

JAN 22 2015

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the current workers'
2 compensation system is at times inadequate in providing timely
3 relief to workers injured in the course of their employment.
4 Patients processed through the workers' compensation system
5 often receive treatment that is disparate from similar treatment
6 provided through other means. It is necessary to establish a
7 high level of quality assurance and treatment standards, with
8 treatment protocols and utilization guidelines based upon
9 customary practices for the utilization of appropriate
10 diagnostic tests and medical treatments.

11 The purpose of this Act is to authorize groups of health
12 care providers to organize as coordinated care organizations for
13 the provision of medical care, services, and supplies under
14 Hawaii's workers' compensation law. It is the legislature's
15 intent that coordinated care organizations provide injured
16 workers with the requisite medical care, services, and supplies
17 in a manner that is timely, effective, and convenient for the



1 worker, with the objective of making the worker whole and
2 returning the worker to employment in the most expedient manner.

3 SECTION 2. Chapter 386, Hawaii Revised Statutes, is
4 amended by adding a new part to be appropriately designated and
5 to read as follows:

6 "PART . COORDINATED CARE ORGANIZATIONS

7 §386-A Definition. As used in this part, "attending
8 physician" means a physician who is primarily responsible for
9 the treatment of an injured employee's compensable injuries and
10 who is a doctor of medicine or osteopath licensed under chapter
11 453.

12 §386-B Coordinated care organizations filing; guidelines.

13 (a) Any group of health care providers may file with the
14 director a plan to provide medical care, services, and supplies
15 to injured workers as a coordinated care organization under this
16 part. The filing shall set forth information regarding
17 compliance of the proposed plan with the requirements of this
18 section.

19 (b) A coordinated care organization plan qualifying under
20 this part shall:



- 1 (1) Include established quality assurance and treatment
2 standards, with treatment protocols and utilization
3 guidelines based upon customary practices for the
4 utilization of appropriate diagnostic tests and
5 medical treatments, to provide an injured worker with
6 all the medical care, services, and supplies required
7 by this chapter in a manner that is timely, effective,
8 and convenient for the worker, so long as reasonably
9 needed as the nature of the injury requires;
- 10 (2) Include a list of the health care providers who will
11 provide services under the coordinated care
12 organization, together with evidence of compliance by
13 the individual health care providers with credential
14 requirements established by law and of professional
15 liability insurance in the amounts required by the
16 coordinated care organization;
- 17 (3) Include peer review of the plan's health care
18 providers, using a review committee the majority of
19 whose members are licensed health care providers,
20 including licensed providers with similar types and
21 degrees of expertise as the provider being evaluated;



- 1 (4) Include a quality assurance review committee to
2 evaluate the appropriate use of resources to ensure
3 appropriate treatment or to prevent inappropriate or
4 excessive treatment, and to improve the quality of
5 medical care, services, and supplies by assessing and
6 making necessary improvements to the quality of
7 medical care, services, and supplies;
- 8 (5) Not discriminate against, or exclude from
9 participation, any category of health care providers;
- 10 (6) Include an adequate number of each category of health
11 care providers to give injured employees adequate
12 flexibility to choose health care providers from among
13 those individuals who provide services under the plan;
- 14 (7) Allow workers to receive medical care from an
15 attending physician who is not a member of the
16 coordinated care organization, but who maintains the
17 injured worker's medical records and with whom the
18 injured worker has a documented history of treatment;
19 provided that the attending physician agrees to:
- 20 (A) Refer the injured worker to the coordinated care
21 organization for any specialized treatment; and



- 1 (B) Comply with all rules, terms, and conditions
- 2 relating to services performed by the coordinated
- 3 care organization;
- 4 (8) Provide appropriate financial incentives to reduce
- 5 service costs and utilization without sacrificing the
- 6 quality of service;
- 7 (9) Include access to workplace safety and injury
- 8 prevention consultative programs involving workers,
- 9 employers, insurers, and the coordinated care
- 10 organization to promote workplace health and safety;
- 11 (10) Include access to return to work programs and
- 12 vocational rehabilitation programs for injured
- 13 workers;
- 14 (11) Include surveys of employers and employees to
- 15 determine satisfaction with provided services;
- 16 (12) Include access for workers' compensation case
- 17 management inquiries; and
- 18 (13) Include timely and accurate reporting to the
- 19 department of medical care, services, and supplies
- 20 utilization; customer complaints and satisfaction; and



1 costs to enable the department to evaluate of the
2 effectiveness of the organization's plan.

3 (c) Notwithstanding section 386-26, coordinated care
4 organizations shall establish protocols and guidelines for
5 treatment and utilization of medical care and services that are
6 necessary to furnish medical care, services, and supplies for
7 injured workers.

8 (d) Notwithstanding any law to the contrary, a coordinated
9 care organization may designate any health care provider or
10 category of health care providers as attending physicians.

