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GOVERNOR



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No. _____

**TESTIMONY ON SENATE BILL 2882 SD1
RELATING TO CONTROLLED SUBSTANCES**

by

Clayton A. Frank, Director
Department of Public Safety

House Committee on Consumer Protection and Commerce
Representative Robert N. Herkes, Chair
Representative Angus L.K. McKelvey, Vice Chair

House Committee on Judiciary
Representative Tommy Waters, Chair
Representative Blake K. Oshiro, Vice Chair

Tuesday, March 25, 2008, 4:00 p.m.
State Capitol, Conference Room 325

Representative Herkes, Representative McKelvey, Representative Waters,
Representative Oshiro, and Members of the Committees:

The Department of Public Safety (Department) strongly opposes the amendments being proposed in Senate Bill 2882 SD1, which would expand the definition of "Identification number" in Section 329-1, Hawaii Revised Statutes (H.R.S.), and "proper identification" as utilized in Section 329-41, H.R.S., "Prohibited Acts B penalties," in relation to out of state mail order pharmacies, to include all unique patient identifier numbers issued by insurance company or pharmacy benefits manager. Presently the term "Identification number" refers to the patient's unique:

- 1) Valid driver's license number with State abbreviation;
- 2) Valid State identification card number with State abbreviation;
- 3) Military identification number;
- 4) Passport number; or
- 5) If patient does not have any of the above identifications, the patient's Social Security number.

All of the above listed identifications are government issued and the numbers utilized can be verified through their respective issuing state or federal agency. However, the amendment being proposed in Senate Bill 2882 SD1 to allow out of state mail order pharmacies to be able to use unique patient identifier numbers issued by insurance company or pharmacy benefits manager would be almost impossible to verify, making it useless as a valid identification number to the Department. Other problems with the use of patient identifier numbers issued by insurance company or pharmacy benefits managers is the fact that there is no central database of these numbers and there will be the problem of duplication of a patient's identification number by other insurance companies and pharmacy benefit managers. Senate Bill 2882 SD1 does not require these out of state pharmacies to provide a comprehensive list of these issued numbers to the Department. It would be necessary for every insurance company and pharmacy benefits manager issuing a patient/customer identification number to furnish a list of those numbers with corresponding patient information to the Department if it was to be of any use to verify and document the customer/patient obtaining the controlled substance from the out of state mail order pharmacies.

The Department feels that amendments being proposed in Senate Bill 2882 SD1 would adversely affect the anti diversion precautions built into H.R.S. Sections 329-38 (Relating to prescriptions), 329-41 (Prohibited Acts B Penalties), 329-101(Reporting of dispensation of controlled substances; electronic prescription accountability system), and 329-102 (Central repository; electronic prescription accountability system) where the term "Identification number" is utilized in these sections as a means of patient identification and for reporting requirements set forth in H.R.S. Chapter 329.

The Department feels that the amendments being proposed in Senate Bill 2882 SD1 would only benefit out of state mail order pharmacies and assist them in not having to comply with existing Hawaii law relating to the reporting of the government issued identification number of all patients filling controlled substance prescriptions that presently all local pharmacies and mail order pharmacies must comply with. Senate Bill 2882 SD1 would not improve the sections affected and in most cases will increase the possibility of individuals providing fraudulent identification to obtain controlled substances, as well as cause additional work for the Department in attempting to verify the identity of the patients that choose to utilize a patient identification card issued by an insurance company or pharmacy benefits manager as that patient's proper identification.

The Department for the reasons stated cannot support passage of House Bill 2882 SD1.

Thank you for the opportunity to testify on this matter.

HMSA



Blue Cross
Blue Shield
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

March 25, 2008

The Honorable Robert N. Herkes, Chair
The Honorable Tommy Waters, Chair

House Committees on Consumer Protection and Commerce and Judiciary

Re: SB 2882 SD1 – Relating to Controlled Substances

Dear Chair Herkes, Chair Waters and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2882 SD1 which would authorize the use of a payor provided identification number in mail-order prescriptions.

We support the current version of SB 2882 SD1 which contains amendments requested by HMSA and inserted by the Senate.

Thank you for the opportunity to provide testimony on SB 2882 SD1.

