SENATE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS, MUTUAL BENEFIT SOCIETIES, AND HEALTH MAINTENANCE ORGANIZATIONS TO PROVIDE COVERAGE FOR MEDICALLY NECESSARY COGNITIVE REHABILITATION THERAPY FOR SURVIVORS OF TRAUMATIC BRAIN INJURY.

WHEREAS, traumatic brain injury is damage to the brain, not of a degenerative or congenital nature, that is caused by an external force; and

WHEREAS, traumatic brain injury may produce a diminished or altered state of consciousness and may result in an impairment of cognitive abilities or physical functioning; and

WHEREAS, traumatic brain injury is a leading cause of death and disability among children and young adults; and

WHEREAS, cognitive rehabilitation, a systematically applied set of medical and therapeutic services designed to improve cognitive functioning and participation in activities that may be affected by difficulties in one or more cognitive domains, is central to brain injury rehabilitation; and

WHEREAS, cognitive rehabilitation therapy services are often provided by physicians, psychologists, physical therapists, occupational therapists, and speech-language pathologists; and

WHEREAS, survivors of traumatic brain injury can lead full lives thanks to lifesaving medical techniques and cognitive rehabilitation therapy; however, survivors face a long rehabilitation process that may not be covered by certain health benefit plans; and
WHEREAS, section 23-51, Hawaii Revised Statutes, requires that "[b]efore any legislative measure that mandates health insurance coverage for specific health services, specific diseases, or certain providers of health care services as part of individual or group health insurance policies, can be considered, there shall be concurrent resolutions passed requesting the auditor to prepare and submit to the legislature a report that assesses both the social and financial effects of the proposed mandated coverage"; and

WHEREAS, section 23-51, Hawaii Revised Statutes, further provides that "[t]he concurrent resolutions shall designate a specific legislative bill that:

(1) Has been introduced in the legislature; and

(2) Includes, at a minimum, information identifying the:

(A) Specific health service, disease, or provider that would be covered;

(B) Extent of the coverage;

(C) Target groups that would be covered;

(D) Limits on utilization, if any; and

(E) Standards of care"; and

WHEREAS, section 23-52, Hawaii Revised Statutes, further specifies the minimum information required for assessing the social and financial impact of the proposed health coverage mandate in the Auditor's report; and

WHEREAS, S.B. No. 225, S.D. 1, has been introduced during the Regular Session of 2017 and mandates health insurers, mutual benefit societies, and health maintenance organizations to provide coverage for medically necessary cognitive rehabilitation therapy for survivors of traumatic brain injury, beginning January 1, 2018; and
WHEREAS, the Auditor last conducted an impact assessment report on cognitive rehabilitation in 2004, pursuant to S.C.R. No. 37 (2004); and

WHEREAS, Auditor's Report No. 04-11 reported an inconclusive finding regarding mandated coverage for cognitive rehabilitation and noted that the Auditor's determination was "hampered by the lack of a standard definition [of cognitive rehabilitation] and more effective evidence on effective treatments. Experts and current literature support the need for more definitive scientific studies. The issue should be revisited when those studies become available."; and

WHEREAS, since Auditor's Report No. 04-11 was issued, a range of studies on the treatment of traumatic brain injuries have been published; and

WHEREAS, the incidence of traumatic brain injury continues to increase, particularly among veterans who have returned from serving in combat missions overseas; and

WHEREAS, the Legislature believes that a follow up analysis to Auditor's Report No. 04-11 is warranted; and

WHEREAS, the Legislature also believes that mandatory coverage for medically necessary cognitive rehabilitation therapy for survivors of traumatic brain injury, as provided in S.B. No. 225, S.D. 1, Regular Session of 2017, will substantially reduce illness and help survivors of traumatic brain injuries in this State lead full, productive lives; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017, the House of Representatives concurring, that the Auditor is requested to conduct an assessment, pursuant to sections 23-51 and 23-52, Hawaii Revised Statutes, of the social and financial effects of mandating health insurers, mutual benefit societies, and health maintenance organizations to provide coverage for medically necessary cognitive rehabilitation therapy for survivors of traumatic brain injury effective January 1, 2018,
as provided in S.B. No. 225, S.D. 1, Regular Session of 2017; and

BE IT FURTHER RESOLVED that the Auditor is requested to consider the following definition of cognitive rehabilitation: "a systematically applied set of medical and therapeutic services designed to improve cognitive functioning and participation in activities that may be affected by difficulties in one or more cognitive domains"; and

BE IT FURTHER RESOLVED that the Auditor is requested to determine whether medically necessary cognitive rehabilitation therapy for survivors of traumatic brain injury is a rehabilitative and habilitative service for which coverage is required as an essential health benefit pursuant to the federal Patient Protection and Affordable Care Act; and

BE IT FURTHER RESOLVED that the Auditor is also requested to consider peer-reviewed research and other studies on the treatment of traumatic brain injuries that have been published since Auditor's Report No. 04-11 was issued, such as the following:


(3) The Society for Cognitive Rehabilitation, Inc., Recommendations for Best Practice in Cognitive Rehabilitation Therapy: Acquired Brain Injury, 2004; and

(4) Institute of Medicine, Cognitive Rehabilitation Therapy for Traumatic Brain Injury: Evaluating the
Evidence, Washington, D.C.: The National Academies Press, 2011; and

BE IT FURTHER RESOLVED that the Auditor is requested to submit its findings and recommendations to the Legislature, including any necessary implementing legislation, no later than twenty days prior to the convening of the Regular Session of 2018; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Auditor and the Insurance Commissioner, who in turn is requested to transmit copies to each insurer in the State that issues health insurance policies, contracts, plans, or agreements.