

Hawaii State Legislature  
House Committee on Labor and Public Employment  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

January 23, 2014

*Filed via electronic testimony submission system*

**RE: HB 1974, Workers' Compensation Medical Fee Schedule - NAMIC's Written Testimony for Committee Hearing**

Dear Representative Mark M. Nakashima, Chair; Representative Kyle T. Yamashita, Vice Chair; and members of the House Committee on Labor and Public Employment:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the January 24, 2014, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

The 1,400 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$196 billion in annual premiums, accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market. NAMIC has 69 members who write property/casualty and workers' compensation insurance in the State of Hawaii, which represents 30% of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC's members appreciate the importance of having a medical fee schedule that is fair and commensurate with reasonable medical costs. However, the very purpose of a medical fee schedule is to act a cost-containment mechanism to prevent the ever-rising cost of medical care from adversely impacting the cost of workers' compensation insurance coverage for employers and their workers. NAMIC is concerned that the proposed legislation will be an insurance rate

cost driver that will be detrimental to the entire workers' compensation insurance system in the State of Hawaii.

NAMIC respectfully tenders the following concerns with HB 1974:

**1) The proposed amendment Section 386-21(c), Hawaii Revised Statutes will create needless administrative work for the Director and increase the political pressure on the department to continually increase the medical fee schedule ceiling**

HB 1974 would require the Director to update the medical fee schedule annually, whether a revision is needed or not. Current law provides the Director with discretion to update the medical fee schedule "every three years or annually, as required."

Since current law already allows for an annual update of the fee schedule if one is needed, what is the public policy rationale for mandating an annual medical fee schedule update? If there isn't clear and reliable data that supports the need for an update of the medical fee schedule, why should the Director be required to use limited department resources to update the medical fee schedule annually? In effect, the proposed legislation will subject the department to political pressures each and every year from competing stakeholders, who will be lobbying the department for revisions to the fee schedule that addresses their particular needs.

**2) NAMIC is also concerned that HB 1974 fails to provide any statutory cap on how high the medical fee schedule rate ceiling may be set and fails to provide any statutory guidelines for how the medical fee schedule should be updated.**

The proposed legislation merely states, "[e]ach year, the director may establish a maximum allowable fee ceiling that is higher than one hundred ten per cent of fees prescribed in the Medicare Resource Based Relative Value Scale applicable to Hawaii for evaluation and management medical services as defined by the American Medical Association's Current Procedural Terminology codes."

One could argue that HB 1974 authorizes the Director to establish a maximum allowable fee ceiling at *any level* higher than the one hundred ten percent of fees rate prescribed in the Medicare Resource Based Relative Value Scale. The very purpose of medical fee schedules is to reasonably effectuate cost-containment so that workers' compensation medical costs don't increase to a point where employers are unable to afford the cost of providing their employees with workers' compensation coverage. If there is no set statutory medical fees annual ceiling cap, worker's compensation insurers will be denied necessary underwriting information they need to calculate their claims exposure, which will seriously hinder them in their ability to provide employers with fair and accurate workers' compensation insurance rates.

In closing, NAMIC is opposed to HB 1974, because the proposed legislation is unnecessary and likely to adversely impact the affordability of workers' compensation insurance for employers, which could detrimentally affect the ability of individuals to secure gainful employment in the State of Hawaii and the state's overall economic vitality.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at [crataj@namic.org](mailto:crataj@namic.org), if you would like to discuss NAMIC's written testimony.

Respectfully,

A handwritten signature in black ink, appearing to read "Christian John Rataj". The signature is fluid and cursive, with the first name "Christian" and last name "Rataj" being the most prominent parts.

Christian John Rataj, Esq.  
NAMIC Senior Director – State Affairs, Western Region