JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

STATE OF HAWAII | KA MOKUʻĀINA ʻO HAWAIʻI
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
KA ʻOIHANA PILI KĀLEPA
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
cca.hawaii.gov

NADINE Y. ANDO
DIRECTOR | KA LUNA HOʻOKELE

DEAN I. HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HOʻOKELE

Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committees on Health and Human Services
and
Commerce and Consumer Protection
Monday, February 24, 2025
1:00 p.m.
State Capitol, Conference Room 225 & via Videoconference

On the following measure:
S.B. 1509, RELATING TO PRESCRIPTION DRUGS

Chairs San Buenaventura, Keohokolole, and Members of the Committees:

My name is Jerry Bump, and I am the Acting Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to (1) require health insurers and pharmacy benefit managers to reduce an enrollee's defined cost sharing for a prescription drug by a price amount equal to at least 100 per cent of all rebates received, or to be received, in connection with the dispensing or administration of the prescription drug; (2) require a pharmacy benefit manager to submit a certification to the Insurance Commissioner by January 1 of each calendar year certifying compliance with the cost sharing requirements; and (3) establish protections for the publishing of certain confidential or proprietary information by health insurers or pharmacy benefit managers (PBMs).

Section 1 of the bill applies to health care insurers under chapter 431:10A and requires those entities to share the benefits of prescription drug rebates with enrollees in the state. We note that it is unclear whether the new part created by section 1 is intended to be applicable to mutual benefit societies under chapter 432 and health maintenance organizations under chapter 432D.

Thank you for the opportunity to testify.

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
DEPARTMENT OF HEALTH - *KA ʻOIHANA OLAKINO*

JOSH GREEN, M.D.
GOVERNOR OF HAWAIʻI
KE KIAʻĀINA O KA MOKUʻĀINA ʻO HAWAIʻI

KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HOʻOKELE

JOHN C. (JACK) LEWIN, M.D.
ADMINISTRATOR

February 21, 2025

To: SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES
Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair and
Honorable Members

From: Jack Lewin MD, Administrator, SHPDA and
Sr. Advisor to Governor Josh Green MD on Healthcare Innovation

Regarding: **SB1509 – Relating to Prescription Drugs**

Hearing: Monday, February 24, 2025 @ 1:00 pm

Position: SUPPORT

Testimony:

SHPDA strongly supports this measure which requires health insurers and pharmacy benefit managers (PBMS) to reduce an enrollee's defined cost sharing for a prescription drug by a price amount equal to at least 100 per cent of all rebates received, or to be received, in connection with the dispensing or administration of the prescription drug. It also requires a pharmacy benefit manager (PBM) to submit a certification to the Insurance Commissioner by January 1 of each calendar year certifying compliance with the cost sharing requirements.

Many states have enacted similar legislation due to concerns about PBM practices which create adverse “rebate” incentives that increase costs for the patient-consumer over the actual and more affordable price that could otherwise be offered. This practice, in turn, also increases healthcare costs to purchasers of healthcare, including state governments.

Thank you for the opportunity to testify.

HAWAII INSURERS COUNCIL
A trade association of property and casualty insurance companies

Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877

Alison H. Ueoka
President

TESTIMONY OF MILIA LEONG

COMMITTEE ON HEALTH AND HUMAN SERVICES
Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

Monday, February 24, 2025
1:00 p.m.

SB 1509

Chair San Buenaventura, Vice Chair Aquino, and members of the Committee on Health and Human Services, and Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee on Commerce and Consumer Protection, my name is Milia Leong, Executive Claims Administrator for HEMIC Insurance Managers, Inc., and Chair of the Workers' Compensation Policy Committee for Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** this bill. Over the counter drugs in workers' compensation should not be dispensed by any physician. This bill would unnecessarily add costs to the system where over the counter drugs are readily available. If any physician feels the need to provide over the counter drugs to an injured worker, the reimbursement amount should be the average retail cost.

Thank you for the opportunity to testify.

Infusion Access Foundation

Hawai'i State Legislature
Senate Health and Human Services Committee
415 South Beretania Street
Honolulu, HI 96813

February 24, 2025

Re: Support for SB 1509

Dear Committee Members,

On behalf of infusion patients throughout Hawaii, we respectfully urge your support for SB 1509 during the upcoming Senate Health and Human Services Committee hearing on February 24. This legislation is a crucial step in ensuring that those who rely on life-saving infusion therapies can access their medications affordably and without disruption.

The Infusion Access Foundation is a nonprofit advocacy organization committed to safeguarding access to infusions and injections. We support patients across all disease states, striving to expand access to the therapies that allow them to live healthier, fuller lives. In addition to our grassroots advocacy efforts, we work directly with individuals facing significant obstacles to care.

Pharmacy Benefit Managers (PBMs) and health care insurers continue to drive up the cost of prescription drugs by holding onto manufacturer rebates rather than passing the savings on to patients. As a result, out-of-pocket costs remain unnecessarily high, placing financial strain on patients and limiting access to critical treatments.

SB 1509 will:

- Ensure that 100% of manufacturer rebates are applied to reduce patients' out-of-pocket costs, making prescription drugs more affordable.
- Increase transparency in the handling of drug rebates, preventing PBMs and insurers from profiting at the expense of patients.
- Lower financial barriers to essential treatments, ensuring that patients benefit directly from negotiated savings.

Infusion Access Foundation

For those requiring infusion therapies, timely and affordable access to medication is not a luxury. SB 1509 represents a vital reform to promote fair pricing, enhance transparency, and prioritize patients' needs over corporate profits.

We strongly encourage a YES vote on SB 1509 to help ensure fair, transparent, and affordable prescription drug pricing in Hawaii.

Thank you for your time and consideration.

Sincerely,

Alicia Barron, LGSW
Executive Director
Infusion Access Foundation

To: Chair Buenaventura, Vice Chair Aquino and Members of House Committee on Health & Human Services; Chair Keohokalole, Vice Chair Fukunaga, and Members of Senate Committee on Commerce and Consumer Protection

From: Alliance for Transparent and Affordable Prescriptions (ATAP) Action Network

Date: February 24, 2025

Re: Support for Hawaii SB1509 – Prescription Drug Cost Sharing

On behalf of the Alliance for Transparent and Affordable Prescriptions (ATAP) Action Network, I am writing to express our support for **Hawaii SB1509** and ask that the committee advance this legislation. **Hawaii SB1509** seeks to ensure that patients do not pay inflated costs for their prescriptions by increasing transparency and accountability for Pharmacy Benefit Managers (PBMs).

Founded in 2017, ATAP works to address prescription drug costs and patient access to affordable treatment by regulating PBM practices and reforming the drug industry through educational outreach and grassroots advocacy initiatives at both the state and federal levels. ATAP is concerned about the role PBMs play regarding the alarming price increases in the total cost and out-of-pocket costs of prescription drugs for patients, resulting in the loss of patient access to affordable and life-saving medications. As you may be aware, PBMs are third-party entities that are hired by insurers and health plan sponsors to manage and administer prescription drug benefit plans. Using their intermediary position, PBMs:

- Negotiate rebates and discounts with pharmaceutical manufactures in exchange for including the manufacturer's drug on the PBMs tiered formulary.
- Determine which medication the PBM will cover and how much the patient will pay for their medication per the tiered formularies.
- Negotiate rebates and discounts for medications, meant to drive down the cost of medications for patients, which are pocketed by the PBMs within opaque contracts.
- Prohibit pharmacists from informing patients that the copayment amount for their medications may be higher than paying the retail ("cash") price for their medication.

Hawaii SB1509 seeks to remedy these practices requiring that 100% percent of rebates received by PBMs are passed through to patients. It would also require PBMs to submit annual compliance certifications to the Insurance Commissioner on the cost sharing requirements. These reforms would address a major market distortion in our current drug pricing system, remove the incentive for PBMs to prefer drugs with high list prices, and ensure Hawaii patients are better able to afford their prescription medications at the pharmacy counter.

ATAP is happy to be a resource as the committees considers **Hawaii SB1509.** If you have any questions about our position, or if you would simply like to learn more about how PBMs operate in the marketplace, please contact: Eleni Valanos at evalanos@hhs.com.

