prices for the items and services they provide, including payer-specific negotiated rates and discounted cash prices. These are not new requirements. Hospitals are already legally obligated to comply, so this law does not impose additional regulatory burdens.

Yet compliance remains uneven. In a hospital price transparency compliance review in Hawaii in 2024, [zero](#) of the hospitals reviewed were found to be fully compliant with the federal rule and many of them posted incalculable algorithms instead of prices, making the information useless for patients. Although some hospitals may have improved their files since this report, hospitals publish new files annually and without adequate enforcement it seems the level of compliance is ever-changing.

This is precisely why state-level enforcement is necessary. If hospitals are complying, then no problem, this will not be an issue. They will not be affected by additional state regulations. However, if a hospital fails to post their prices for services rendered, then all Hawaiian's will have remedy and recourse when a surprise, egregious, or potentially fraudulent bill comes in the mail. Something that is currently not accessible or easy.

Patients are not getting the care they need because they do not know the price upfront. We live in a time where over [100 million](#) Americans are carrying medical debt, and medical debt remains the leading cause of bankruptcy in our country. More than [one-third](#) of Americans delay or forgo care altogether because they are afraid of unknown costs.

At the same time, the United States [spends more](#) on healthcare than any other developed nation, yet we have worse health outcomes. This is not because people do not want care - it is because they cannot afford financial uncertainty.

More importantly, [almost half](#) of the country does not have \$400 to cover any emergency expense – let alone a surprise hospital bill they never received an upfront price.

Currently, [96%](#) of Americans agree that healthcare consumers deserve to know the real price of healthcare upfront – not estimates, actual prices – something this bill enforces.

Healthcare is one of the only sectors of our economy where people are routinely expected to purchase services without knowing the cost in advance. We do not tolerate this anywhere else - and we must stop tolerating it in healthcare.

When prices are hidden patients cannot compare options, families cannot budget responsibly, competition suffers, and surprise medical bills become unavoidable leaving patients in debt. Without real transparency on the front end, none of the basic market protections that consumers rely on can function.

SB2277 does not create new burdens or conflicting requirements on hospitals, it enforces existing law. It simply:

- Codifies the existing federal price transparency rule into state law,
- Gives the Department of Health authority to monitor and enforce compliance, and
- Creates a limited, commonsense consumer protection when hospitals fail to disclose prices.

One of the most important provisions in SB2277 is its protection for patients facing debt collection. This bill gives the federal law real meaning in Hawaii and gives all Hawaiian's a chance to dispute medical bills. Linking transparency to debt collection is fair. The principle is straightforward – if a hospital does not disclose prices as required by law, it should not be able to collect medical debt based on those undisclosed prices. This provision applies only if the hospital initiates a lawsuit or debt collection, serves as an affirmative defense for patients, and does not prevent compliant hospitals from collecting legitimate bills.

A patient should not be sent to collections for a bill they had no reasonable way of knowing in advance. That is not anti-hospital, it is pro-consumer and pro-accountability.

Price transparency works when it is real. Hospitals often claim compliance is difficult. It is not. Many hospitals across the country already comply fully with the federal rule. The cost of compliance is modest, and the benefit to patients is enormous.

Estimates are not a substitute for real prices. Estimates provide no accountability, and often end up thousands or tens of thousands of dollars more than quoted. To obtain an estimate from a hospital, patients are often required to acknowledge that the final bill may be higher. We would not accept this in any other industry - and we should not accept it here. Only real, posted prices allow patients to compare care, avoid surprise bills, dispute overcharges, and make informed healthcare decisions.

Our healthcare system is broken - but Hawaii has the opportunity to improve transparency and to empower patients. SB2277 is a reasonable, consumer-focused bill that strengthens transparency, restores trust, and protects families from avoidable medical debt. Hawaiians deserve to know what healthcare will cost before they receive care, not after a bill or collection notice arrives. Hawaii families need this.

For these reasons, we strongly support SB2277 and respectfully urge the Committee to pass this bill. Mahalo for your consideration.

**LATE**

Dear Chair San Buenaventura and the Senate Health & Human Services Committee:

My name is Steve Fenberg and I recently termed out as the Colorado Senate President. I now have a small consulting firm where I work on public-interest policy issues around the country, including advocating for health care affordability, which is something that impacts every community in every state across our country.

One of the ways to increase affordability in health care is to create a more functioning market, where patients, employers, and unions can advocate for themselves in a manner that creates more competition—something that is present in virtually every other sector of our economy except health care. However, competition cannot work without consumers having access to accurate prices for the service or procedure in question.

That's where SB2277 comes into play. This bill does the following:

- Affirms that hospitals in Hawaii must follow the federal price transparency requirements
- Allows the Department of Health to monitor and enforce compliance with those federal requirements
- Gives consumers a reasonable recourse if they were unfairly billed for a procedure where they could not have reasonably known the price ahead of time

I'm going to take each of these provisions and provide a little more context:

#### **Adherence to Federal Price Transparency Requirements**

This bill does not require hospitals to do anything that they are not already required to do under federal law. It simply puts in place reasonable steps to make sure they are following those requirements and that they continue to do so. These transparency requirements simply state that hospitals must publish a file on their website that includes the prices for their services and procedures. Compliance by hospitals is often hit or miss and even if a hospital is in compliance now, the files are updated annually and that could change at any time. In some instances, hospitals only provide algorithms instead of an actual price and these algorithms are typically not solvable by a consumer without access to additional information.

