

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 18, 2023

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

FROM: Cathy Betts, Director

SUBJECT: [HB 218 HD2](#) – RELATING TO PRESCRIPTION DRUGS.

Hearing: March 20, 2023, 1:00 p.m.
Conference Room 225 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the measure, provides comments, and defers to pharmacists regarding implementation.

PURPOSE: This bill requires certain pharmacies to provide accessible prescription drug label information to individuals who have difficulty seeing or reading prescription drug container labels and inform the public that prescription drug label information is available in alternate accessible formats for individuals who have difficulty seeing or reading prescription drug container labels. Requires the board of pharmacy to adopt certain rules by 12/31/2025. Effective 6/30/3000. (HD2)

The HD1 amended the measure by:

- (1) Requiring the Board of Pharmacy to adopt rules by December 31, 2025, rather than December 31, 2023;
- (2) Changing the effective date to June 30, 3000, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

The HD 2 amended the measure by:

- (1) Exempting pharmacies that are sole proprietorships with no more than two pharmacists;
- (2) Specifying that the rules required to be adopted under this measure be done pursuant to the Hawaii Administrative Procedure Act; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

DHS appreciates local pharmacies' assistance to Hawaii's vulnerable populations throughout the pandemic and defers to them regarding implementing the measure's provisions. However, the ability to read one's prescription medication labels in an accessible format is an essential matter of public health and safety and should be available to all Hawaii residents. In addition, DHS supports efforts that improve accessibility for individuals with disabilities and enhances their independence.

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

Testimony of the Board of Pharmacy

**Before the
Senate Committee on Health and Human Services
Monday, March 20, 2023
1:00 p.m.
Conference Room 225 and Videoconference**

**On the following measure:
H.B. 218, H.D. 2, RELATING TO PRESCRIPTION DRUGS**

Chair San Buenaventura and Members of the Committee:

My name is James Skizewski, and I am the Executive Officer for the Board of Pharmacy (Board). The Board appreciates the intent of this measure, but offers comments expressing its concerns.

The purposes of this bill are to require pharmacies to: (1) provide accessible prescription drug label information to individuals who have difficulty seeing or reading prescription drug container labels and inform the public that prescription drug label information is available in alternate accessible formats for individuals who have difficulty seeing or reading prescription drug container labels; and (2) require the Board to adopt certain rules by December 31, 2025.

The Board is concerned about the associated costs to pharmacies to obtain technology and implement procedures to facilitate prescription drug label information being made available in alternate accessible formats. Some larger retail pharmacies currently offer this service, but requiring all pharmacies, including independent and mid-sized family-owned businesses to ensure prescription drug label information is made available in alternate accessible formats, would pose an additional and unnecessary hardship on smaller businesses for a service that is already provided through prescription counseling.

The Board would like to emphasize that prescription counseling is readily available as required by the Omnibus Budget Reconciliation Act of 1990 (OBRA-90). OBRA-90 mandates pharmacists offer patient counseling related to descriptive information, intended use expectation, dosage schedule, side effects, proper storage, refill information, and action to be taken in the event of a missed dose.

The Board appreciates the amendments put forth by the House Committee on Consumer Protection and Commerce in the H.D. 2, but requests clarification on the exemption provided for sole proprietors with no more than two pharmacists. Will the exemption be provided to only pharmacies with two pharmacists on staff or pharmacists actively working in the pharmacies? If the exemption is applied by counting the pharmacists on staff, the Board asks for the bill to be amended on page 4, lines 1 and 2, to read:

(d) This section shall not apply to a pharmacy that is a sole proprietorship with no more than ~~two~~ four pharmacists.

Thank you for the opportunity to testify on this bill.

Testimony of James Gashel
Submitted for National Federation of the Blind of Hawaii
Committee on Health and Human Services (HHS)
Hawaii State Senate
Thirty-second Legislature, regular session of 2023
March 20, 2023, 1:00 PM, hearing on HB218 H.D. 2

Good afternoon chair, vice chair, and members. I am James Gashel, representing National Federation of the Blind of Hawaii, testifying in support of HB218 H.D. 2, and offering amendments. This bill is similar to SB608 S.D. 1, included in the Deaf and Blind Task Force package this year. Mahalo for bringing this bill forward.

This is an important bill to help people identify their prescriptions and access instructions about when and how much to take. The target group is people who have difficulty reading printed prescription drug labels due to vision loss or for any other reason. As the bill explains, label information can be displayed in alternate accessible formats.

