HB267 HD1

Measure Title:	RELATING TO PRESCRIPTION DRUGS.
Report Title:	Department of Commerce and Consumer Affairs; Prescription Drugs; Price Increases; Notification; Insurance Commissioner
Description:	Requires that if a proposed increase in the wholesale price of certain drugs would result in a 16% or more price increase over a 2-year period, the drug manufacturer shall notify various drug insurance providers. (HB267 HD1)
Companion:	SB1328
Package:	None
Current Referral:	CPH
Introducer(s):	TAKUMI

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce, Consumer Protection, and Health
Thursday, March 14, 2019
9:00 a.m.
State Capitol, Conference Room 229

On the following measure:
H.B. 267, H.D. 1, RELATING TO PRESCRIPTION DRUGS

Chair Baker and Members of the Committee:

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

This bill requires that if a proposed increase in the wholesale price of certain drugs would result in a 16% or more increase in the wholesale acquisition cost over a two-year period, the drug manufacturer shall provide notice to various drug insurance providers. The Department is concerned the Insurance Division will be unable to enforce the measure's proposed amendments to Hawaii Revised Statutes chapter 431R, as the Insurance Division has no regulatory oversight over drug manufacturers and no expertise in regulating wholesale prescription drugs.

If, however, the Committee chooses to pass this measure, the Department respectfully requests a delayed implementation date of at least one year. In addition, the Department respectfully requests adjusting the Insurance Division's budget ceiling

to cover the fiscal impact of this bill, including the cost to retain an outside expert consultant on prescription drug wholesale pricing to assist with implementation and enforcement of this bill.

Finally, the Department notes that similar legislation passed in California is currently the subject of litigation before the United States District Court, Eastern District of California, Case No. 2:17-cv-02573, on grounds that the law is unconstitutional.

Thank you for the opportunity to testify on this measure.

An Independent Licensee of the Blue Cross and Blue Shield Association

March 9, 2019

The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Health

Re: HB 267 HD1 – Relating to Prescription Drugs

Dear Chair Baker, Vice Chair Chang, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 267, HD1, which requires that if a proposed increase in the wholesale price of certain drugs would result in a 16% or more price increase over a 2-year period, the drug manufacturer shall notify various drug insurance providers.

HMSA supports requiring prescription drug manufacturers to notify prescription drug benefit plans and pharmacy benefit managers of any planned price increases. We believe this measure may assist in our attempt to keep costs down for our members and is an important step towards reigning in the skyrocketing costs of prescription drugs.

Thank you for the opportunity to provide testimony on this measure.

Sincerely,

Pono Chong
Vice President, Government Relations

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Government Relations

Testimony of
Jonathan Ching
Government Relations Specialist

Before:
Senate Committee on Commerce, Consumer Protection, and Health
The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair

March 14, 2019
9:00 a.m.
Conference Room 229

Re: HB267, HD1, Relating to Prescription Drugs

Chair Baker, Vice-Chair Chang, and committee members, thank you for this opportunity to provide testimony on HB267, HD1, which requires drug manufactures to notify prescription drug insurers and pharmacy benefit managers of a proposed increase in the wholesale price of certain drugs.

Kaiser Permanente Hawai‘i SUPPORTS HB267, HD1.

Among the greatest threats to the affordability of health care coverage is the pharmaceutical industry's pricing of new and existing medications. New drugs are being approved and marketed with higher prices than their predecessor treatments, often with no difference in effectiveness or safety. Drugs that have been on the market for years are seeing double digit price increases each year without an explanation. In some cases, drugs that have long been available are going up in price even faster, with triple and quadruple digit price increases.

Kaiser Permanente's Specialty Pharmacy, which services Kaiser Permanente Hawai‘i members, focuses on high cost, high touch medication therapy for patients with complex disease states. As such, Kaiser Permanente Specialty Pharmacy's overall drug spending for Hawai‘i members increased 146% from 2015 to 2018. This problem is only going to get worse, with spending on specialty drugs expected to continue to rise at an alarming rate. Unchecked, this trend will bankrupt public and private payors alike. Even common drugs that have been around for many years are seeing unexplainable, staggering price increases. Manufacturers raise prices on existing drugs once, twice, or even three times per year − and yet, that new, higher price seldom brings any additional value or clinical benefit. This would never be acceptable in any other industry and is simply unsustainable.

Hospitals and health plans report pricing information. It's time for pharmaceutical manufacturers to do the same when they implement major price increases.

Because individuals are required to buy health care, and public and private purchasers are required to cover an FDA approved medication when one is available for a patient's condition, there is a compelling public interest for drug manufacturers to be required to provide a rationale as to how they arrived at a particular price. Price transparency is quickly becoming the norm in the health care industry in order to contain costs and encourage healthy competition.