Sincerely,

Michael Schweitz, MD
President, ATAP Action Network

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 23, 2025

TO: Senator Joy A. San Buenaventura
Chair, Senate Committee on Health and Human Services

Senator Jarrett Keohokalole
Chair, Senate Committee on Commerce and Consumer Protection

FROM: Tiffany Yajima

RE: **S.B. 1509 - Relating to Prescription Drugs**
Hearing Date: Monday, February 24, 2025 at 1:00 p.m.
Conference Room: 225

Dear Chair San Buenaventura, Chair Keohokalole, and Members of the Joint Committees:

We submit this testimony on behalf of Walgreen Co. ("Walgreens"). Walgreens operates stores at more than 9,000 locations in all 50 states, the District of Columbia, and Puerto Rico. In Hawaii, Walgreens has 13 stores on the islands of Oahu and Maui.

Walgreens **supports** S.B. 1509 and supports amendments to this bill to set a reimbursement rate floor to ensure pharmacies are fairly reimbursed for medications they dispense.

S.B. 1509 requires health insurers and pharmacy benefit managers (PBMs) to reduce an enrollee's defined cost sharing for a prescription drug by an amount equal to at least 100 per cent of all rebates received, or to be received, by a health insurer or PBM, in connection with the dispensing or administration of the prescription drug. This is a good first step towards making prescription drugs more affordable for patients.

However, S.B. 1509 does not address the fact that PBMs often reimburse pharmacies in an amount less than their costs to acquire and dispense a drug. It is for that reason Walgreens supports amendments to establish a fair and equitable reimbursement rate floor.

Pharmacies are often the first and most frequent interaction patients have with the healthcare system, helping prevent and manage the full range of acute and chronic medical conditions. Pharmacies also serve some of the nation's most

First Hawaiian Center
999 Bishop Street, Suite 1400
Honolulu, HI 96813
T 808-539-0400
F 808-533-4945

underserved populations, providing a wide range of pharmacy and healthcare services that improve access to care, lower costs and help patients.

Health insurers and pharmacy benefit managers have consolidated in recent years to create large, vertically integrated entities that have significant leverage over prescription reimbursement. Today, just three PBMs control 80% of the entire U.S. prescription drug market, and they either own or are owned by a health insurance company.

Walgreens is an unaffiliated pharmacy, meaning it does not own or operate a PBM. Independent pharmacies and unaffiliated pharmacies, like Walgreens, face the same reimbursement challenges whereby PBM reimbursement is less than what a pharmacy has paid to acquire and dispense a drug. The leverage that PBMs hold is what allows them to set low reimbursement rates for pharmacies that do not reflect the actual costs incurred by pharmacies to purchase and dispense medications.

When reimbursed below our costs to acquire and dispense medicines, pharmacies – including Walgreens – are faced with store closures, limited hours and limited healthcare services. This puts the communities we serve at risk, especially in rural and other underserved areas that do not have many options.

S.B. 1509 is crucial to protecting pharmacies and the trusted and reliable access to medicines and healthcare they provide. It is for these reasons that we ask you to pass this bill with amendments establishing a reimbursement rate floor.

Thank you for the opportunity to submit this testimony.

601 Pennsylvania Avenue, NW
South Building, Suite 500
Washington, D.C. 20004

T 202.778.3200
F 202.331.7487
ahip.org

February 21, 2025

Members of Senate Committee on Commerce and Consumer Protection
Members of Senate Committee on Health and Human Services

Re: AHIP Opposes Senate Bill 1509, Relating to Point-of-Sale Rebates

Dear Committee Members:

On behalf of AHIP, we offer the following comments in opposition to Senate Bill 1509, which restricts health plans' ability to pass on savings to consumers through lower premiums and out-of-pocket costs. S.B. 1509 does nothing to control the soaring prices of prescription drugs but instead requires health plans to forfeit the savings achieved through manufacturer rebates used to benefit all beneficiaries and instead create a system in which Point-Of-Sale (POS) rebates are provided to only a select group of health plan/insurer beneficiaries.

Rebates are used to lower costs for all patients. Rebates are offered by manufacturers only when there are two or more competing drugs within the same therapeutic class to incentivize coverage and use of a drug. Rebates are rarely paid for the majority of drugs dispensed – generics and other drugs without therapeutic equivalents. Health plans and PBMs leverage the competition between drugs, when it exists, in negotiating with manufacturers to lower drug costs. Health plans pass on the savings derived from rebates through lower premiums and/or cost sharing for all enrollees, not just the few who obtain a particular drug.

POS rebates only benefit a small number of consumers. SB 1509 eliminates the shared savings currently enjoyed by all enrollees from rebates and instead directs health plans and PBMs to pass on those savings only to patients taking specific medications. In the United States, nine out of 10 prescriptions filled are for generic drugs[1]. This bill will not help those patients, nor those patients who take brand name drugs without therapeutic competition, because rebates are generally not offered for those drugs. The California Health Benefits Review Program (CHBRP) estimates that a similar bill would only impact 3.48% of all prescriptions.[2]

POS rebates will raise the cost of health insurance for all consumers. POS rebate proposals have repeatedly been found to have a high price tag, and AHIP has strong concerns about the impact these requirements will have on insurance costs in Hawaii When a similar mandate was adopted in the Medicare Part D program, CMS's own actuaries estimated that it would increase premiums by 25% and cost taxpayers between $200 and $400 billion.[3] Even though California found its bill would only impact 3.48% of prescriptions, it still estimated the bill would increase health insurance premiums by $200 million annually. The California Senate Appropriations Committee refused to advance that bill due to the increased premium cost; similarly, Congress has continually disallowed the federal "rebate rule" to take effect.

POS rebates provide a "windfall" to drug manufacturers. Many patients using brand name drugs are already paying little, if any, cost sharing due to coupons and other programs. Under this bill,

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1 *Generic Drugs*. FDA. Accessed January 13, 2025.

2 Abbreviated Analysis of CA AB 933 Prescription Drug Cost Sharing. California Health Benefits Review Program. January 4, 2022.

3 Rebate Rule a Big Pharma Bailout Paid for on The Backs Of American Seniors And Taxpayers. CSRxP. July 24, 2020.

manufacturers will no longer need to provide patient assistance – keeping more money in manufacturers' pockets while increasing drug costs and insurance premiums. In addition to the findings of increased premiums, CMS's actuaries also estimated the proposed rebate rule would lead to a $137 billion windfall for drug manufacturers.

A mandate to provide POS rebates is incredibly difficult to operationalize. In addition to the cost impact of these programs, requiring rebates to be passed on to consumers at the point of sale represents an enormous administrative challenge because rebates are not paid by pharmaceutical manufacturers in real time. Rebates are paid retrospectively to carriers and PBMs based on several factors, including the volume of prescriptions utilized by the plan's members. Manufacturers have no requirement to pay rebates within a defined time, and they are often not paid until long after the plan year ends. At the end of the plan year, carriers and PBMs will need to account for any gaps between the rebates provided to individuals at the point of sale and the amount of rebates actually received by the carrier and PBM; this would likely result in higher premiums or increased cost sharing for all enrollees.

AHIP Recommendation. AHIP urges you not to pass SB 1509 because it restricts health plans' ability to pass on savings to consumers through lower premiums and out-of-pocket costs. The focus on how savings are distributed is a deliberate tactic by drug manufacturers to avoid addressing the more serious issues surrounding the lack of competition, transparency, and accountability in their pricing of prescription drugs. AHIP stands ready to work together with state policymakers to ensure every patient has access to the high quality, affordable drugs that they need. Thank you for your consideration of our comments.

Sincerely,

Annie Mooney

Annie Mooney
Regional Director, State Affairs

AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit www.ahip.org to learn how working together, we are Guiding Greater Health.

Hawaii Pharmacists Association

Testimony presented before the
Senate Committee on Health and Human Services and Consumer Protection
February 24, 2025

Dr. Corrie L. Sanders on behalf of
The Hawai'i Pharmacists Association (HPhA)

Honorable Chairs San Buenaventura and Keohokalole and Members of the Committees,

The Hawai'i Pharmacists Association (HPhA) is in support with amendments of SB1509 that, among other things, requires a Pharmacy Benefit Manager (PBM) to submit a certification to the Insurance Commissioner each calendar year certifying compliance with cost sharing requirements. While this bill has good intentions, much stronger provisions surrounding the regulation of PBMs are needed to meaningfully impact medication pricing for both pharmacies and patients.

Pharmacy Benefit Managers act as a middleman between insurance companies, pharmacies and drug manufacturers, negotiating medication prices and managing prescription drug benefits by creating formularies and leveraging their purchasing power to set rebate and discounts. They control which medications are covered and pricing for both pharmacies and patients. Often times, these contracts and pricing are ambiguous to end users, and costs savings are retained by the PBMs rather than being passed on to pharmacies and consumers.

