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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committees on Commerce and Consumer Protection
and
Judiciary
Wednesday, March 4, 2026
9:25 a.m.
State Capitol, Conference Room 229 & via Videoconference**

**On the following measure:
S.B. 2804, S.D. 1, RELATING TO COMMERCE**

WRITTEN TESTIMONY ONLY

Chair Keohokalole, Chair Rhoades, and Members of the Committees:

My name is Scott K. Saiki, 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 prohibit acquiring and holding stocks and other interests if the acquisition and holding lessens access to health care or increases insurance rates.

The Department recognizes the legislative intent to provide additional safeguards during a period of significant market realignment and offers the following comments regarding S.B. 2804 as currently drafted.

The bill amends section 480-7, Hawaii Revised Statutes, by broadening the list of prohibited acquisitions to include acquisitions that may “lessen access to health care” or “increase insurance rates.” It is unclear whether the Insurance Division will have a role in determining whether an acquisition will increase insurance rates thus violating section 480-7.

Under existing insurance laws, the Insurance Commissioner is responsible for determining whether insurance rates are “excessive, inadequate, or unfairly discriminatory”. However, HRS Chapter 480 authorizes the Attorney General, the Office of Consumer Protection, or any “person who is injured in the person’s business or property” to bring a lawsuit for a potential violation of section 480-7. In this context, a court will be responsible for determining whether a rate increase is violative of section 480-7, even if those same rates were previously reviewed and approved under the Insurance Code. This framework may create the potential for overlapping and inconsistent regulatory outcomes.

The Department also notes practical challenges associated with evaluating whether an acquisition “may” increase insurance rates. Insurance rates are influenced by a wide range of factors, including medical cost trends, utilization patterns, reinsurance costs, and broader economic conditions. Assessing whether a specific transaction is the cause of a future rate change may require specialized actuarial and economic analysis. Additional clarity regarding how rate impacts would be evaluated and how existing insurance regulatory processes would be considered could help reduce uncertainty for regulators, courts, and regulated entities.

The Department further notes that Chapter 480 provides for enforcement through public and private litigation. Without clarification regarding the interaction between Chapter 480 and 431, insurers and other regulated entities may face uncertainty regarding how compliance with insurance rate regulation would be considered in potential proceedings under section 480-7.

Thank you for the opportunity to testify on this bill.



March 4, 2026

The Honorable Jarrett Keohokalole, Chair
The Honorable Karl Rhoads, Chair
The Honorable Carol Fukunaga, Vice Chair
The Honorable Mike Gabbard, Vice Chair

Senate Committees on Commerce & Consumer Protection and Judiciary

Re: SB 2804 SD1 – RELATING TO COMMERCE

Dear Chair Keohokalole, Chair Rhoads, Vice Chair Fukunaga, Vice Chair Gabbard, and Members of the Committee:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to provide comments on SB 2804 SD1, which prohibits acquiring and holding stocks and other interests if the acquisition and holding lessens access to health care or increases insurance rates.

HMSA appreciates and shares the Legislature’s commitment to maintaining a health care system where consumers benefit from choice, access, and innovation. However, we believe that regulating market outcomes – such as access levels or insurance rates – may unintentionally hinder, not strengthen, competition. There are broad examples throughout the health care industry where this type of regulation could prove to have unintentional consequences or even prove to be challenging to quantify. For example:

- A hospital system buys a struggling clinic and must reorganize or reduce staff to keep it open. Under this bill, that could be viewed as “lessening access to health care,” even if the change ultimately improves quality and preserves services.
- If the same clinic later proves unsustainable and must close to prevent the entire hospital system from failing, the closure could still be seen as “lessening access to health care,” despite being necessary to protect the broader system.

It may be the case that a company must reduce its output, or increase its prices, to remain viable such that the alternative would be to shutter, resulting in less competition in the marketplace.

