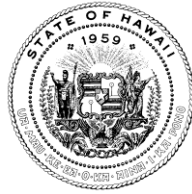


# HB 1520

Measure Title: RELATING TO INSURANCE.  
Report Title: Limited-Duration Health Insurance; Prohibited  
Description: Prohibits health insurers from providing limited-duration health insurance coverage in the State. (HB1520 HD2)  
Companion:  
Package: None  
Current Referral: CPH  
Introducer(s): MCKELVEY



DAVID Y. IGE  
GOVERNOR

DOUGLAS S. CHIN  
LIEUTENANT GOVERNOR

**STATE OF HAWAII  
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**TO THE SENATE COMMITTEE ON  
COMMERCE, CONSUMER PROTECTION, AND HEALTH**

**TWENTY-NINTH LEGISLATURE  
Regular Session of 2018**

Tuesday, March 13, 2018  
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 1520, H.D. 2, RELATING TO INSURANCE.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 1520, H.D. 2, Relating to Insurance. My name is Gordon Ito, and I am the Insurance Commissioner for the Department’s Insurance Division (“Division”). The Department submits the following comments.

The purpose of this bill is to prohibit limited-duration health insurance with a specified duration of less than ninety-one days. While the Department understands the intent to improve the risk in Hawaii’s individual Affordable Care Act (“ACA”) market by seeking to retain healthier individuals in the ACA marketplace, the proposed ban in H.B. 1520, H.D.2 will greatly impact a small segment of Hawaii consumers without any guarantee that the individual ACA pool will include a greater number of healthy individuals. To the extent that limited-duration health insurance may destabilize the individual market in Hawaii, the proposed draft prohibiting limited-duration insurance may not effectively address this concern.

Short-term, limited-duration insurance (“STLD”) is a type of insurance that is designed to fulfill temporary gaps in coverage that may occur when an individual is transitioning from one plan or coverage to another plan or coverage, such as when an individual is between employment. The Department notes filings of STLDs with the Division as early as 2003. However, STLD was not designed to compete with individual, comprehensive, major medical plans required by the ACA. Prior to the ACA, STLDs were originally defined as less than twelve months in duration by Federal Rule. Apart from their duration, the significant difference between an STLD plan and all ACA plans is that STLDs typically include a preexisting condition exclusion.

STLDs serve a specific niche. Limited-duration health insurance can serve a narrow market, such as a consumer who has missed the open enrollment or special enrollment period for ACA plans. In this example, short term limited duration health insurance provides an alternative to being uninsured in the market.

Thank you for the opportunity to testify on this measure.

Testimony of  
Jonathan Ching  
Government Relations Specialist

Before:  
Senate Committee on Commerce, Consumer Protection, and Health  
The Honorable Rosalyn H. Baker, Chair  
The Honorable Jill N. Tokuda, Vice Chair

March 13, 2018  
9:00 a.m.  
Conference Room 229

**Re: HB1520 HD2, Relating to Insurance**

Chair Baker, Vice-Chair Tokuda, and committee members, thank you for this opportunity to provide testimony on HB1520 HD2, which prohibits health insurers from offering or providing limited-duration health insurance coverage in the State of Hawai‘i.

**Kaiser Permanente Hawai‘i SUPPORTS HB1520 HD2**

In October 2017, President Trump issued an Executive Order instructing the Departments of Health and Human Services, Labor, and the Treasury to consider proposing regulations or revising guidance to promote healthcare choice and competition by expanding the availability of short-term, limited-duration insurance. As a direct result of this, on Tuesday, February 20, 2018, the Departments issued a proposed rule that would change the maximum duration of such coverage to less than 12 months, as opposed to the current maximum duration of less than three months.

Kaiser Permanente Hawai‘i has concerns that if this federal rule goes into effect, it would hurt our residents as we believe that short-term, limited-duration insurance plans lack consumer protections. They typically exclude coverage of people with pre-existing medical conditions, limit the dollar amount of benefits that a person can receive from the plan, and omit many of the essential health benefits that are currently required of plans on the individual market, including maternity care, prescription drugs, mental health treatment, and substance-use disorder services.

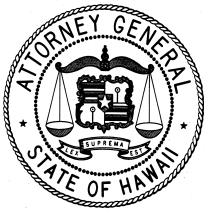
We believe that the goal of a well-functioning individual health insurance market is to provide affordable coverage options for all people who purchase their own coverage, regardless of health status. A well-functioning market requires broad-based enrollment and a stable regulatory environment that facilitates fair competition. Policies that encourage healthy people to enroll in alternatives to individual health insurance coverage (such as short-term, limited-duration insurance plans), destabilize the individual health insurance market and lead to increases in health insurance premiums for comprehensive coverage. The segregation of the market has a particularly harmful

impact on those with pre-existing conditions who may not be able to buy a short-term, limited-duration insurance plan.