In October 2023, Attorney General Anne Lopez filed a lawsuit on behalf of the State of Hawai'i against the three largest PBMs—CVS Caremark, Express Scripts, and OptumRx. The lawsuit alleges that these PBMs engaged in practices that have significantly increased prescription drug prices, including demanding substantial rebates from drug manufacturers in exchange for favorable formulary placement. This "pay-to-play" scheme has led to the exclusion of numerous medications from formularies, disproportionately affecting patients with chronic conditions. The state seeks civil penalties, damages, disgorgement of profits, and injunctive relief to halt these anticompetitive practices. **And while penalties are certainly deserved, ultimately Hawai'i statute must reflect proactive measures from protecting pharmacies and consumers from these deceptive practices in the first place.**

For context, some common PBM practices are listed below:

- **Patient Steering:** PBMs often direct patients to pharmacies they own or have financial interests in, limiting patient choice and access to preferred healthcare providers. This practice prioritizes PBM profits over patient care and disrupts established patient-pharmacist relationships. In a healthcare system spread across islands, these steering practices are exponentially detrimental to patient access.

- **Spread Pricing:** PBMs charge health plans more for a medication than they reimburse the dispensing pharmacy, pocketing the difference—a practice known as spread pricing. This lack of transparency inflates healthcare costs and undermines the financial viability of community pharmacies.

- **Unclear Reimbursement Rates:** PBMs frequently implement opaque reimbursement models, providing pharmacies with unpredictable and often inadequate compensation for dispensed medications. This uncertainty hampers pharmacies' ability to manage operations effectively and serve their communities. This lack of reimbursement is directly linked to the amount of independent pharmacy closures across our islands, specifically in medical deserts,

While PBM reform is gaining momentum on the federal level, we must follow suit with the actions of other states to ensure local statues demand fair medication pricing, PBM oversight, and penalties for those failing to comply. This requires coordination between state regulatory bodies and cannot be implemented in one measure. But today, in SB1509, we can attempt to control medication pricing by mandating a reimbursement floor that ensures pharmacies are reimbursed for the cost of medication dispensing and ensuring that PBMs are required to share information with the Insurance Commissioner upon request..

For this reason, HPhA is seeking amendments in the included SD1 draft after working alongside local pharmacy stakeholders.

On behalf of The Hawai'i Pharmacists Association, mahalo for this opportunity to testify.

Very Respectfully,

Corrie L. Sanders, PharmD., BCACP, CPGx
Executive Director, Hawai'i Pharmacists Association

THE SENATE
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

S.B. NO. 1509

A BILL FOR AN ACT

RELATING TO PRESCRIPTION DRUGS.

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

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new part to article 10A to be appropriately designated and to read as follows:

"PART . HEALTH CARE INSURER SHARE THE SAVINGS ACT

§431:10A- Short title. This part shall be known and may be cited as the Health Care Insurer Share the Savings Act.

§431:10A- Definitions. As used in this part:

"Commissioner" means the insurance commissioner of the State.

"Defined cost sharing" means a deductible payment or coinsurance amount imposed on an enrollee for a covered prescription drug under the enrollee's health benefit plan.

"Enrollee" means an individual entitled to coverage of health care services from a health care insurer.

"Health benefit plan" means any individual, blanket, or group plan, policy, or contract for health care services issued or delivered by a health care insurer in the State. "Health benefit plan" does not include:

(1) Accident-only plans;

(2) Specified disease plans;

(3) Disability income plans;

(4) Plans that provide only for indemnity for hospital confinement;

(5) Long-term-care-only plans that do not include pharmacy benefits;

(6) Other limited-benefit health insurance policies or plans;

(7) Health benefit plans provided under chapter 386; or

(8) Any state or local governmental employee plan.

"Health care insurer" means a:

(1) Health insurance issuer that:

(A) Is subject to state law regulating insurance; and

(B) Offers health insurance coverage as defined in title 42 United States Code section 300gg-91, as it existed on January 1, 2025;

(2) Health maintenance organization; or

(3) Hospital and medical service corporation.

"Health care insurer" does not include an entity that provides only dental benefits or eye and vision care benefits.

"Price protection rebate" means a negotiated price concession that accrues directly or indirectly to a health care insurer, or other party on behalf of the health care insurer, if there is an increase in the wholesale acquisition cost of a prescription drug above a specified threshold.

“Pharmacy Benefit Manager” means a person, business, or other entity that, either directly or indirectly, performs a pharmacy benefit management service for or on behalf of a health care insurer in the administration of the prescription drug benefit of a health benefit plan.

“Pharmacy benefit management service” means all of the following:

(1) Negotiating the price of prescription drugs, including negotiating and contracting for direct or indirect rebates, discounts, payment differentials, or other price concessions.

(2) Managing any aspect of a prescription drug benefit of a health care insurer, including, but not limited to, developing or managing a drug formulary, including utilization management or quality assurance programs, the processing and payment of claims for prescription drugs, the performance of drug utilization review, the processing of drug prior authorization requests, the adjudication of appeals or grievances related to the prescription drug benefit, contracting with pharmacies, management of retail, mail order, or specialty pharmacies, controlling the cost of covered prescription drugs, managing or providing data relating to the prescription drug benefit, or the provision of services related thereto.

(3) Performing any administrative, managerial, clinical, pricing, financial, reimbursement, data administration or reporting, or billing service, in connection with a prescription drug benefit of a health care insurer. "Rebate" means:

(1) A negotiated price concession, including without limitation base price concessions, whether described as a rebate or not, reasonable estimates of any price protection rebates, and performance-based price concessions that may accrue, directly or indirectly, to the health care insurer during the coverage year from a manufacturer or other party in connection with the dispensing or administration of a prescription drug; and

(2) Any reasonable estimate of a negotiated price concession, fee, and other administrative cost that is passed through, or is reasonably anticipated to be passed through, to the health care insurer and serves to reduce the health care insurer's liabilities for a prescription drug.

§431:10A- Health care insurer requirements; cost sharing; confidentiality; rebate. (a) Any health care insurer or pharmacy benefit manager that receives a rebate, as that term is defined in this section, in connection with the dispensing or administration of a prescription drug shall share the benefit of the rebate with enrollees in the State.

(b) An enrollee's defined cost sharing for a prescription drug shall be calculated at the point-of-sale based on a price that is reduced by an amount equal to at least one hundred per cent of all rebates, as that term is defined in this section, received, or to be received, by a health care insurer or pharmacy benefit manager in connection with the purchase, dispensing or administration of the prescription drug.

(c) This section shall not prohibit a health care insurer or pharmacy benefit manager from decreasing an enrollee's defined cost sharing by an amount greater than that required under subsection (b).

(d) In implementing the requirements of this section, the State shall only regulate a health care insurer or pharmacy benefit manager to the extent permissible under applicable law.

(e) Nothing in this section shall be construed to require a health care insurer, pharmacy benefit manager, or its agents to publish or otherwise reveal information regarding the actual amount of rebates, as that term is defined in this section, a health care insurer or pharmacy benefit manager receives on a product or therapeutic class of products, manufacturer, or pharmacy -specific basis; provided that the information is:

(1) Protected as a trade secret;

(2) Considered proprietary and confidential under section 431:3-304, 431:3D-108, or 431:3G-106;

(3) Not subject to disclosure pursuant to chapter 92F; or

(4) Not to be disclosed, directly or indirectly, in a manner that would:

(A) Allow for the identification of an individual product, therapeutic class of products, or manufacturer; or

(B) Have the potential to compromise the financial, competitive, or proprietary nature of the information.

A health care insurer or pharmacy benefit manager shall impose the confidentiality protections of this subsection on any vendor or downstream third party that performs health care or administrative services on behalf of the health care insurer that may receive or have access to rebate information. However, a pharmacy benefit manager's designation of information as proprietary or a trade secret does not relieve the pharmacy benefit manager or the plan sponsor of any obligation to provide that information to the insurance commissioner."

§431:10A- Prescription Drug Benefits; reimbursement to pharmacies.

(b) A pharmacy benefit manager shall ensure that the final reimbursement to a pharmacy, following any reconciliation, for a prescription drug is an amount no less than the national average drug acquisition cost for the prescription drug at the time the drug is dispensed, plus a professional dispensing fee in an amount not less than the most recent Hawai'i Medicaid dispensing fee as approved by the Centers for Medicare and Medicaid Services (CMS). If the national average drug acquisition cost is not available at the time a drug is administered or dispensed, a pharmacy benefit manager may not reimburse a pharmacy in an amount that is less than the wholesale acquisition cost of the drug, as defined in 42 U.S.C. § 1395w-3a(c)(6)(B), plus a professional dispensing fee in an amount not less than the most recent Hawai'I Medicaid dispensing fee as approved by CMS.