11 **§386-C Coordinated care organization; selection.** (a) An
12 employer or insurer of an employer may contract with one or more
13 coordinated care organizations to furnish to injured workers all
14 medical care, services, and supplies required, so long as
15 reasonably needed as the nature of the injury requires.

16 Employers shall give notice to employees of eligible health care
17 providers in the contracted coordinated care organizations and
18 the manner in which medical services may be received. An
19 employee choosing not to receive medical care from a coordinated
20 care organization shall receive medical care, services, and
21 supplies as provided in part II.



1 (b) Notwithstanding section 386-21 and except as provided
2 in section 386-C(c), when an employer or insurer of an employer
3 contracts with a coordinated care organization to furnish all
4 medical care, services, and supplies, an injured employee not
5 receiving medical care from an attending physician as provided
6 in section 386-B(b)(7) or choosing to receive medical care,
7 services, and supplies under part II shall select an attending
8 physician within the coordinated care organization.

9 (c) An injured employee may receive immediate emergency
10 medical treatment from a health care provider who is not a
11 member of the coordinated care organization. Except when an
12 injured employee chooses to receive medical care from an
13 attending physician as provided in subsection 386-B(b)(7) or
14 under part II, after the emergency treatment, the injured
15 employee utilizing a coordinated care organization plan shall
16 select an attending physician within the coordinated care
17 organization as soon as reasonably possible.

18 **§386-D Coordinated care organization; fees for services**
19 **and utilization guidelines.** Notwithstanding sections 386-21 and
20 386-26, the director shall exclude the medical services
21 performed by a coordinated care organization from the



1 application of medical fees, schedules, and treatment
2 utilization guidelines. A coordinated care organization shall
3 negotiate fees for medical services and establish treatment
4 protocols and utilization guidelines. In determining charges
5 and adopting a fee schedule based upon those determinations, the
6 charges established by a coordinated care organization shall not
7 exceed one hundred forty per cent of fees prescribed in the
8 Medicare Resource-Based Relative Value Scale system applicable
9 to Hawaii as prepared by the United States Department of Health
10 and Human Services, except as authorized by the director. A
11 non-member attending physician providing medical care to an
12 injured worker as provided in subsection 386-B(b)(7) shall
13 receive fees for service according to the coordinated care
14 organization fee schedule."

15 SECTION 3. Section 386-21, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) [~~Whenever~~] Except as provided in part , whenever
18 medical care is needed, the injured employee may select any
19 physician or surgeon who is practicing on the island where the
20 injury was incurred to render medical care. If the services of
21 a specialist are indicated, the employee may select any



1 physician or surgeon practicing in the State. The director may
2 authorize the selection of a specialist practicing outside the
3 State where no comparable medical attendance within the State is
4 available. Upon procuring the services of a physician or
5 surgeon, the injured employee shall give proper notice of the
6 employee's selection to the employer within a reasonable time
7 after the beginning of the treatment. If for any reason during
8 the period when medical care is needed, the employee wishes to
9 change to another physician or surgeon, the employee may do so
10 in accordance with rules prescribed by the director. If the
11 employee is unable to select a physician or surgeon and the
12 emergency nature of the injury requires immediate medical
13 attendance, or if the employee does not desire to select a
14 physician or surgeon and so advises the employer, the employer
15 shall select the physician or surgeon. The selection, however,
16 shall not deprive the employee of the employee's right of
17 subsequently selecting a physician or surgeon for continuance of
18 needed medical care."

19 SECTION 4. Section 663-1.7, Hawaii Revised Statutes, is
20 amended as follows:

21 1. by amending the title and subsection (a) to read:



1 "§663-1.7 Professional society; peer review committee;
2 ethics committee; hospital, coordinated care organizations, or
3 clinic quality assurance committee; no liability; exceptions.

4 (a) As used in this section:

5 "Ethics committee" means a committee that may be an
6 interdisciplinary committee appointed by the administrative
7 staff of a licensed hospital[7] or coordinated care
8 organization, whose function is to consult, educate, review, and
9 make decisions regarding ethical questions, including decisions
10 on life-sustaining therapy.

11 "Licensed health maintenance organization" means a health
12 maintenance organization licensed in Hawaii under chapter 432D.

13 "Peer review committee" means a committee created by a
14 professional society, or by the medical or administrative staff
15 of a licensed hospital, coordinated care organization, clinic,
16 health maintenance organization, preferred provider
17 organization, or preferred provider network, whose function is
18 to maintain the professional standards of persons engaged in its
19 profession, occupation, specialty, or practice established by
20 the bylaws of the society, hospital, coordinated care
21 organization, clinic, health maintenance organization, preferred



1 provider organization, or preferred provider network of the
2 persons engaged in its profession or occupation, or area of
3 specialty practice, or in its hospital, coordinated care
4 organization, clinic, health maintenance organization, preferred
5 provider organization, or preferred provider network.