As passed by the House, this bill would give the Board of Pharmacy until the end of 2025 to make implementation rules, whereas the Senate bill requires rules by December 31, 2023. The House bill would also give a blanket exemption to certain pharmacies, but the Senate bill does not. We much prefer the Senate version.

As an acceptable alternative, considering concerns expressed, NFB of Hawaii offers the amendments appended to this testimony. These amendments would restore December 2023 as the date for rules adoption. We think this is realistic. The amendments would also require the Board of Pharmacy to include a compliance effective date in the rules, not specified in either the Senate or the House bills but should be made clear to all. Finally, the amendments provide the opportunity for a one year time limited waiver to be granted certain pharmacies on a case by case basis as determined by the Board when the pharmacy has demonstrated good faith efforts to comply.

Regulation of prescription drug labels is largely a state responsibility. That's why

we're asking the legislature to pass this bill. Once implemented, the result will be better accessibility and safety for everyone. Mahalo for your consideration of HB218 and SB608 this year.

Suggested Senate amendments to HB218 H.D. 2

Offered by National Federation of the Blind of Hawaii

Submitted to HHS on 3-15-23

Purpose: to remove the blanket exemption of certain pharmacies from this Act as approved in the H.D. 2 amendment; to revise the date when the Board of Pharmacy is required to adopt rules; to require the Board of Pharmacy to include a compliance date in rules made pursuant to this Act (which shall not be later than 12 months after the rules are adopted by the Board); and to allow the Board to waive compliance by certain pharmacies on a case by case basis when the pharmacy has demonstrated good faith efforts to comply and the Board finds that a time limited exemption, not exceeding one year beyond the effective date of the rules, is justified.

In SECTION 2., strike subsection (d) (page 4, line 1 through line 2).

In SECTION 4., strike "2025" (on page 4, line 17), and insert "2023".

At the end of SECTION 4., (page 5, line 2) after "Act.", add "The rules shall include an effective date which shall be no later than 12 months after the date the rules are adopted by the Board. The Board may waive compliance for up to one year after the rules are in effect for a pharmacy that is a sole proprietorship with no more than two pharmacists, on a case by case basis when the pharmacy has demonstrated good faith efforts to comply and the Board finds that a waiver is justified."

Explanation:

The first amendment removes the blanket exemption of all sole proprietorship pharmacies with no more than two pharmacists. This exemption was added by the H.D.2 amendment, based on lack of information about the cost of technology needed to comply, expected to be an annual cost of less than \$500 , not known by the House committee. This exemption is also not included in the corresponding bill, SB608 S.D. 1, now in the House.

The second amendment sets the rules adoption date for the Board of Pharmacy as December 31, 2023. This is identical to SB608 S.D. 1, previously approved by this committee and passed by the Senate.

The third amendment requires the Board to include an effective date in the rules which shall not be later than 12 months after the rules are adopted by the Board. The Board may grant an up to one year compliance exemption for sole proprietorship pharmacies with no more than two pharmacists on a case by case basis found justified by the Board after the pharmacy has demonstrated good faith efforts to comply. This is a reasonable and appropriate accommodation to the concerns the Board has expressed on behalf of small pharmacies.

HB-218-HD-2

Submitted on: 3/19/2023 10:39:18 AM

Testimony for HHS on 3/20/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tabatha Mitchell	Testifying for National Organization of Parents of Blind Children	Support	In Person

Comments:

Aloha Committee,

I am a parent of a blind child that is 16 years old. She is learning to manage her own healthcare.

As a parent representative of the National Organization of Parents of Blind Children, I volunteer my time to work with blind kids and their parents all around our nation and throughout all of Hawaii to help reduce their struggle that I as a parent of a blind child know all too well. The world is stacked against these blind kids. Society as we know it was not designed or structured with our disabled citizens in mind.

We train our blind kids daily on how to use technological tools to get the information they need to lead normal every day lives. This includes learning to manage their own healthcare and that includes learning to manage their open prescription medications.

The existing state law requires prescription drug containers to be labeled and assumes ordinary printed labels are ok for everyone.

Members of the pharmaceutical industry are aware that labels should be more accessible for those that are blind or that have low vision. The industry supported a 2012 federal law creating a voluntary "best practices" standard. We all know that voluntary standards don't work and are simply an easy way to be excused from doing what is right and just - while being able to say that they recognize that something such as this need for accessibility for blind people is indeed a valid need.

Since that recognition has been made, please adopt the amendments proposed by the National Federation of the Blind of Hawaii on H.B.218 HD2.