(b) A pharmacy benefit manager may not offer reimbursement rates or incentives to a non-affiliated pharmacy in an amount less than those offered to an affiliated pharmacy for providing the same prescription drug unless, and only to the extent, otherwise required by law.

SECTION 2. Chapter 431S, Hawaii Revised Statutes, is amended by designating sections 431S-1 to 431S-6 as part I, entitled "General Provisions".

SECTION 3. Chapter 431S, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . PHARMACY BENEFIT MANAGER SHARE THE SAVINGS ACT

§431S- Short title. This part shall be known and may be cited as the Pharmacy Benefits Manager Share the Savings Act.

§431S- Definitions. As used in this part:

"Defined cost sharing" means a deductible payment or coinsurance amount imposed on an enrollee for a covered prescription drug under the enrollee's health benefit plan.

"Enrollee" means an individual entitled to coverage of health care services from a health care insurer.

"Health benefit plan" means any individual, blanket, or group plan, policy, or contract for health care services issued or delivered by a health care insurer in the State. "Health benefit plan" does not include:

(1) Accident-only plans;

(2) Specified disease plans;

(3) Disability income plans;

(4) Plans that provide only for indemnity for hospital confinement;

(5) Long-term-care-only plans that do not include pharmacy benefits;

(6) Other limited-benefit health insurance policies or plans;

(7) Health benefit plans provided under chapter 386; or

(8) Any state or local governmental employee plan.

"Health care insurer" means an insurance company that is subject to state law regulating insurance including without limitation a health maintenance organization or a hospital and medica service corporation.

"Price protection rebate" means a negotiated price concession that accrues directly or indirectly to a health care insurer, or other party on behalf of the health care insurer, if there is an increase in the wholesale acquisition cost of a prescription drug above a specified threshold.

"Rebate" means:

(1) A negotiated price concession, including without limitation base price concessions, whether described as a rebate or not, reasonable estimates of any price protection rebates, and performance-based price concessions that may accrue, directly or indirectly, to the health care insurer during the coverage year from a manufacturer or other party in connection with the dispensing or administration of a prescription drug; and

(2) Any reasonable estimate of a negotiated price concession, fee, and other administrative cost that is passed through, or is reasonably anticipated to be passed

through, to the health care insurer and serves to reduce the health care insurer's liabilities for a prescription drug.

§431S- Pharmacy benefit manager requirements; cost sharing; confidentiality; rebate. (a) All pharmacy benefit managers shall share the benefit of rebates with enrollees in the State.

(b) An enrollee's defined cost sharing for a prescription drug shall be calculated at the point-of-sale based on a price that is reduced by an amount equal to at least one hundred per cent of all rebates received, or to be received, in connection with the dispensing or administration of the prescription drug.

(c) This section shall not prohibit a pharmacy benefit manager from decreasing an enrollee's defined cost sharing by an amount greater than that required under subsection (b).

(d) A pharmacy benefit manager shall submit a certification to the commissioner by January 1 of each calendar year certifying that the pharmacy benefit manager has complied with the requirements of this section during the previous calendar year; provided that the certification shall be signed by the chief executive officer or chief financial officer of the pharmacy benefit manager; provided further that the form of the certification shall:

(1) Be in a format approved or established by the commissioner; and

(2) Include the pharmacy benefit manager's best estimate of the aggregate amount of rebates used to reduce enrollee-defined cost sharing for prescription drugs in the previous calendar year based on information known to the pharmacy benefit manager as of the date of the certification.

(e) Nothing in this section shall be construed to require a pharmacy benefit manager or its agents to publish or otherwise reveal information regarding the actual amount of rebates a pharmacy benefit manager receives on a product or therapeutic class of products, manufacturer, or pharmacy-specific basis; provided that the information is:

(1) Protected as a trade secret;

(2) Considered proprietary and confidential under section 431:3-304, 431:3D-108, or 431:3G-106;

(3) Not subject to disclosure pursuant to chapter 92F; or

(4) Not to be disclosed, directly or indirectly, in a manner that would:

(A) Allow for the identification of an individual product, therapeutic class of products, or manufacturer; or

(B) Have the potential to compromise the financial, competitive, or proprietary nature of the information.

A pharmacy benefit manager shall impose the confidentiality protections of this subsection on any vendor or downstream third party that performs health care or administrative services on behalf of the pharmacy benefit manager that may receive or have access to rebate information."

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or

applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Report Title:
Prescription Drugs; Health Care Insurer Share the Savings Act; Pharmacy Benefit Manager Share the Savings Act; Rebate; Annual Certification

Description:
Requires health insurers and pharmacy benefit managers to reduce an enrollee's defined cost sharing for a prescription drug by a price amount equal to at least 100 per cent of all rebates received, or to be received, in connection with the dispensing or administration of the prescription drug. Requires a pharmacy benefit manager to submit a certification to the Insurance Commissioner by January 1 of each calendar year certifying compliance with the cost sharing requirements. Establishes protections for the publishing of certain confidential or proprietary information by health insurers or pharmacy benefit managers.

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

Hawaii Association of Health Plans

February 24, 2025

To: Chair San Buenaventura, Chair Keohokalole, Vice Chair Aquino, Vice Chair Fukunaga, and Members of the Senate Committees on Health and Human Services & Commerce and Consumer Protection (HHS/CPN)
From: Hawaii Association of Health Plans Public Policy Committee
Date/Location: February 24, 2025; 1:00 pm/Conference Room 225 & Videoconference

Re: Testimony in OPPOSITION to SB 1509 – Relating to Prescription Drugs

The Hawaii Association of Health Plans (HAHP) respectfully submits this testimony in opposition to SB 1509. HAHP is a statewide partnership that unifies Hawaii's health plans to improve the health of Hawaii's communities together. A majority of Hawaii residents receive their health coverage through a plan associated with one of our organizations.

HAHP appreciates the efforts of lawmakers to reduce out-of-pocket costs for prescription drugs. However, we do not believe that passing drug rebates directly to consumers will achieve this goal. Furthermore, the complexities of factoring in the drug rebate is compounded by a lack of rebate transparency, extremely long lag times, and unpredictable rebate amounts. The issue is very difficult to solve for without addressing the vertical integration of drug manufacturers, specialty pharmacies, PBMs, insurers, and providers.

It is also important to note that drug rebates are not a primary contributor to higher drug prices. The real issue is that drug companies have too much freedom to set and increase prices due to laws that grant them monopoly power. While we acknowledge that the drug rebate process is not perfect, this legislation will lead to increased premiums, impacting all health plan members, including those who use non-rebated prescription drugs.

For these reasons, HAHP is in opposition to SB1509. If the members of this committee believe further discussion on this issue is necessary, we respectfully request the opportunity to participate in that conversation.

Sincerely,

HAHP Public Policy Committee
cc: HAHP Board Members

Senator Joy A. San Buenaventura, Senate Chair
Senator Henry J.C. Aquino, Vice Chair
Committee on Health and Human Services

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Committee on Commerce and Consumer Protection

February 24, 2025 1:00 PM
State Capitol, Conference Room 225 & Videoconference
In Support of S.B. No. 1509, Relating to Prescription Drugs

Dear Senator San Buenaventura, Senator Keohokalole, and distinguished members:

The Patient Pocket Protector Coalition (PPPC) appreciates the opportunity to submit testimony in support of SB 1509, an effort to improve patient access to life-sustaining and lifesaving medications through cost-sharing reductions. The PPPC is led by the Diabetes Patient Advocacy Coalition and works with state legislators to introduce and pass patient-first policies addressing the financial burdens of the 133 million Americans living with chronic conditions. The purpose of the Coalition is to unify chronic illness advocates, to build legislative support to drive policy change, and to reduce out-of-pocket patient costs.

We are writing to voice our support for SB 1509, which would require Pharmacy Benefit Manager (PBM) rebates to be passed through to patients at the point of sale. Under the current insurance system, volume-based manufacturer rebates on pharmaceutical drugs are negotiated by PBMs in exchange for formulary placement. Instead of passing these savings through to patients who are already desperate to afford their prescriptions, these rebates are retained by the PBMs and health insurers as profit. This means that our most vulnerable citizens – those living with chronic conditions – do not benefit from the lower net price of their medications. With rebates for branded drugs averaging 48%, patients are paying nearly twice what their insurance company pays for the same drug. When patients cannot afford their medications, they may ration or abandon their prescribed therapy, leading to painful and costly complications or more tragic outcomes, sacrificing quality of life and driving up overall health care costs for families and the system.