Sincerely,

Jennifer Diesman
Assistant Vice President
Government Relations



March 25, 2008

HOUSE COMMITTEES ON CONSUMER PROTECTION & COMMERCE/JUDICIARY

Rep. Robert N. Herkes, Chair
Rep. Tommy Waters, Chair
Rep. Angus L.K. McKelvey, Vice Chair
Rep. Blake K. Oshiro, Vice Chair

Re: TESTIMONY ON Senate Bill 2882, A BILL RELATING TO CONTROLLED SUBSTANCES

Tuesday, March 25, 2008, 4:00 p.m.
State Capitol, Conference Room 325

Dear Chairs Herkes, Waters and Committee Members:

I am submitting written testimony on behalf of Express Scripts, Inc. (ESI) in strong support of Senate Bill 2882. Express Scripts provides the pharmacy benefit for millions of Americans through employers, managed-care plans, unions and governmental entities.

Current Hawaii law requires a patient who might choose to save money on a prescribed controlled substance by using a mail service pharmacy to first provide to that pharmacy a copy of some form of government-issued identification or their social security number.

This is problematic for several reasons. First, health plans and other payers are prohibited from using a social security number as a patient identifier. Moreover, many people who would like to have the option to save money and control their prescription drug costs are uncomfortable with sharing either their social security number or government-issued identification card.

It is almost universal in the administration of prescription drug benefit plans to identify a beneficiary and verify that beneficiaries eligibility through the use of a unique patient identifier number created by a plan sponsor or pharmacy benefit manager (PBM). Senate Bill 2882 would allow mail service pharmacies to rely upon that unique patient identifier number, which will both ease the potential means and expand the choices available to patients when they're deciding how they'd like to receive a prescribed drug and manage their prescription drug costs.

As amended, SB 2822 defines a mail order pharmacy and includes insurers or PBMs as those able to assign unique patient identifiers with respect to a mail order pharmacy. The bill then further clarifies that since PBMs only dispense drugs to beneficiaries of clients who have relationships with the PBMs, and not to the general public, that a patient properly enrolled in a mail order prescription drug plan is know to the mail order pharmacist.

Express Scripts strongly supports SB 2882 and appreciates the consideration of our testimony.

Sincerely,

Michael Harrold
Senior Director, State Government Affairs
Express Scripts



State Affairs
1121 L Street, Suite 500
Sacramento, California 95814

Tel (916) 447-9280
Fax (916) 447-0911

The Senate
Twenty-Fourth Legislature, 2008
State of Hawaii

ATT'N: Consumer Protection/Judiciary Committee

Re: Hearing, Wednesday March 25, 2008
4 p.m.
Senate Bill 2882 (SD 1)

On behalf of WellPoint, Inc., thank you for the opportunity to comment on Senate Bill 2882, which would authorize the use of a payor-provided identification number in mail order prescriptions. WellPoint strongly supports the proposed legislation allowing the use of a unique patient identifier in dispensing prescriptions for medications involving controlled substances, when dispensed through a mail order pharmacy.

WellPoint's mission is to improve the lives of the people we serve and the health of our communities. WellPoint, Inc. is the largest health benefits company in terms of commercial membership in the United States, with medical enrollment of 34.9 million members. Through its nationwide networks, the company delivers a number of leading health benefit solutions through a broad portfolio of integrated health care plans and related services, along with a wide range of specialty products, such as life and disability insurance benefits, pharmacy benefit management, dental, vision, behavioral health benefit services, as well as long term care insurance and flexible spending accounts.

Thank you for the opportunity to comment on Senate Bill No. 2882. WellPoint supports the State of Hawaii's efforts to safeguard the health of its residents while facilitating the efficient provision of and access to necessary medications.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann-Louise Kuhns".

Ann-Louise Kuhns
Vice President, State Affairs

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Hawaii District Office: 2270 Hoonaa Place, Honolulu, Hawaii 96819

Representative Robert Herkes, Chair
House Committee on Consumer Protection & Commerce

Representative Tommy Waters, Chair
House Committee on Judiciary

Tuesday, March 25, 2008; 4:00 PM
Conference Room 325

RE: SB 2882 SD1- RELATING TO CONTROLLED SUBSTANCES

Chairs Herkes and Waters, Vice-Chairs McKelvey and Oshiro, and members of the Committees:

My name is Todd Inafuku, Manager of the Longs Drug Stores Hawaii Professional Service Center. Longs Drug Stores (Longs) opposes SB 2882, SD1, which authorizes the use of a payor provided identification number in mail-order prescriptions.

