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TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-EIGHTH LEGISLATURE
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2:00 p.m.

**TESTIMONY ON SENATE BILL NO. 1094, S.D. 2, H.D. 1 – RELATING TO
INSURANCE.**

TO THE HONORABLE SYLVIA LUKE, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner (“Commissioner”), testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department strongly supports this Administration bill and respectfully requests the Committee to amend this measure to include an effective date of either July 1, 2015, or “upon its approval.”

The purpose of this bill is to update title 24 of the Hawaii Revised Statutes (“HRS”) relating to insurance: to have consistency in fees charged on all applications and services the Insurance Division provides to purchasing groups, foreign risk retention groups (“RRGs”), insurers subject to chapter 431, HRS, fraternal benefit societies (“FBSs”), mutual benefit societies (“MBSs”), health maintenance organizations (“HMOs”), and dental insurers; to recover certain administrative costs associated with the applications process and services; to make clear that rerating of rates approved by the Commissioner is prohibited; to permit the suspension, revocation, or denial of a

MBS's certificate of authority under certain conditions; to conform the title of chapter 431M, HRS, and the definition of "partial hospitalization services" to existing law; to repeal the definition of "serious mental illness" in section 431M-1, HRS, to conform to existing law; to conform the definition of "emergency services" in section 432E-1, HRS, to the federal Patient Protection and Affordable Care Act, Public Law 111-148 ("PPACA"); and to make other technical amendments for clarity and consistency.

SECTION 1 of the bill adds two new sections to chapter 431K, HRS, to make consistent fees charged on all applications and services the Insurance Division provides to purchasing groups and foreign RRGs and to recover certain administrative costs allocated to such processes and services.

The Insurance Division does not currently charge any fees for services provided to purchasing groups and foreign RRGs. In contrast, other states impose fees on purchasing groups, such as California (\$405 initial, \$200 annual renewal), Utah (\$300 initial, \$250 annual renewal), and Oregon, New Jersey, New York, and Louisiana (all \$100 initial). The fees proposed in this bill for purchasing groups and foreign RRGs are reasonable in light of the fees other states charge purchasing groups, the services the Insurance Division provides to purchasing groups and foreign RRGs, and the fact that work done for foreign RRGs is comparable to that done for purchasing groups.

SECTION 2 of the bill adds a new section to article 2, part 1 of chapter 432, HRS, establishing fees for the application and issuance of certificates of authority for FBSs, as well as all other services subsequent to the issuance of the certificate of authority. Extensions of the certificates of authority are for up to three years, and penalties are imposed for failure to extend the certificates within a specified time. All fees and penalties collected are deposited into the compliance resolution fund.

SECTION 3 of the bill amends HRS § 431:2D-102 by amending the definition of "market conduct examination" to differentiate such examination from a financial examination pursuant to article 2, chapter 431.

SECTION 4 of the bill amends HRS § 431:3-214 to clarify the Commissioner has the authority to extend certificates of authority and adds the thirty-day written notice

requirement to be consistent with current practice and proposed changes to chapters 432, 432D, and 432G.

SECTION 5 of the bill amends HRS § 431:5-307 to conform that section to the National Association of Insurance Commissioners' ("NAIC") Standard Valuation Model Law. The term "disability income" and "disability income benefits" are the correct terms to use and better reflect the meaning intended by the NAIC's Standard Valuation Model Law.

SECTION 6 of the bill amends subsections (a) and (c) of HRS § 431:7-101 to clarify the fees for the application and issuance of certificates of authority and the fee for the application for solicitation permits, as well as require written notice of delinquency and penalties for failure to extend the certificates of authority.

SECTION 7 of the bill amends HRS § 431:10-102 by amending the definition of "contract" to make clear that the readability requirements apply to health insurance contracts and by amending the definition of "insurer" to include MBSs.

SECTION 8 of the bill repeals the requirement in HRS § 431K-3(2)(A) that foreign RRGs file financial statements with the Insurance Division. Since this information is filed with the NAIC and can be accessed electronically, this amendment would eliminate unnecessary paper filings and increase physical storage space.

