

Honolulu, Hawaii

FEB 11 2016

RE: S.B. No. 3105  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred S.B. No. 3105 entitled:

"A BILL FOR AN ACT RELATING TO HEALTH CARE REFERRALS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require a health care provider who refers patients to facilities in which the health care provider has a financial interest to disclose the financial interest to the patient; and
- (2) Specify that failure to disclose a financial interest to a patient is an unfair and deceptive trade act or practice.

Your Committee received testimony in support of this measure from the Insurance Division of the Department of Commerce and Consumer Affairs and one individual. Your Committee received testimony in opposition to this measure from the Hawaii Medical Association and Pacific Radiation Oncology LLC.

Your Committee finds that self-referrals, which occur when a health care provider refers a patient for services or treatments at facilities in which the health care provider has a financial interest, raise questions about financial and medical conflicts of interest. Self-referrals may lead to overutilization of expensive treatments and services, which may therefore increase the cost of



insurance. Your Committee further finds that this measure provides important safeguards for Hawaii patients when they are referred for services or treatments at facilities in which a health care provider has a financial interest and will enable patients to make better informed choices about their health care.

Your Committee additionally finds that, according to testimony from the Insurance Division, except for the limited provision in the motor vehicle insurance code that regulates health care provider referral conduct, the Insurance Division does not regulate the activities of health care providers. Your Committee therefore concludes that the prohibition on self-referral practices proposed by this measure may be better placed in a chapter of the Hawaii Revised Statutes outside of the insurance code.

Accordingly, your Committee has amended this measure by:

- (1) Moving language on prohibited health care provider self-referral practices from the insurance code to chapter 451D, Hawaii Revised Statutes, relating to health care professionals;
- (2) Removing the provision that would have made this measure apply retroactively to January 1, 2008;
- (3) Inserting an effective date of January 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3105, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3105, S.D. 1, and be referred to your Committee on Judiciary and Labor.



Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Health,

*Rosalyn H Baker*

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ROSALYN H. BAKER, Chair