Hawaii’s existing antitrust laws are already robust and give regulators the flexibility to consider all factors in deciding when conduct is anticompetitive. It should be noted that current statute intentionally tracks, nearly verbatim, its federal analogue, and the stated intention of the chapter is to be interpreted consistent with federal antitrust law. As written, SB 2804 SD1 could potentially deprive regulators of flexibility to weigh all relevant circumstances and impair, rather than protect, the competitive marketplace the statute is intended to safeguard. It is also unclear how the proposed may conflict with existing federal regulations relating to these types of transactions.

Thank you for the opportunity to offer comments on SB 2804.

Sincerely,

Walden Au
Director of Government Relations

LATE

SB-2804-SD-1

Submitted on: 3/3/2026 8:46:22 PM

Testimony for CPN on 3/4/2026 9:25:00 AM

Submitted By	Organization	Testifier Position	Testify
Tamara Mckay	Individual	Support	Written Testimony Only

Comments:

Support with reservation and suggested amendments

Proposed Testimony – Support with Amendments for SB2804 SD1

Aloha Chair, Vice Chair, and Members of the Committee,

My name is Tamara McKay, and I appreciate the opportunity to submit testimony regarding SB2804 SD1.

I support the **intent of this bill**, which seeks to prevent business acquisitions that could reduce access to health care, increase insurance premiums, or create monopolistic control in essential sectors. Hawai'i already faces significant challenges with health care affordability and access. Any policy that attempts to prevent consolidation that harms consumers is worthy of serious consideration.

The bill amends Hawaii's antitrust law to prohibit acquisitions when their effect may substantially lessen competition, lessen access to health care, increase insurance rates, or create monopolies.

SB2804_SD1_

This reflects a legitimate concern that market consolidation can lead to higher costs and fewer choices for residents.

However, while the **intent of the bill is sound**, the language is currently broad and could benefit from clarification to ensure it effectively protects patients and consumers without unintentionally discouraging responsible investment or partnerships that could improve care.

To strengthen the bill and ensure it achieves its intended purpose, several improvements should be considered.

First, the bill should clearly define what constitutes "**lessening access to health care.**" Access could be measured using objective criteria such as:

- Closure of hospitals, clinics, or essential care facilities
- Reduction in available providers in a geographic region
- Increased patient travel distances to receive care
- Increased appointment wait times for essential services

Providing measurable standards would ensure enforcement is based on evidence rather than interpretation.

Second, the bill should clarify what qualifies as “**increasing insurance rates.**” Insurance premiums can rise for many reasons unrelated to a business acquisition. The law should specify that an acquisition must be **demonstrably linked to a substantial or measurable increase in consumer insurance premiums** before regulatory action is taken.

Third, the bill should require an **independent economic and healthcare access impact analysis** before acquisitions are blocked. This analysis could evaluate:

- projected insurance premium impacts
- impact on provider availability
- regional health care access
- effects on patient outcomes

Requiring this analysis would ensure decisions are grounded in data and transparency.

Fourth, the Legislature may consider creating a **health care transaction review process** similar to those used in several other states. These review boards evaluate proposed healthcare mergers and acquisitions to determine whether they benefit patients, maintain competition, and protect access to care.

Such a process would allow regulators to carefully evaluate transactions while still allowing beneficial partnerships that expand services, improve efficiency, or keep struggling facilities open.

Finally, the Legislature should ensure that the bill targets **true monopolistic consolidation rather than legitimate collaboration or investment** that could improve patient care. Hospitals and providers sometimes partner to expand services, purchase advanced equipment, or maintain operations in underserved areas. The law should not unintentionally block solutions that improve healthcare availability.

Hawai‘i’s residents already face high healthcare costs and limited provider options due to our geographic isolation and small market size. Any legislation addressing consolidation must carefully balance consumer protection with the need to maintain a strong and sustainable healthcare system.

For these reasons, I respectfully support the **intent of SB2804 SD1**, while encouraging amendments that clarify its standards, strengthen its consumer protections, and ensure that it truly lowers healthcare costs and preserves access to care for the people of Hawai‘i.

Mahalo for the opportunity to provide testimony.

Tamara McKay