



**Testimony to the House Committee on Labor & Public Employment
Tuesday, January 31, 2012
9:00 a.m.
State Capitol - Conference Room 309**

**RE: HOUSE BILL NO. 2583 RELATING TO MEDICAL BENEFITS UNDER THE
WORKERS' COMPENSATION LAW**

Chair Rhoads, Vice Chair Yamashita, and members of the committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I am here to state The Chamber's opposition to House Bill No. 2583 relating to Medical Benefits Under the Workers' Compensation Law.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

Currently, when a treatment plan is submitted, the employer/carrier has just 7 days from postmark to approve or deny the proposed treatment. If the 7 day deadline is not met, the treatment plan is automatically considered approved. If the employer/carrier denies within 7 days, the injured worker/physician has 14 days to request a hearing. Most treatment plans are approved - these usually involve treatment with the attending physician, physical therapy, massage, acupuncture, chiropractic treatment, aquatherapy, etc. Generally, treatment plans are only denied if the treatment seems excessive or does not appear reasonable and necessary. While a treatment plan is disputed, current law requires continuation of treatment which the attending physician deems needed so as not to allow the injured worker's condition to deteriorate.

Allowing the Director to make a decision on disputes regarding treatment plans and continued medical services within 30 days without a hearing contravenes the parties' due process rights. There is insufficient time to obtain supporting evidence such as medical records review or evaluation particularly where the injured worker refuses to sign a medical authorization for release of records or refuses to voluntarily attend medical evaluation as is often the case. It is impossible to conduct any investigation to determine whether the proposed treatment is reasonable and necessary in such a short period of time.

According to the proposed language, the Director could make a decision within days. The Director should have the opportunity to review all evidence from injured worker/attending physician AND employer/medical expert prior to rendering a decision. The decisions made need to be informed

decisions particularly where medical treatment is concerned. This bill is expected to dramatically increase cost of medical care, services, and supplies under workers' compensation and drive up premiums.

For example, an injured worker sustained a work injury to his back in 1994. Over the years he continued to work and function although he also received medical treatment. Unfortunately, his medical treatment consisted almost entirely of increasingly large doses of narcotics. He is now a diagnosed addict. He decided he wants back surgery and found a physician willing to perform it. A medical expert opined the injured worker is not a surgical candidate because of his narcotic addiction and the surgery will not help his condition or alleviate his pain no matter how technically perfect it may be performed. The injured worker must be weaned from the narcotics first. The treatment plan for surgery was denied although employer is willing to pay for a detox program and consider future surgery if appropriate.

If this bill were passed it is entirely likely the injured worker's surgery would have been approved because employer would not have had sufficient time to investigate and obtain an expert medical opinion. This is a huge disservice to the injured worker and could leave him significantly worse off/disabled in the long run.

We urge you to take into consideration the significant unintended consequences that could occur if this bill becomes law. Thank you for the opportunity to provide testimony.