6 "Preferred provider organization" and "preferred provider
7 network" means a partnership, association, corporation, or other
8 entity which delivers or arranges for the delivery of health
9 services, and which has entered into a written service
10 arrangement or arrangements with health professionals, a
11 majority of whom are licensed to practice medicine or
12 osteopathy.

13 "Professional society" or "society" means any association
14 or other organization of persons engaged in the same profession
15 or occupation, or a specialty within a profession or occupation,
16 a primary purpose of which is to maintain the professional
17 standards of the persons engaged in its profession or occupation
18 or specialty practice.

19 "Quality assurance committee" means an interdisciplinary
20 committee established by the board of trustees or administrative
21 staff of a licensed hospital, coordinated care organization,



1 clinic, health maintenance organization, preferred provider
2 organization, or preferred provider network, whose function is
3 to monitor and evaluate patient care, and to identify, study,
4 and correct deficiencies and seek improvements in the patient
5 care delivery process."

6 2. By amending subsections (d) and (e) to read:

7 "(d) This section shall not be construed to confer
8 immunity from liability upon any professional society, hospital,
9 coordinated care organization, clinic, health maintenance
10 organization, preferred provider organization, or preferred
11 provider network, nor shall it affect the immunity of any
12 shareholder or officer of a professional corporation; provided
13 that there shall be no civil liability for any professional
14 society, hospital, coordinated care organization, clinic, health
15 maintenance organization, preferred provider organization, or
16 preferred provider network in communicating any conclusions
17 reached by one of its peer review committees, ethics committees,
18 or quality assurance committees relating to the conformance with
19 professional standards of any person engaged in the profession
20 or occupation of which the membership of the communicating
21 professional society consists, to a peer review committee, an



1 ethics committee, or quality assurance committee of another
2 professional society, hospital, coordinated care organization,
3 clinic, health maintenance organization, preferred provider
4 organization, or preferred provider network whose membership is
5 comprised of persons engaged in the same profession or
6 occupation, or to a duly constituted governmental board or
7 commission or authority having as one of its duties the
8 licensing of persons engaged in that same profession or to a
9 government agency charged with the responsibility for
10 administering a program of medical assistance in which services
11 are provided by private practitioners.

12 (e) The final peer review committee of a medical society,
13 hospital, coordinated care organization, clinic, health
14 maintenance organization, preferred provider organization, or
15 preferred provider network, or other health care facility shall
16 report in writing every adverse decision made by it to the
17 department of commerce and consumer affairs[+], or to the
18 department of labor and industrial relations in the case of
19 coordinated care organizations operating under chapter 386;
20 provided that final peer review committee means that body whose
21 actions are final with respect to a particular case; and



1 provided further that in any case where there are levels of
2 review nationally or internationally, the final peer review
3 committee for the purposes of this subsection shall be the final
4 committee in this State. The quality assurance committee shall
5 report in writing to the department of commerce and consumer
6 affairs, or to the department of labor and industrial relations
7 in the case of coordinated care organizations operating under
8 chapter 386, any information [~~which~~] that identifies patient
9 care by any person engaged in a profession or occupation [~~which~~]
10 that does not meet hospital, coordinated care organization,
11 clinic, health maintenance organization, preferred provider
12 organization, or preferred provider network standards and
13 [~~which~~] that results in disciplinary action unless [~~such~~] the
14 information is immediately transmitted to an established peer
15 review committee. The report shall be filed within thirty
16 business days following an adverse decision. The report shall
17 contain information on the nature of the action, its date, the
18 reasons for, and the circumstances surrounding the action;
19 provided that specific patient identifiers shall be expunged.
20 If a potential adverse decision was superseded by resignation or
21 other voluntary action that was requested or bargained for in



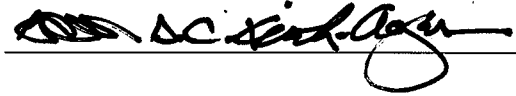
1 lieu of medical disciplinary action, the report shall so state.
2 The department of commerce and consumer affairs and department
3 of labor and industrial relations shall prescribe forms for the
4 submission of reports required by this section. Failure to
5 comply with this subsection shall be a violation punishable by a
6 fine of not less than \$100 for each member of the committee."

7 SECTION 5. If any provision of this Act, or the
8 application thereof to any person or circumstance, is held
9 invalid, the invalidity does not affect other provisions or
10 applications of the Act that can be given effect without the
11 invalid provision or application, and to this end the provisions
12 of this Act are severable.

13 SECTION 6. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect on January 1, 2016.

16

INTRODUCED BY: 

S.B. NO. 170

Report Title:

DLIR; Workers' Compensation; Coordinated Care Organizations

Description:

Authorize groups of health care providers to organize as coordinated care organizations for the provision of medical care, services, and supplies under Hawaii's workers' compensation law. Effective 1/1/2016.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

