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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Health and Human Services
Friday, February 13, 2026
1:00 p.m.**

State Capitol, Conference Room 225 & via Videoconference

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

Chair San Buenaventura, Vice Chair McKelvey, and Members of the Committee:

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, specifically regarding the proposed "One Health Hawaii" partnership between the Hawaii Medical Service Association (HMSA) and Hawaii Pacific Health (HPH). The Department 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.



February 13, 2026

The Honorable Joy A. San Buenaventura, Chair
The Honorable Angus L.K. McKelvey, Vice Chair

Senate Committee on Health and Human Services

Re: SB 2804 – RELATING TO COMMERCE

Dear Chair San Buenaventura, Vice Chair McKelvey, and Members of the Committee:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to provide comments on SB 2804, 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, could potentially deprive regulators of that 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