Kaiser Permanente Hawai'i is appreciative of the innovation in pharmaceuticals that makes a profoundly better quality of life available to our patients. However, patients will not benefit if a medication is priced out of reach and does not provide additional value from a quality and/or safety perspective or if ultimately these price increases bankrupt the system.

HB267, HD1 is a good first step toward shining a light on manufacturer pricing practices and will also help purchasers and policy makers better understand this large and growing expense.

Thank you for the opportunity to provide testimony on this important measure.

HB-267-HD-1
Submitted on: 3/11/2019 4:38:05 PM
Testimony for CPH on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cathy wilson	Testifying for Work Injury Medical Association of Hawaii	Support	No

Comments:

March 13, 2019

TO: Chair Rosalyn H. Baker
Vice Chair Stanley Chang
Members of the Senate Committee on Commerce, Consumer Protection, and Health

FROM: Pharmaceutical Research and Manufacturers of America (PhRMA)
(William Goo)

RE: **HB 267 HD1** - Relating to Prescription Drugs
Hearing Date: March 14, 2019
Time: 9:00 am

PhRMA opposes the passage of **HB 267 HD1** which requires advance notice by drug manufacturers of proposed increases in the wholesale price of certain drugs. Attached is PhRMA's proposed amendment to this bill that requires the disclosure of information of past wholesale drug price increases which it submits is more meaningful with respect to transparency in drug pricing.

Thank you for considering this testimony.

HOUSE OF REPRESENTATIVES
THIRTIETH LEGISLATURE, 2019
STATE OF HAWAII

H.B. NO. 267 H.D. 1

A BILL FOR AN ACT

RELATING TO PRESCRIPTION DRUGS.

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

SECTION 1. House Bill No. 267, H.D. 1, is amended as follows:

1. By striking sections 1 through 3 in their entirety and replacing them with the following:

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

"§431R- Mandatory notification of prescription drug price increases. (a) The insurance commissioner shall identify annually up to 10 prescription drugs on which the State spends significant health care dollars and for which the wholesale acquisition cost increased by a total of 50 percent or more during the prior two calendar years or by 20 percent or more during the prior calendar year, creating a substantial public interest in understanding the development of the drugs' pricing. The drugs identified shall represent different drug classes and must include generics.

(b) For each prescription drug identified pursuant to subsection (a) of this section, the insurance commissioner shall require the drug's manufacturer to report the following information:

(1) a schedule of drug's wholesale acquisition cost increases over the previous five calendar years;

(2) a written, narrative description, suitable for public release, of the factors that have contributed to the drug's recent cost increase;

(3) the date and price of acquisition of the identified drug if it was not developed by the manufacturer, and the drug's wholesale acquisition cost at the time of acquisition, if known; and

(4) the manufacturer's aggregate, company-level research and development and other relevant capital expenditures (*e.g.*, facility construction) for the most recent year for which final audited data are available.

(c) Information provided by a manufacturer under this section shall be generally consistent with the level and type of data made available in a manufacturer's 10-k filing or to other publicly available data sources. The insurance commissioner shall consult with representatives of manufacturers to establish a single, standard format for

reporting information under this section that minimizes administrative burden for the State and manufacturers.

(d) Nothing in this section shall be construed to restrict the legal ability of a prescription drug manufacturer to change prices to the extent permitted under federal law.

(e) By June 1 of each calendar year, the insurance commissioner shall publish on the website of the department of commerce and consumer affairs a report on its website based on the information that it receives under subsection (b).

(f) Information provided to the insurance commissioner is limited to the information pursuant to subsection (b), is exempt from public inspection and copying under the Uniform Information Practices Act (Hawaii Rev. Stat. Chapter 92F), and shall not be released in a manner that would allow for the identification of an individual drug, therapeutic class of drugs, or manufacturer, or in a manner that is likely to compromise the financial, competitive, or proprietary nature of the information.

(g) The regulation of pharmaceutical manufacturers' disclosures of revenue-, expense-, and drug pricing-related information, pursuant to this article, is not subject to

further regulation by a county, city, town, or other political subdivision of this State."

SECTION 2. Section 431R-1, Hawaii Revised Statutes, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Rebates" means all rebates, discounts, or other price concessions that the State or another prescription drug benefit plan or payor receives or expects to receive, directly or indirectly, from a pharmaceutical manufacturer related to utilization of prescription drugs produced by the pharmaceutical manufacturer.

"Research and development expenditures" means all costs that a pharmaceutical manufacturer incurs during a calendar year that relate to the research and development of products, processes, or services, and including the costs of research and development of products, processes, or services that the pharmaceutical manufacturer has acquired or obtained via a license.

"Wholesale acquisition cost" or "WAC" has the meaning specified at 42 U.S.C. § 1395w-3a(c)(6)(B)."