We believe that Hawai‘i should protect its residents and markets by banning short-term plans that do not meet insurance market rules.

Finally, we note that New York, New Jersey, Massachusetts and Vermont currently prohibit short-term, limited-duration insurance plans. In addition, the California Legislature is currently considering a bill (SB910), which would ban the sale of short-term, limited-duration insurance plans instead of imposing a time limit.

Thank you for the opportunity to testify on this important measure.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2018**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1520, H.D. 2, RELATING TO INSURANCE.

**BEFORE THE:**

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

**DATE:** Tuesday, March 13, 2018

**TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Russell A. Suzuki, Acting Attorney General, or  
Daniel K. Jacob, Deputy Attorney General

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Chair Baker and Members of the Committee:

The Department of the Attorney General provides the following comments on this measure.

The purpose of this bill is to prohibit health insurers from providing limited-duration health coverage in the State.

For purposes of this bill, "limited-duration health insurance coverage" is defined as "health insurance coverage provided to an individual under a contract offered by a licensed health insurer, regardless of the situs of the delivery of the policy or contract, that has a specified, limited duration of less than ninety-one days and does not meet all of the requirements otherwise applicable to individual health insurance coverage."

The federal government currently defines "short-term, limited-duration insurance" as health insurance coverage that is "less than *3 months* after the original effective date of the contract . . ." See 26 C.F.R. 54.9801-2, 29 C.F.R. 2590.701-2, and 45 C.F.R. 144.103. (Emphasis added).

On February 21, 2018, however, the federal government issued proposed rules that would change the definition of "short-term, limited duration insurance" as "health insurance coverage . . . that is less than *12 months* after the original effective date of the contract . . ." (Emphasis added).

Under federal law, short-term, limited duration insurance does not need to comply with all of the federal requirements of the Affordable Care Act. If the intent of this bill is to prohibit the sale of short-term, limited duration insurance that does not comply with the ACA or state requirements otherwise applicable to individual health insurance coverage, this bill might not cover all such policies if the federal regulations are amended. If you wish to do so, we recommend that section 1 of the bill be amended to read as follows:

**§431:10A- Limited-duration health insurance prohibited.** (a) No health insurer shall offer or provide limited-duration health insurance coverage to individuals in the State.

(b) For the purposes of this section, "limited-duration health insurance coverage" means health insurance coverage provided to an individual under a contract offered by a licensed health insurer, regardless of the situs of the delivery of the policy or contract, that has a specified, limited duration of less than ninety-one days or such other time period as the insurance commissioner may set by policy, exempted from chapter 91, to conform to federal definitions, and does not meet all of the requirements otherwise applicable to individual health insurance coverage."

For purposes of clarity, we have only underlined the additional proposed wording.

Thank you for the opportunity to provide testimony.



March 13, 2018

The Honorable Rosalyn H. Baker, Chair  
The Honorable Jill N. Tokuda, Vice Chair  
Senate Committee on Commerce, Consumer Protection, and Health

Re: HB 1520, HD2 – Relating to Insurance

Dear Chair Baker, Vice Chair Tokuda, and Committee Members:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to provide comments on HB 1520, HD2, which prohibits health insurers from providing limited-duration health insurance coverage in the State. HMSA respectfully asks the Committee to consider amending the bill to reflect the HD1 version of the measure.

Earlier this year the U.S. Department of Labor (DOL) issued new proposed rules regarding short term limited duration health plans (STLD). These types of plans are generally intended for interim use; however, the new proposed rules have resulted in some people instead using this as their regular insurance. Under the proposed rules, plans can be issued for up to 364 days (old rules 90 days) and may not provide comprehensive coverage in many cases. In addition, some STLD plans limit coverage for preventative services, and can exclude coverage for pre-existing conditions. Such plans could, without adequate state regulations, erode the benefits of Hawaii's Prepaid Health Care Act and the federal Affordable Care Act.

Therefore, rather than prohibiting health insurers from providing limited duration health insurance coverage, HMSA would like to ask the Committee to consider amending this measure back to the HD1 version in order to continue to allow STLD plans to be offered in the state with an established system of regulation detailing the limitations of the plan and to limit their duration. Additionally, the HD1 affirms the Insurance Commissioner's regulatory oversight of limited duration health plans offered within the state to ensure protection of Hawaii's consumers. We also ask that the Bill's effective date be amended to "upon approval."

Thank you for allowing us to provide comments on HB 1520, HD2.

Sincerely,

Pono Chong  
Vice-President, Government Relations