Technology solutions are available to provide prescription drug container label information, directions, and instructions in alternate accessible formats. Our blind kids use these technologies every day. Greater use of these technologies would improve access to essential information for everyone.

During House hearings, I listened to the pharmacy board explain that verbal counseling was available as needed for blind people. I fail to understand how anyone can think that is ok - and equal - and safe. Let's just counsel everyone at the counter and forego labeling and send everyone on their way.

Please listen to the blind citizens in your constituencies. They simply want to be able to access the very important health information included on their prescription bottles. If Corona taught us one thing, it was how to scan & use technology. This is NOT a heavy lift. Nor is it an expensive add-on for small pharmacies. That is just another excuse to be legally excluded from doing what is right and just for our blind citizens.

Testimony of Donald Sakamoto
Member, National Federation of the Blind of Hawaii
Committee on Health and Human Services (HHS)
Hawaii State Senate
Thirty-second Legislature, regular session of 2023
March 20, 2023, 1:00 PM, decision making on HB218 H.D.2

Good afternoon chair, vice chair, and members. I am Donald Sakamoto, a member of the National Federation of the Blind of Hawaii, in full support of SB608 S.D.1.

This bill will definitely help me and other people statewide identify their prescriptions and access instructions about when and how much to take. The main primarily group is people who have difficulty reading printed prescription drug labels due to vision loss or for any other reasons. The bill explains that label information can be displayed in alternate accessible formats.

The current state law requires that dispensing pharmacies to label each prescription drug container with specific information, by identifying the drug and providing information necessary for health and safety. However, a lot of individuals may often be unable to see or read labels due to disability or age, including individuals with low vision or blindness.

Today we have the 21st century Technology with solutions to provide prescription drug container label information, directions, as well as instructions in alternate accessible formats, and not just small print. For example, one type of device that is readily available is at CVS Longs called Spoken Rx that uses a smart tagged prescription label that works with their app to read your prescription information when you would hold your smart phone over the medication bottle. By the use of this alternate formats, it definitely would enhance accessibility of prescription drug container labels for everyone, furthering our prescription drugs independently instead of relying on others with sight for assistance.

The time is now to prepare to have this type of technology available to all blind, visually impaired, and other people with print disabilities to access their prescription drugs with ease. Famous “by failing to prepare, you are preparing to fail” by Benjamin Franklin.

Mahalo and I truly urge you all to please support to move this bill forward.

HB-218-HD-2

Submitted on: 3/16/2023 9:10:53 PM

Testimony for HHS on 3/20/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Support	Written Testimony Only

Comments:

In support.

HB-218-HD-2

Submitted on: 3/16/2023 8:08:24 PM

Testimony for HHS on 3/20/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Clifford Miyashiro	Testifying for Hoopono	Support	Written Testimony Only

Comments:

Testimony of Clifford Miyashiro

Committee on Health and Human Services (HHS)

Hawaii State Senate

Thirty-second Legislature, regular session of 2023

March 20, 2023, 1:00 PM, hearing on HB218 H.D. 2

Good afternoon chair, vice chair, and members. I am Clifford Miyashiro, supporting HB218 H.D. 2 with amendments suggested by the National Federation of the Blind of Hawaii.

This bill will help people identify their prescriptions and access instructions about when and how much to take. This is very important to me. As the bill explains, label information can be displayed in alternate accessible formats.

Existing state law requires dispensing pharmacies to identify drug containers with printed labels that have specific information. This lets everyone know what is in the bottle unless you can't read the printed label. Reading the label is necessary for health and safety. However, individuals may often be unable to see or read labels due to disability or age, including individuals with low vision or blindness, affecting as many as an estimated 60,000 residents in our state.

The House passed this bill and gave more than two years to comply. Maybe we should take all the small print labels off the bottles for two years too. That would make no sense, just like it doesn't take two years to implement a law like this. Please approve the NFBH amendment which restores the end of December 2023 as in the Senate version of this bill.

The House has exempted all small pharmacies, which I think is wrong. It won't cost them much to comply. I support the NFBH amendment to give small pharmacies a little extra time, but not a blanket exemption.

We're asking the legislature to pass this bill because regulation of prescription drug labels is largely a state, not a federal, responsibility. Use of alternate formats will enhance accessibility of prescription drug container labels for everyone, furthering our state's health, safety, and public interest goals. Please support this important goal by voting to pass this bill.