SB 1509, which requires that 100% of PBM negotiated rebates be shared with patients, is a strong step toward improving access, affordability, and health outcomes for people in Hawaii. Thank you for your consideration of this legislation.

Sincerely,

Association of Diabetes Care & Education Specialists

Autoimmune Association

Children With Diabetes

Chronic Disease Coalition

Crohns and Colitis Foundation

Coalition of State Rheumatology Organizations

Diabetes Link

Diabetes Leadership Council

Diabetes Patient Advocacy Coalition

Diabetes Sisters

Eosinophilic & Rare Disease Cooperative

Lower Out of Pocket Now Coalition

Lupus and Allied Diseases Association

National Psoriasis Foundation

Patients Rising Now

The PBM Accountability Project

The DiaTribe Foundation

The Epilepsy Foundation

U.S. Pain Foundation

Women in Rheumatology

NATIONAL INFUSION CENTER ASSOCIATION

The Nation's Advocacy Voice for In-Office Infusion

3307 Northland Dr, Ste 160 ▪ Austin, TX 78731
www.infusioncenter.org ▪ info@infusioncenter.org

Hawaii State Legislature
Senate Health & Human Services Committee
415 South Beretania St.
Honolulu, HI 96813

February 24, 2025

Re: Support for SB 1509

Dear Committee Members,

On behalf of the National Infusion Center Association (NICA), I am reaching out to express our strong support for SB 1509 and urge you to vote YES on this critical legislation during the upcoming 2/24 Senate HHS Committee hearing.

NICA is a nonprofit organization formed to support non-hospital, community-based infusion centers caring for patients in need of infused and injectable medications. To improve access to medical benefit drugs that treat complex, rare, and chronic diseases, we work to ensure that patients can access these drugs in high-quality, non-hospital care settings. NICA supports policies that improve drug affordability for beneficiaries, increase price transparency, reduce disparities in quality of care and safety across care settings, and enable care delivery in the highest-quality, lowest-cost setting.

As an organization representing infusion centers across Hawaii, we have seen firsthand how the lack of transparency in drug pricing and rebate distribution negatively impacts patient access to life-saving therapies. Pharmacy benefit managers (PBMs) and health care insurers often retain manufacturer rebates rather than passing these savings on to patients, inflating out-of-pocket costs and limiting access to necessary treatments.

SB 1509 takes essential steps to address these concerns by:

- Mandating that both health care insurers and PBMs apply 100% of prescription drug rebates to reduce an enrollee's defined cost-sharing amount.
- Ensuring greater transparency in how rebates are managed and applied, preventing insurers and PBMs from retaining savings at the expense of patients.

NATIONAL INFUSION CENTER ASSOCIATION

The Nation's Advocacy Voice for In-Office Infusion

3307 Northland Dr, Ste 160 ▪ Austin, TX 78731
www.infusioncenter.org ▪ info@infusioncenter.org

- Promoting fairer and more affordable prescription drug pricing, allowing patients to receive the full financial benefit of negotiated rebates.

These reforms will help reduce financial barriers to treatment, improve patient adherence to prescribed therapies, and enhance overall access to care. As an advocate for accessible, high-quality infusion care, we urge you to vote YES on SB 1509 to ensure that patients receive the savings intended for them.

Thank you for your time and consideration. Please do not hesitate to reach out if you have any questions or would like to discuss this issue further.

Sincerely,

Brian Nyquist, MPH
President & CEO
National Infusion Center Association

LATE

February 21, 2025

Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Senate Committee on Commerce & Consumer Protection
Senate Committee on Health and Human Services
Hawaii State Capitol
Honolulu, HI 96813

Re: SB 1509 - Prescription Drug Cost Sharing -Point of Sale Rebates– OPPOSE

Dear Chairs and Members of the Committee,

On behalf of the Pharmaceutical Care Management Association (PCMA), I write to express our **opposition** to **SB 1509**, which would mandate that health insurers and pharmacy benefit managers (PBMs) who are contracted by health insurers pass through 100% of manufacturer rebates at the point of sale (POS).

This bill will increase healthcare costs by requiring health plans to forfeit the savings achieved through rebates negotiated with drug manufacturers. These rebates help reduce premiums for all plan participants. Instead, the bill would provide POS rebates to a select group of health plan beneficiaries who are prescribed a limited number of brand-name drugs.

Rebates Lower Overall Health Care Costs
Manufacturers offer rebates only when there are two or more competing drugs within the same therapeutic class. Thus, negotiations between PBMs and manufacturers leverage these competing drugs to help lower drug costs overall. Rebates enable health plan sponsors to lower premiums or copays for all beneficiaries.

While some beneficiaries would benefit from reduced cost-sharing at the POS, most would see little benefit given that more than 90% of drugs dispensed are generic and of the remaining 10% of drugs dispensed that are brand, less than 3% have competition within the same therapeutic class. Additionally, due to high generic dispensing rates generally, applying rebates at the POS could have the negative consequence of driving utilization back toward more expensive brand medications. Ultimately, POS rebates won't help the majority of patients who take generics or lower-cost brands; instead, they will lead to an increase in all premiums.

Economic Impact: Increased Premiums and Costs
Another example of the significant negative financial impact of mandating rebates at the POS has been playing out at the federal level. The federal government finalized a rule ("the Rebate Rule") eliminating an Anti-Kickback safe harbor for drug manufacturer rebates unless passed through at the POS. The proposed rule was withdrawn in 2016 after the Congressional Budget Office estimated that, while some Medicare beneficiaries would have lower drug costs, overall costs for all beneficiaries would increase by $171 billion over 10 years. The proposed rule was reinstated in 2018 but delayed by the Center for Medicare & Medicaid Services (CMS) Office of Inspector General in light of pending litigation. Recently proposed bipartisan legislation would impose a moratorium on implementing the Rebate Rule until January 1, 2026.

Negative Consequences for Patients
Federal legislative action on the Rebate Rule highlights the concern that POS rebates would do nothing to address high drug prices. Actuaries at CMS predicted that if the Rebate Rule were to go into effect, manufacturers would keep at least 15% of what they would have offered in rebates. They also found drug spending in Medicare would increase by $137 billion as manufacturers would not lower list prices.
While a small percentage of enrollees may see reduced cost-sharing for certain brand drugs, the vast majority would face higher premiums. POS rebate mandates distort drug pricing by incentivizing manufacturers to withhold discounts and increase list prices, resulting in higher overall drug spending.

Federal Preemption Risks
SB 1509 defines a ***"health benefit plan" as "any individual, blanket, or group plan, policy, or contract for health care services issued or delivered by a health care insurer in the State." However, it excludes "(8) Any state or local governmental employee plan."***

This definition raises federal preemption concerns under ERISA, particularly for self-funded employer plans. Hawaii's health coverage system ensures that over 95% of residents have health insurance while balancing federal and state oversight. The Employer-Union Health Benefits Trust Fund (EUTF), covering more than 100,000 state and county employees, retirees, and dependents, operates under a different funding structure that may not align with SB 1509's cost-sharing mandates.

SB 1509 creates an unequal regulatory framework by mandating rebate pass-throughs for private plans while exempting state and local government employee plans. This leaves insurers to implement costly changes only for private-sector plans and raises questions about implementation for EUTF plans.

Conclusion
While we understand the intent behind SB 1509, we remain concerned that its approach would unintentionally lead to higher healthcare costs for many while benefiting only a small subset of patients. By mandating point-of-sale rebates, the bill disrupts existing cost-saving mechanisms that help keep premiums affordable for all beneficiaries. Additionally, experience at the federal level has shown that similar policies have not effectively reduced drug prices but instead led to increased overall spending.

We appreciate the opportunity to discuss improving healthcare affordability and access. Rather than implementing policies that may have unintended financial consequences, we encourage lawmakers to explore alternative solutions that enhance competition, promote transparency, and ensure patient affordability. We look forward to working together to find balanced approaches that support the needs of all stakeholders.

Thank you for your time.