#### **State Enforcement of Federal Price Transparency Requirements**

SB2277 allows the Department of Health to monitor compliance to these federal requirements. Fines and penalties would be up to the discretion of the Department and would only come into play when a hospital is clearly not making good faith efforts to comply after receiving warnings and being provided correction plans. The purpose is to help the hospital get into compliance, not to penalize. In fact, I don't think any other state that has this in law has ever imposed a fine on a hospital.

#### **Consumer Protection if a Hospital isn't Compliant**

Perhaps the most important part of this bill is that it provides a level of consumer protection for patients. If a hospital sues a patient or sends them to collections, the patient has an affirmative defense if the hospital did not disclose the price of the service in question. What this means is that the patient only has these protections if legal action is taken against them first. They can then ask a judge to determine if the patient was unfairly billed for something where they could not have reasonably known the price ahead of time.

At the end of the day, the purpose of price transparency is to create a more functional health care marketplace. When the same common procedure or test can cost an order of magnitude difference between one hospital to

another, patients will always be at risk of receiving surprise bills in the mail and feeling powerless. In other words, without accessible and transparent prices, a functioning market is a pipedream. Now, to be clear, price transparency will not solve all of our health care problems, but without transparency it's hard to imagine solving any of it.

In closing, Hawaii won't be the first state to pass this policy. Several states have already taken this step and the sky hasn't fallen. Instead, patients and employers are a little more protected and have the ability to negotiate, shop, or simply have more peace of mind that they have the tools to avoid runaway medical bills.

I'm more than happy to answer questions now or after the committee and I'm also happy to engage in conversations about potential amendments to hopefully reach a level of consensus on the bill. Thank you so much for your time.

Mahalo,  
Steve Fenberg

Former President of the Colorado Senate  
Policy Advisor, Silver Plume Strategies

**LATE**

**SB-2277**

Submitted on: 2/5/2026 1:26:49 PM

Testimony for HHS on 2/6/2026 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marni Carey	Testifying for Power to the Patients	Support	Remotely Via Zoom

Comments:

**Written Testimony**

**Marni Jameson Carey, President Power to the Patients**

**Submitted to**

**Hawai'i Senate Health & Human Services Committee**

**Friday, February 6, 2026**

Good morning Madam Chair and committee members. I am Marni Carey, President of Power to the Patients, a national, nonpartisan advocacy group working to make sure patients here in Hawai'i and nationwide realize their right to know the price of their health care before they get it. I am here to ask for your support of Senate Bill 2277.

Health care is unaffordable in this country largely because hospitals have been able to keep their prices hidden. Health care is the only industry where consumers don't know the price of a service until after they've agreed to pay for it, essentially with a blank check. As a result, over 100 million Americans are in significant medical debt, which is the leading cause of bankruptcy. Nearly one in three avoids getting needed medical care because they're afraid of the unknown cost.

This bill would put an end to these opaque and unfair billing practices, resulting in lower costs, empowered patients, and healthier Hawaiians. The positive effects of this act don't stop with patients. Once employers have access to prices they will be able to choose health plans based on value and save. They can then pass those savings along in the way of lower premiums, more jobs and higher wages.

As a national advocate -- for an issue that 92% of Americans support -- I have testified in other states to pass similar laws. The arguments from opposing hospitals are the same:

**\*We already have a federal rule. We don't need state law, too.** Apparently we do. Since the federal rule went into effect five years ago, compliance rates have been dismal, largely because enforcement is nil. Only about one in five of the nation's 6,000 hospitals are fully complying. In Hawai'i, according to the most recent compliance report from Patient Rights Advocate, not one single health system that the researchers analyzed was complying with the federal rule. This bill would fix that by providing state-agency-controlled enforcement.

**\*Patients don't need the total price; they only care about their out-of-pocket costs.** In a country where one in every five dollars spent goes to pay for healthcare, where health insurance costs the average family \$27,000 a year for a plan that often carries a high, multi-thousand-dollar deductible, consumers need and deserve to know total prices because that is the price we all pay through higher taxes, higher premiums, higher costs of goods and services, and lower wages.

For patients, being able to see prices up front could mean the difference between paying \$300 for an MRI or \$3,000. Indeed, our research shows that prices for the same procedure can vary by as much as 10 times within one hospital and by as much as 30 times between hospitals. For patients, that variation can mean the difference between affordable care and financial ruin. I spoke to a young mother this week upset because she received a \$1,000 bill from her local hospital for an outpatient ultrasound. At a clinic down the street, she could have had the same scan for \$185. When patients can see prices up front, they can shop, compare and choose value. By ushering in price competition, price transparency would drive down the cost of care, leading to a healthier Hawai'i, both physically and fiscally.

Thus, I ask you to please support SB2277. Thank you.

**LATE**

**SB-2277**

Submitted on: 2/5/2026 2:05:48 PM

Testimony for HHS on 2/6/2026 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Patrick Neville	Individual	Support	Remotely Via Zoom

Comments:

As a former Colorado State Representative I sponsored and passed a similar bill in a very bipartisan manner. This has worked out well for Colorado. Patients are protected from egregious billing, Colorado has one of the highest compliance rates in the nation and tech developers have developed tools to allow patients to shop effectively because of the compliance. I have used these tools myself and in that process I have saved money for myself and the taxpayer, while getting better quality and quicker service.