Longs is particularly concerned with the proposed definition of "mail order pharmacy" as "an out-of-state pharmacy or entity engaged in the practice of pharmacy which has obtained a permit pursuant to section 461-15, Hawaii Revised Statutes, to distribute, ship, mail or deliver prescription drugs or devices into the State." Longs currently operates a mail order facility that is physically located in Hawaii. This facility is contracted to provide prescription drug benefits, including controlled substances, to our patients in-state. This proposed amendment could prohibit a Hawaii-based mail order facility from distributing controlled substance medications within Hawaii, provide an unfair business advantage to mail order pharmacies that operate out-of-state, and place our patient's health at risk until they are able to find an alternate and convenient method of accessing their medications.

Longs also opposes broadening the definition of a patient's "identification number" to include, for mail order pharmacies, "a unique patient identifier that is assigned to the individual by the payer, insurer, or pharmacy benefit manager". Many payers, insurers, and pharmacy benefit managers do not assign unique patient identifier numbers to their individual members and in some cases, a patient identifier number may be assigned to a family. The responsibility of determining whether the patient identifier number is unique to the patient receiving the controlled substance would be placed on the pharmacist. This validation process will require additional attention and may impact pharmacy wait time and customer service standards. Furthermore, the proposed change to the unique patient identifier may create confusion at the pharmacy counter because, in order to dispense a controlled substance to any individual, the pharmacist will still need to obtain "proper identification" which is a government-issued identification containing the photograph, printed name, and signature of the individual obtaining the controlled substance.

For these reasons Longs respectfully requests that SB 2882, SD1 be held.



To: Chairs Robert Herkes and Tommy Waters, Members of the
Committees on Consumer Protection & Commerce and Judiciary

From: Cynthia Laubacher, Senior Director, State Government Affairs
Medco Health Solutions, Inc.

Hearing Date: March 25, 2008 4:00pm

Re: SB 2882 SD 1: Controlled Substances: Valid Identification

Medco Health Solutions supports SB 2882 as amended in the Senate to address a problem in existing law that impacts our ability to dispense controlled substances by mail. Medco is the nation's largest pharmacy benefits manager and mail order pharmacy administering the prescription drug benefit to over 65 million Americans including more than 150,000 residents of Hawaii.

Since 1999, Medco has dispensed controlled substances by mail to our patients in Hawaii. We submit monthly reports to the state detailing each controlled substance prescription dispensed into the state, including the unique patient identifier either assigned by us or provided to us by our clients for identification and verification of eligibility.

Our patients come to us based on our relationship with our clients. We do not dispense to the general public. Eligibility of members is verified by Medco's clients through eligibility data transferred to Medco. As such, we know who we are dealing with when we receive a prescription to process. Additionally, we have in place a number of programs geared to detecting prescription fraud and abuse. For example, we have programs that detect if a patient is attempting to fill multiple scripts for a controlled substance in an inappropriate time-frame.

Last year the state notified us and all other mail service pharmacies dispensing into the state that this unique identifier is unacceptable and that we must submit the patient's government ID number. Hawaii is the only state in the nation that requires this information.

SB 2882 was amended in the Senate to limit its provisions to mail service pharmacies in response to concerns raised by NED that the language in the bill was overly broad and could result in confusion and delays at retail pharmacies.

NED states that Hawaii has a "closed system" that reduces fraud. This "closed system" allows the reporting of driver's license numbers. In April 2007, the Transportation Service Authority detained a man at the Lanai airport with 43 driver's licenses with the same photo but 35 different names, addresses and social security numbers.

NED states that they have no way of verifying a unique identifier assigned by a plan, PBM or insurer. No entity relied solely on the patient identification number. This number is compared against the patient's name, address and date of birth. Any discrepancy results in additional investigation and/or rejection of the prescription. Does NED have access to the DMV database of every driver's license and state ID issued? Does NED require the federal government to provide it with a regularly updated list of passports issued?

This is not just a problem for Medco. Other major national health plans and PBMs are struggling to comply with this requirement, but doing so at the expense of the patients. We are forced to reject prescriptions when we can't reach the patient's by phone to obtain their driver's license or other approved government identification number.

Mail service pharmacies do not ever physically see a patient, therefore a photo ID serves no value in verifying identification. The law must be balanced against the interruption or delay in therapy that will result from enforcement of existing requirements in the case of mail. The health and safety of patients must take precedence over an ineffective law as legitimate mail order pharmacies have numerous other mechanisms in place to verify identity and guard against fraud and abuse.

The integrity of the state's electronic controlled substances tracking system will remain in tact if not, in fact, strengthened for purposes of preventing fraud and abuse, and patient's will retain an effective tool for controlling their prescription drug costs through the use of mail.

For these reasons, Medco respectfully requests your support for SB 2882.

Thank you.