Sincerely,

Tonia Sorrell-Neal
Sr. Director of State Affairs

LATE

MOLOKA'I DRUGS, INC.
EST. 1935

February 23, 2025

Testimony in SUPPORT for SB1509: Relating to Prescription Drugs

Dear Chair San Buenaventura, Chair Keohokalole, and Members of the Committee on Health and Human Services and Consumer Protection:

As a rural healthcare provider, access to comprehensive, high-quality healthcare services is our mission at Moloka'i Drugs. On behalf of our employees and patients, I am testifying in favor of SB1509 with amendments as discussed by earlier testimony submitted by the Hawai'i Pharmacists Association (HPhA). While parts of this measure are "good," the State of Hawai'i needs stronger regulations surrounding the regulation of PBMs to meaningfully impact medication pricing for pharmacies and patients.

Pharmacy Benefit Managers act as intermediaries, or "middlemen," between insurance companies, pharmacies, and drug manufacturers, negotiating medication prices and managing prescription drug benefits by creating formularies that are often in favor of the PBMs (i.e. CVS Caremark, Express Scripts, OptumRx which is a subsidiary of UnitedHealthcare) vs. the patients. PBMs are leveraging their incredible purchasing power to set rebate and discounts. A small pharmacy such as Moloka'i Drugs could never compete with the quantity of medicines purchased by the PBMs. They control which medications are covered and control pricing for both pharmacies and patients. For example, our pharmacy will fill a prescription and lose $150.00 for a one-month supply for a patient. We are not able to change the reimbursement of what we can charge the patient nor the insurance company because we are tied by contracts that we may not be able to change for one year. As a comparison, a grocery store selling one dozen eggs can instantly increase their price of goods from $9.00 to $11.00 when costs go up; Moloka'i Drugs is not able to do so.

Earlier HPhA testimony already discussed in detail some of the steering away strategies used to switch our patients from a Hawai'i-based pharmacy paying State of Hawai'i taxes to a mainland-based mail order pharmacy. For Hawai'i pharmacies to survive, we also need to stop the practice of "patient steering," especially with our *kupuna*. PBMs often direct patients to pharmacies they own or have financial interests in, limiting patient choice, and access to preferred healthcare providers. For example, one of our *kupuna* was recently pressured by a PBM telemarketer to transfer all of her medicines to a mainland mail order pharmacy. She did not know she had agreed to send her prescriptions to the mainland. We were fortunate to work with this patient and have her return back to Moloka'i Drugs. This happens every week at our pharmacy. PBM profits over patient care and disrupts the long-time, priceless patient-pharmacist relationships. These aggressive practices affect our pharmacists' access to our patients.

With SB1509, we can attempt to control medication pricing by established a reimbursement model that ensures pharmacies are paid for the cost of medication dispensed and having PBMs share information with the State of Hawai'i Insurance Commissioner upon request. Small businesses such as Moloka'i Drugs are required to submit annual reports with the State. Why are Fortune 100 companies such as these PBMs allowed to not register as well?

Thank you for hearing us and listening to our testimony.

Sincerely,

/s/ Kimberly Mikami Svetin

Kimberly Mikami Svetin
President
Moloka'i Drugs, Inc.
P.O. Box 558
Kaunakakai, HI 96748
Work 808-553-5790

SB-1509
Submitted on: 2/21/2025 3:43:15 PM
Testimony for HHS on 2/24/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Brenda DuFresne	Individual	Support	Written Testimony Only

Comments:

I support this bill.

SB-1509
Submitted on: 2/21/2025 4:16:30 PM
Testimony for HHS on 2/24/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sheryl Summers	Individual	Support	Written Testimony Only

Comments:

We need this to lower the cost of prescription drugs in Hawaii. Please support!

SB-1509
Submitted on: 2/21/2025 4:37:52 PM
Testimony for HHS on 2/24/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nancy D Moser	Individual	Support	Written Testimony Only

Comments:

In STRONG SUPPORT of SB1509.
Aloha Chair and members of the Committee,
Please vote YES on this measure.
Nancy Moser in Waikoloa on Hawai'i Island

SB-1509
Submitted on: 2/21/2025 7:47:46 PM
Testimony for HHS on 2/24/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jada Rufo	Individual	Support	Written Testimony Only

Comments:

I have been blessed that I don't have to pay for any of my medications since I'm on Med-Quest. But I have friends and family who can't afford to pay for their medications. They have to choose between paying for food, paying for rent and utilities, and medication. Please, do what you can to help lower drug costs for our kupuna.

SB-1509
Submitted on: 2/21/2025 5:02:41 PM
Testimony for HHS on 2/24/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anne Leake	Individual	Support	Written Testimony Only

Comments:

Please support SB1509 so people can access prescription medication at a more reasonable cost. Mahalo.

Testimony in Support of SB1509 with Amendments to Protect Healthcare Providers and Insurers from PBM Retaliation
Hearing Date: February 24, 2025
Committee: Hawaii State Senate HHS and CPN Committees
Submitted by: Alanna Isobe
Position: Pharmacist

Chairperson, Vice Chairperson, and Members of the Committee,

Thank you for the opportunity to provide testimony on SB1509, which seeks to increase transparency and ensure that PBM-negotiated rebates are used to directly reduce patient out-of-pocket costs. As a community pharmacist, I strongly support the bill's intent to make prescription drugs more affordable for patients in Hawaii.

Right now, PBMs negotiate rebates from drug companies, but instead of passing those savings to patients, they keep a big portion for themselves. This bill is a great step in the right direction because it forces PBMs to use those savings to lower prescription drug prices for consumers at the pharmacy counter. For too long, PBMs have profited from opaque rebate structures, negotiating discounts with drug manufacturers while pocketing the savings rather than passing them to consumers. SB1509 takes a critical step toward fairness in drug pricing by requiring PBMs and insurers to apply 100% of manufacturer rebates toward reducing patient costs at the pharmacy counter. This could make a real financial difference for patients, especially those with chronic illnesses, high-deductible health plans, or fixed incomes.

However, without additional safeguards, PBMs may retaliate against insurers, healthcare providers, and safety-net hospitals to offset lost revenue. These retaliatory actions could ultimately increase healthcare costs elsewhere, undermining the bill's intended benefits. I also want to make sure we protect hospitals, insurers, and pharmacies from unintended harm. If we don't, PBMs may find other ways to make up for their lost revenue—like cutting payments to hospitals and pharmacies or raising fees on insurers, which could drive up healthcare costs in other ways.

Proposed Amendments to Prevent PBM Retaliation

To fully protect patients and ensure that SB1509 does not inadvertently harm providers and insurers, I respectfully request the committee to consider the following amendments to prevent PBM retaliation:

1. Prohibit PBM Payment Cuts to 340B Hospitals and Covered Entities
PBMs have a history of targeting 340B entities with lower reimbursements and excessive contract restrictions to recover lost rebate revenue.

SB1509 should prohibit PBMs from reducing reimbursement rates or imposing additional administrative fees on 340B-covered drugs as a means of offsetting revenue loss.

We need to ban PBMs from lowering reimbursement rates or adding extra fees on 340B drugs so hospitals can continue helping underserved patients. Similar protections have been enacted in other

states to ensure that hospitals, community health centers, and rural clinics can continue serving vulnerable populations.

2. Prevent PBMs from Shifting Costs to Insurers through Higher Fees

If PBMs lose rebate income, they may increase administrative fees on insurers or demand higher fees for claims processing, ultimately leading to higher insurance premiums for patients.

SB1509 should include a provision that prohibits PBMs from unilaterally increasing service fees or implementing new charges on insurers and health plans in response to the rebate pass-through requirement.

3. Mandate Transparent Reporting on PBM Pricing Practices

SB1509 should require PBMs to submit annual reports detailing how they determine pharmacy reimbursements and ensure that they are not implementing discriminatory pricing against specific entities. This will help state regulators track any cost-shifting strategies that could undermine the bill's purpose.

4. Include Stronger State Enforcement Mechanisms

If PBMs are found retaliating against insurers, hospitals, or pharmacies, there should be clear financial penalties and corrective actions enforced by the state. Establishing a regulatory oversight board or task force would ensure ongoing monitoring of PBM compliance and prevent future cost-shifting.

In conclusion, I fully support SB1509 because it will help patients pay less for their medications. However, we must also make sure PBMs don't retaliate by shifting costs to hospitals, pharmacies, or insurers—which could end up hurting the healthcare system in the long run. By adding these protections, we can make sure this bill works as intended and keeps healthcare fair and affordable for everyone.

Thank you for your time, and I urge you to pass SB1509 with these protections.