Testimony presented before the
Senate Committee on Health and Human Services
Monday March 20, 2023

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

Honorable Chair San Buenaventura, Vice Chair Aquino, and members of the committee,

The Hawai'i Pharmacists Organization (HPhA) opposes HB218 Relating to Prescription Drugs as introduced by the Deaf and Blind Task Force. There was no effort from bill stakeholders to collaboratively address the issue of accessible labels prior to the introduction of this bill that is targeted specifically towards pharmacies and completely disregards other care settings where medications are dispensed.

Please consider how this bill specifically targets the pharmacy profession:

- HB218 does not address all providers and dispensers of medication and medical information.
- Fails to address providers who dispense out of their own clinic, from a hospital pharmacy with discharge summaries, treatment summaries, veterinarians for animal medications, etc. that will create inconsistency for patients.
- Manufacturers distribute medications that have language directly on the packaging are not addressed in this bill (fluconazole for urinary tract infections, Zithromax/Z-Pak for infection, bowel prep for colonoscopies, among others.)

This is an unfunded mandate on pharmacies without addressing payment:

- The bill states that accessible labels of the patient's choice would be required at no cost.
- Pharmacies already have below cost reimbursements for medications and minimal fees for dispensing costs often losing money on medications dispensed.
- The language states that the pharmacies must also "provide a prescription drug reader at no cost to the individual." Again, who is covering the cost of this additional technology?
- The "brick and mortar" pharmacy community is made up of small independent pharmacies (some of which have more than two pharmacists), larger chains and outpatient hospital pharmacies. The capacity to meet and invest in the technology varies substantially. We are concerned that this is another unfunded mandate that may push our independents out of business and reduce access to pharmacists in communities that need them.

HPhA is absolutely open to working with the bill sponsor and stakeholders to identify an alternate pathway for more appropriate accessibility to prescription medication information for the blind and visually impaired. However, we strongly believe this bill is not the way to do it given the complete oversight for payment infrastructure that lacks consistency from other medications and providers outside a pharmacy setting.

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

Very Respectfully,

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

HB-218-HD-2

Submitted on: 3/17/2023 10:42:51 AM

Testimony for HHS on 3/20/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support this bill.

Mahalo nui,

Cards Pintor

March 20, 2023

Testimony of Eleanor Macdonald
Submitted to the Hawaii State Senate
COMMITTEE ON HEALTH AND HUMAN SERVICES

Honorable Senator Joy San Buenaventura, Chair
Honorable Senator Henry Aquino, Vice Chair

Re: HB 218, HD2, RELATING TO PRESCRIPTION DRUGS

Dear Chair San Buenaventura, Vice Chair Aquino and Members,

I would like to enthusiastically support HB 218, HD2, Relating to Prescription Drugs.

I am retired now, but for many years I worked with rehabilitation agencies providing direct services to individuals who were deaf, hard of hearing and deaf-blind.

My husband of 44 years is a retired federal computer systems analyst with no useful sight or hearing. He uses braille and other tactile markings enabling him to keep up with daily current events, email, chess tournaments and Sudoku puzzles.

But medications are the current challenge. My husband takes 16 assorted pills, capsules or tablets each day, and he needs to know which is which. He has been able to handle this by the unique feel of each bottle or the size/shape of the pill. But when the pharmacy changes the container because of a change in supplier or as a practical expediency - it is challenging to keep up. Taking/not taking the wrong medication can be very dangerous.

We were recently told that Longs Drugs/CVS could provide medications with braille labels so we requested this. A few hours later, we were told that their machine was broken, sorry no braille labels. And no attempt to fix the brailier in order to provide braille labels.

Explicit labeling of prescription drugs in alternative accessible format for individuals who have difficulty seeing or reading prescription container labels should be mandated. The Board of Pharmacy needs to adopt specific rules to require equal access of medication labels for health and safety reasons.

I strongly urge you to enact this legislation.

Mahalo,
Eleanor Macdonald, M.Ed., CRC (ret.)

Brandon Young

2/13/2023

Committee on Health and Homelessness (HLT)
Hawaii State House of Representatives
Thirty-second Legislature, regular session of 2023
February 15, 2023, 8:30 AM, hearing on HB218

Dear Chair Greg Takayama and committee members,

My name is Brandon Young, and I am a member of the National Federation of the Blind of Hawaii Honolulu Chapter, and I am submitting testimony in support of HB 218. This is a very important bill for the blind and visually impaired here in Hawaii. I would hope that your committee would pass this bill.