SECTION 9 of the bill amends HRS § 431K-9 to provide that all penalties collected under this section and § 431K-A shall be deposited into the compliance resolution fund.

SECTION 10 of the bill amends HRS § 431K-10 to provide that all penalties collected under this section and § 431K-B shall be deposited into the compliance resolution fund.

SECTION 11 of the bill amends HRS § 432:1-102(b) to provide that § 431:10-102 shall apply to managed care plans, HMOs, or medical indemnity or hospital service associations owned or controlled by MBSs, provided the application complies with and is not preempted by applicable federal statutes and regulations.

SECTION 12 of the bill amends HRS § 432:1-108 by establishing fees for applications for certificates of authority and registration, making fees for issuance of certificates of authority for MBSs consistent with other entities, and establishing fees for all other services subsequent to the issuance of the certificate of authority. Extensions of the certificates are for up to three years, penalties are imposed for failure to extend the certificates within a specified time, and thirty days' advance written notice of the extension date is required.

SECTION 13 of the bill amends HRS § 432:1-301 to clarify MBS extensions of certificates of authority must comply with § 432:1-108.

SECTION 14 of the bill amends HRS § 432:2-602 to delete filing fees, as the newly created fees section for FBSs addresses depositing fees and penalties into the compliance resolution fund.

SECTION 15 of the bill amends HRS § 432:2-603 by clarifying the annual date for licensure, referencing the newly created section for FBS fees, and allowing for extensions of certificates of authority.

SECTION 16 of the bill amends HRS § 432:2-701 to conform the service of process fee for FBSs to that of other authorized insurers.

SECTION 17 of the bill amends HRS § 432:2-703 to provide that all penalties collected pursuant to this section and § 432:2-___ shall be deposited into the compliance resolution fund.

SECTION 18 of the bill amends subsections (a) and (b) of HRS § 432D-17 by increasing fees for applications and issuance of certificates of authority for HMOs, thereby maintaining consistency with applicable fees for insurers set forth in chapter 431. Written notice of any failure to extend the certificates and imposition of penalties are required.

SECTION 19 of the bill amends HRS § 432E-36(g) to correct an erroneous citation to § 432E-5; the correct citation is § 432E-33(a).

SECTIONS 20 and 21 of the bill amend HRS § 432G-12 by establishing fees for the application and issuance of certificates of authority to dental insurers and by

maintaining consistency with applicable fees for insurers set forth in chapter 431. Advance written notice shall be provided to dental insurers of the extension dates for certificates of authority and any imposition of penalties.

SECTION 22 adds a new section to chapter 431:14G, HRS, to expressly prohibit ratering of rates approved by the Commissioner since the health insurance rate regulation statute (chapter 431, article 14G, HRS) currently has no such explicit provision.

SECTION 23 adds a new section to chapter 432, article 1, HRS, to provide for the suspension, revocation, or denial of an MBS's certificate of authority under certain conditions since the MBS statute (chapter 432, article 1, HRS) currently has no such provision, whereas the HMO statute (chapter 432D, HRS) has such a provision.

SECTION 24 amends the title of chapter 431M, HRS, to conform the title of the chapter to the 2013 legislative revisions to chapter 431M, HRS.

SECTION 25 amends the definition of "partial hospitalization services" in § 431M-1, HRS, since this term is no longer in the statute; rather, the statute uses the term "partial hospitalization" in § 431M-4(b)(3), HRS. SECTION 25 also repeals the definition of "serious mental illness" in § 431M-1, HRS, since the 2013 legislature revised chapter 431M, HRS, and the term is no longer in chapter 431M, HRS.

SECTION 26 amends the definition of "emergency services" in § 432E-1, HRS, to conform state law to the PPACA, which recognizes severe pain as an acute symptom of sufficient severity to be an emergency medical condition.

Again, the Department respectfully requests one amendment to the bill as follows: Change the effective date of bill in section 29, page 56, line 18, to July 1, 2015, or "upon its approval."

We thank this Committee for the opportunity to present testimony on this matter, and ask for your favorable consideration.