Sincerely,
Alanna Isobe
Pharmacist

SB-1509
Submitted on: 2/23/2025 8:40:56 AM
Testimony for HHS on 2/24/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Chandra Kim	Individual	Support	Remotely Via Zoom

Comments:

Hi, my name is Chandra Kim and I am a resident of Kailua, Hawaii, here in support of SB1509, which would pass PBM negotiated rebates on prescription medications through to patients at the point of sale. My daughter lives with type 1 diabetes and life is challenging enough in many ways for her. The last thing I want for her to continue to think about is the cost of her insulin. We frequently hear about the cost of insulin, and steps continue to be taken to address this, but insulin is only one medication that a person with diabetes – like my daughter – relies on to stay healthy and alive.

This matter is very personal to me, and to many others who call Hawaii home. Going to the pharmacy to pick up a life-saving drug should not be stressful. We shouldn't be told that 1) our insurance does not cover a specific drug that keeps my daughter alive (this is for a different Bill that needs to be addressed); and 2) that the medicine will cost HUNDREDS of dollars (with insurance!!). We shouldn't have to leave the pharmacy without our LIFE SAVING medication because of cost. No one should ever have to make these kinds of decisions.

SB1509 would ensure that patients who rely on lifesaving and life-sustaining medications to manage their chronic condition would pay the lowest negotiated price for that drug, instead of the artificially inflated list price. My request is that you put patient needs over corporate profits to help kamaaina like me. Thank you!

SB-1509
Submitted on: 2/20/2025 2:11:46 PM
Testimony for HHS on 2/24/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Katrina Fenner	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs, Vice Chairs, Members of the committee,

I'm writing in support of bill SB1509 which would help to reduce enrolles out-of-pocket costs for prescription drugs. This bill would require insures and PBM's to share savings with enrollees which would lead to more transparency and better price negotiations between drug manufactureres and health care providers. It is imperative that Hawaiian citizens who are already burdened by high cost of living are able to get rebate and cost reduction on their medical prescriptions. PLEASE SUPPORT!

Mahalo for listening to my testimony,

Katrina Fenner (UHM 2027)

SB-1509
Submitted on: 2/20/2025 3:50:28 PM
Testimony for HHS on 2/24/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ronald Taniguchi, Pharm.D., MBA	Individual	Support	Written Testimony Only

Comments:

I support the passage of SB1509. Mahalo

SB-1509
Submitted on: 2/22/2025 6:20:33 PM
Testimony for HHS on 2/24/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Younghee Overly	Individual	Support	Written Testimony Only

Comments:

Thank you for hearing SB1509.

SB-1509
Submitted on: 2/23/2025 5:53:12 PM
Testimony for HHS on 2/24/2025 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Cory Lehano	Individual	Support	Written Testimony Only

Comments:

Honorable Chairs and Members of the Committees,

I am writing today on behalf of Mauliola Pharmacy, an independent, Native Hawaiian-owned pharmacy serving our community on Maui. We strongly support legislative efforts to regulate Pharmacy Benefit Managers (PBMs), whose unchecked practices are devastating small, community-based pharmacies across Hawai‘i. Without decisive action, PBMs will continue to choke out independent pharmacies, leaving patients with fewer options, higher costs, and diminished access to care.

As PBMs increasingly dictate prescription pricing and reimbursement models, they have made it nearly impossible for small pharmacies like ours to survive. Through opaque reimbursement policies, spread pricing, and patient steering, PBMs are systematically forcing independent pharmacies out of business—especially in rural and underserved areas, where we are often the last remaining healthcare providers.

The financial strain caused by below-cost reimbursements is unsustainable. PBMs manipulate pricing structures to reimburse independent pharmacies at rates that fail to cover even the cost of acquiring the medication, let alone the overhead necessary to operate. Meanwhile, they profit from rebates and fees that are neither transparent nor fairly distributed. This model is not only unethical but also detrimental to public health.

Our pharmacy, like many others, plays a critical role in ensuring that patients—especially kūpuna, those with chronic conditions, and those in geographically isolated areas—have access to timely and affordable medications. If independent pharmacies continue to shutter at the current rate, patients will be left with fewer choices, longer travel distances, and increased reliance on mail-order services that fail to provide the essential patient-pharmacist relationships that improve health outcomes.

We urge you to take strong, decisive action to rein in PBMs. This means implementing stricter reimbursement protections, enforcing transparency, and ensuring that pharmacies are paid fairly for the essential services we provide. If the status quo remains, we will soon witness the erasure of independent pharmacies in Hawai‘i—leaving corporate-owned chains and PBM-affiliated mail-order services as the only options for patients.

Mauliola Pharmacy is committed to serving our community, but we cannot do so without legislative support that levels the playing field and holds PBMs accountable. The time to act is now—before another independent pharmacy closes its doors for good.

Mahalo for your time and consideration.

Very Respectfully,

Cory Lehano, PharmD, CDCES
Owner, Mauliola Pharmacy

LATE

SB-1509
Submitted on: 2/24/2025 10:03:47 AM
Testimony for HHS on 2/24/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alyssa Pang	Individual	Support	Written Testimony Only

Comments:

Testimony in Support of SB1509
Hawaii State Legislature – Thirty-Third Legislature, 2025
Committee on Health & Human Services
Chair San Buenaventura, Vice Chair Aquino, and Members of the Committee:

I am writing in support of SB1509.

The cost of prescription drugs remains a significant burden for many individuals and families across our state. While pharmaceutical manufacturers and insurers negotiate substantial rebates, enrollees often do not see these savings reflected in their out-of-pocket costs. This bill takes a crucial step in promoting affordability and transparency in healthcare by requiring that insurers and pharmacy benefit managers (PBMs) reduce an enrollee's cost-sharing by an amount equal to at least 100% of the rebates received in connection with a prescription drug.

By implementing these provisions, SB1509 will:

1. **Reduce Out-of-Pocket Costs for Patients** – Many residents of Hawaii struggle to afford life-saving medications. Ensuring that rebates are directly applied at the point of sale will help ease this financial burden.
2. **Increase Transparency in Drug Pricing** – Currently, the system lacks clear accountability on how rebates are used. This bill ensures that insurers and PBMs pass on savings to patients rather than retaining undisclosed portions of these discounts. Pharmacies are being reimbursed less than their cost and closing their doors every day because of this. Independent pharmcies are important for patient accessibility and hold larger chain pharmacies accountable to pricing. No business should be reimbursed less than their cost.
3. **Improve Access to Essential Medications** – High prescription costs can lead to medication non-adherence, resulting in worsening health outcomes and increased healthcare expenditures. SB1509 will help ensure that patients can access the medications they need without undue financial hardship. This is most impactful to many independent pharmacies that are struggling to keep their doors open to help save lives!
4. **Hold Pharmacy Benefit Managers Accountable** – By requiring annual certifications of compliance, this bill ensures that PBMs adhere to the cost-sharing reductions intended to benefit consumers.

While protecting proprietary business information is important, it should not come at the cost of patient well-being. This bill strikes a fair balance by maintaining confidentiality protections while prioritizing consumer savings.

I urge the committee to pass SB1509 to promote a fairer, more transparent, and patient-centered healthcare system in Hawaii.

Thank you for the opportunity to submit testimony in support of this critical legislation.

Sincerely,
Alyssa Pang, Director of Pharmacy

APhA
American Pharmacists Association

February 23, 2025

[submitted electronically via: capitol.hawaii.gov]

The Honorable Joy A. San Buenaventura
Chair, Committee on Health and Human Services
Conference Room 225
415 South Beretania Street
Honolulu, HI 96813

The Honorable Jarrett Keohokalole
Chair, Committee on Commerce and Consumer Protection
Conference Room 225
415 South Beretania Street
Honolulu, HI 96813

RE: SB 1509 Relating to Prescription Drugs – SUPPORT WITH AMENDMENTS

Dear Chair San Buenaventura, Chair Keohokalole, Vice Chair Aquino, Vice Chair Fukunaga, members of the Committee on Health and Human Services, and members of the Committee on Commerce and Consumer:

The American Pharmacists Association (APhA) appreciates the opportunity to provide comments on Senate Bill (SB) 1509, which seeks to regulate pharmacy benefit managers (PBMs) and health insurers by ensuring that prescription drug rebates are shared with enrollees. While this legislation is a good start and APhA commends the intent of this legislation, we firmly believe that SB 1509 needs strengthened to protect patients and pharmacists from the harmful business practices of PBMs.. Without additional amendments, PBMs will continue to manipulate drug pricing structures, restrict patient access to necessary medications, and exacerbate the financial struggles of community pharmacies, particularly those in underserved areas.