The importance of this bill is to give blind and visually impaired people in Hawaii the opportunity to read what is on their prescription labels. Currently, a blind or visually impaired person has to get someone to tell them what type of medicine they are taking and how often they should take it. This bill would create a method for blind people to read their prescription bottles independently. If this bill was passed, then it would put into place the mechanism to attach barcode type labels to the bottles. A blind person could then use their smart phone to identify the RFID tag that has been attached to their prescription bottle. The blind person could then use the Voice over software to read what the information is from the bottle. This would allow blind people to take their medicine in an independent manner. Thank you for your time in hearing our bill.

I want to again thank you and your committee to listening to our organization and our concerns with inaccessible prescription bottles. This bill creates a method for making prescription bottles for the blind and visually impaired accessible for the future. Thank you and have a wonderful day.

HB-218-HD-2

Submitted on: 3/19/2023 12:18:05 PM

Testimony for HHS on 3/20/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Eliea Mitchell-Butler	Individual	Support	Written Testimony Only

Comments:

Hi my name is Eliea Mitchell-Butler. My youngest sister is blind. I am very scared for her because drug prescriptions aren't labeled and such a way that she can read them. I stand on the amendments suggested by the national federation of the blind of hawaii. As an older sister, I feel this bill should happen now because if she picks up her own prescription and can't read her own labels, there is a possibility that she could overdose and die simply because she is not given accessible labels. This solution should apply to ALL pharmacies, not just large corporations.

Thank you for the opportunity to testify.

HB-218-HD-2

Submitted on: 3/19/2023 11:42:32 AM

Testimony for HHS on 3/20/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Emerie Mitchell-Butler	Individual	Support	Written Testimony Only

Comments:

Testimony of Emerie Mitchell-Butler

Committee on Health and Human Services (HHS)

Hawaii State Senate

Thirty-second Legislature, regular session of 2023

March 20, 2023, 1:00 PM, hearing on HB218 H.D. 2

\Good afternoon Chair, Vice Chair, and members of the committee. My name is Emerie Mitchell-Butler, a blind student in Hawaii, and I strongly support HB218 with amendments suggested by the National Federation of the blind of Hawaii.

As a person, I sometimes need to take description medications. As a blind person, I struggle to access the information on the labels of those prescriptions. The law regulates what must be on the label but does not ensure that everyone can actually read it. Providing the label information in an accessible format is a trivial matter of using electronic RFID tags on the packaging that the customer can read with an electronic device of their choice.

This information is not something that is nice to have; rather, it is information one needs to have. When to take a medication and how much to take each time is information everyone needs to stay safe and healthy. I do not want to, and often cannot, rely on another person to tell me which medicine is which and when I should take it. This is not just about convenience. This is a matter of public safety.

Amendments were made that push the date that pharmacies need to comply out to two years. That's two years of dependence, two years of unnecessary danger, and two years of disadvantaging anybody who can't see well enough to read their prescription labels. This is not okay and not needed. Please pass the amendment proposed by the National Federation of the Blind of Hawaii that restores the beginning of compliance to December 2023.

The house has also exempted all small pharmacies. These businesses are critical community resources. I understand they might need a little more time to adjust to the new standard, but as critical community resources, they must also be usable by folks with any amount of vision. We cannot restrict anybody to a large pharmacy, which may be far away or not carry a specific medication that a smaller specialized pharmacy might. Please support the amendment propose by the National Federation of the Blind of Hawaii that gives smaller pharmacies more time but not a blanket exemption.

Prescription drug labels are primarily regulated by the state. As a state matter, this bill with amendments from the NFB of Hawaii is necessary for the safety of everyone in Hawaii.

Anybody could lose their vision at any time. It might happen within the next two years. So many people already don't have enough vision to accurately read their prescription drug labels. Please support HB218 with amendments proposed by the National Federation of the Blind of Hawaii.

The safety of the state depends on it.
Thank you for the opportunity to testify.
Emerie Mitchell-Butler

HB-218-HD-2

Submitted on: 3/19/2023 12:53:28 PM

Testimony for HHS on 3/20/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ann Lemke	Individual	Support	Written Testimony Only

Comments:

I fully support this legislation and I am a blind retired person living alone and need accessible prescription labels.

HB-218-HD-2

Submitted on: 3/19/2023 12:33:50 PM

Testimony for HHS on 3/20/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Erie	Individual	Support	Written Testimony Only

Comments:

I stand for this bill and with the NFBs amendments in order to ensure the safety of individuals.