As a result of the predatory practices of PBMs, patients' access to medications from their local pharmacist across the country has declined[1], taxpayer dollars have been funneled into corporate profits[2], and generationally owned community pharmacies have been driven out of business.[3] A study found that PBM tactics forced Oregon Medicaid to overpay $1.9M on a single drug, where PBMs marked up the drug by 800 percent.[4] Appropriate government oversight is necessary to address the misaligned incentives in the PBM industry that prioritize profits over patients.

Opportunities to strengthen SB 1509 to address these harmful PBM practices include:

[1] Rose J, Krishnamoorth R. Why your neighborhood community pharmacy may close. *The Hill*. Available at https://thehill.com/blogs/congress-blog/healthcare/530477-why-your-neighborhood-community-pharmacy-may-close
[2] 3 Axis Advisors. Analysis of PBM Spread Pricing in New York Medicaid Managed Care. Available at http://www.ncpa.co/pdf/state-advoc/new-york-report.pdf
[3] Callahan C. Mom-and-pop pharmacies struggle to hang on. *Times Union*. Available at https://www.timesunion.com/hudsonvalley/news/article/Mom-and-pop-pharmacies-struggle-to-hang-on-16187714.php
[4] https://oregonpharmacy.org/2022/10/27/oregon-report/

- The bill mandates that PBMs, and health insurers share rebates with enrollees but lacks robust enforcement mechanisms to ensure compliance. Without meaningful penalties or transparency requirements, PBMs may continue engaging in opaque pricing strategies that prioritize their profits over patient affordability for local Hawai'ians .
- SB 1509 does not address below-cost reimbursement rates imposed by PBMs, which have led to widespread pharmacy closures and pharmacy deserts removing the only health care providers that many underserved communities had access to and relied upon. Pharmacies must receive fair reimbursement that reflects the cost of acquiring and dispensing medications, especially for independent and rural providers that serve as lifelines for many patients.

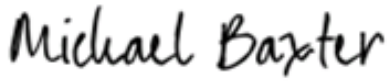
Recommended Amendments:

- Prohibit PBM Patient Steering Practices: PBMs frequently engage in patient steering, where they direct patients to use PBM-affiliated or owned mail-order pharmacies, often at the expense of local community pharmacies. These practices limit patient choice, force patients into longer wait times, and disrupt existing pharmacist-patient relationships. To protect patient access and preserve the integrity of Hawai'i's pharmacy network, SB 1509 should explicitly prohibit PBMs from steering patients to specific pharmacies through coercive tactics, differential reimbursement rates, or restrictive network design.
- Prohibit PBM Spread Pricing: Spread pricing occurs when PBMs charge health plans and employers a significantly higher price for medications than they reimburse pharmacies for dispensing the same drug, keeping the difference as profit. This practice inflates health care costs, exploits patients and taxpayers, and destabilizes pharmacy operations. SB 1509 should ban PBMs from engaging in spread pricing and require full disclosure of drug pricing transactions between PBMs, health insurers, and pharmacies to ensure transparency and fair dealing.
- Mandate Sustainable and Fair PBM Reimbursement Rates for Pharmacies: Many PBMs reimburse pharmacies at rates that are below the actual cost of acquiring medications, particularly for independent and rural pharmacies, forcing closures and reducing patient access to essential health care services. SB 1509 should require PBMs to reimburse pharmacies at or above the actual cost of acquisition and include a reasonable dispensing fee that accounts for pharmacist services, overhead costs, and operational sustainability.

By incorporating these essential amendments, SB 1509 can achieve its intended goal of curbing PBM abuse while ensuring patients receive fair access to their medications and pharmacists are compensated equitably for dispensing medicines to keep their doors open for their local communities. Similar legislative efforts in other states have demonstrated that stronger PBM regulations can lead to significant cost savings, increased transparency, and improved patient outcomes.

For these reasons, APhA urges the committee to amend SB 1509 to fully address these concerns and ensure Hawai'i's patients and pharmacies receive the protection they deserve. If you have any questions or require additional information, please do not hesitate to contact E. Michael Murphy, PharmD, MBA, APhA Senior Advisor for State Government Affairs, by email at mmurphy@aphanet.org.

Sincerely,



Michael Baxter
Vice President, Government Affairs
American Pharmacists Association

cc: Senator Henry J.C. Aquino, Vice Chair
Senator Carol Fukunaga, Vice Chair
Senator Troy N. Hashimoto
Senator Kurt Fevella
Senator Angus L.K. McKelvey
Senator Herbert M. "Tim" Richards, III
Senator Brenton Awa

About APhA: APhA is the largest association of pharmacists in the United States advancing the entire pharmacy profession. APhA represents pharmacists in all practice settings, including community pharmacies, hospitals, long-term care facilities, specialty pharmacies, community health centers, physician offices, ambulatory clinics, managed care organizations, hospice settings, and government facilities. Our members strive to improve medication use, advance patient care and enhance public health. **In Hawai'i, with 900 licensed pharmacists and 1,470 pharmacy technicians, APhA represents the pharmacists and student pharmacists that practice in numerous settings and provide care to many of your constituents.** As the voice of pharmacy, APhA leads the profession and equips members for their role as the medication expert in team-based, patient-centered care. APhA inspires, innovates, and creates opportunities for members and pharmacists worldwide to optimize medication use and health for all.

February 24, 2025

The Honorable Joy Buenaventura
Chair, Committee on Health and Human Services

The Honorable Henry J.C. Aquino
Vice Chair, Committee on Health and Human Services

The Honorable Jarrett Keohokalole
Chair, Committee on Commerce and Consumer Protection

The Honorable Carol Fukunaga
Vice Chair, Committee on Commerce and Consumer Protection

RE: SB 1509 – Support for proposed amendments

Dear Chair Buenavantura, Vice Aquino, Chair Keohokalole, Vice Fukunaga, Members of the Committee on Health and Human Services, and Members of the Committee on Commerce and Consumer Protection:

I am writing on behalf of the National Community Pharmacists Association (NCPA) in support of amendments offered by the Hawaii Pharmacists Association for SB 1509, which would help streamline and control drug costs in Hawaii, provide transparency for patients and State payers regarding their prescription drug benefits programs, and create opportunity for sustainable oversight of the pharmacy benefit managers (PBMs) that administer those benefits.

NCPA represents the interest of America's community pharmacists, including the owners of more than 19,400 independent community pharmacies across the United States and approximately 44 independent community pharmacies in Hawaii. These pharmacies employed approximately 475 residents and they filled over 2.6 million prescriptions in 2023.

Community pharmacists have long known that opaque PBM practices not only hamper patients' ability to obtain pharmacy services from their trusted community pharmacists, but those practices can also lead to higher drug costs for both patients and plan sponsors. Due to the massive consolidation and vertical integration in the health insurance market[1], the three largest PBM's control 80% of the prescription drug market[2] giving them the power to engage in abusive practices which limit patient access, increase drug costs and threaten the viability of small business pharmacies.

[1] https://ncpa.org/sites/default/files/2023-01/verical-bus-chart.jpg
[2] Drug Channels: The Top Pharmacy Benefit Managers of 2021: The Big Get Even Bigger

100 Daingerfield Road
Alexandria, VA 22314-2888
703.683.8200 PHONE
703.683.3619 FAX

NCPA strongly supports the proposed amendment to use the National Average Drug Acquisition Cost (NADAC) benchmark as a floor for drug product reimbursement. While not perfect, NADAC is an average that is determined by a monthly nationwide survey, which usually makes its reimbursement fair and reasonable to community pharmacies. We also support the use of a survey-based dispensing fee per the state's Medicaid fee-for-service methodology. We urge regular cost of dispensing surveys to keep the professional dispensing fee updated and reflective of a pharmacy's cost to dispense. By enacting these measures, Hawaii would join leaders West Virginia, Tennessee, and Kentucky in creating transparent cost-based reimbursement schemes.

NCPA also supports the proposed amendment to clarify reporting requirements as they relate to so-called "trade secrets." PBMs are notorious for being opaque and for obfuscating efforts at regulation. As proposed by the Hawaii Pharmacists Association, the Department of Insurance will be better situated for overseeing matters of compliance, both for present and future regulations. Speaking of oversight and enforcement, NCPA would be pleased to provide, in partnership with the Hawaii Pharmacists Association, some best practices from the above-mentioned states for enforcing these critical reimbursement provisions.

We urge you to advance this critical legislation with the proposed amendments from the Hawaii Pharmacists Association. We want to thank Senate President Kouchi for his leadership on this important issue. If you have any questions, please do not hesitate to contact me at (703) 600-1186 or joel.kurzman@ncpa.org.

Sincerely,

Joel Kurzman
Director, State Government Affairs