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# HOUSE CONCURRENT RESOLUTION

REQUESTING THE GOVERNOR OF THE STATE OF HAWAII TO CONVENE A TASK FORCE TO REVIEW POLICIES AND PROCEDURES FOR STATE FUNDED DRUG COVERAGE PROGRAMS AND SERVICES ON THE USE OF REBATES, MANUFACTURER PAYMENTS, INCENTIVES, PRESCRIPTION REIMBURSEMENTS AND PATIENTS RIGHT TO SELECT A PHARMACY PROVIDER OF THEIR OWN CHOICE.

1           WHEREAS, Pharmacy Benefit Management Companies (PBMC) are  
2 intermediaries that negotiate services and costs between  
3 pharmaceutical companies and third payer parties, such as  
4 insurance companies, businesses, and cash-paying customers; and  
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6           WHEREAS, the Pharmacy Benefit Management Institute (PBMI)  
7 reported that the combined market share of prescriptions  
8 processed by MedCo, Express Scripts and CVS/Caremark in the  
9 third quarter of 2010 has 47.17% of all prescriptions in the  
10 United States; and  
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12           WHEREAS, the Legislature seeks to establish a task force  
13 that will regulate the licensing of pharmacy benefit management  
14 companies, ensure financial reliability, mandate full disclosure  
15 of drug costs and financial contracts while eliminating the term  
16 "mandatory" from any pharmacy benefit contract; and  
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18           WHEREAS, within our State, there is no standardized or  
19 integrated reporting mechanism across service environments and  
20 consequently, pharmacy providers such as chain drug stores and  
21 independent pharmacies, are currently subjected to unregulated  
22 auditing practices that attempts to recoup from, gather negative  
23 data from and/or penalize; and  
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25           WHEREAS, there should be guidelines developed that  
26 encourage audits to be performed in a fair and balanced manner



1 and legislation drafted that establish a more regimented and  
2 reliable audit procedure; and

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4 BE IT RESOLVED by the House of Representatives of the  
5 Twenty-sixth Legislature of the State of Hawaii, Regular Session  
6 of 2011, the Senate concurring, that the Governor is requested  
7 to convene a task force to suggest prohibited activities by a  
8 PBMC and define appropriate penalties for violations of  
9 prohibited activities, design a base for the Insurance  
10 Commissioner to use as a guideline for a schedule of allowable  
11 acquisition costs and professional dispensing fees, determine  
12 the feasibility of a licensure fee, make recommendations on  
13 complete disclosures of transactions made to pharmacies, review  
14 potential alternatives to the mandated mail order formula and  
15 develop a consistent statewide policy; and

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17 BE IT FURTHER RESOLVED that the Governor involve  
18 representatives of all relevant agencies and organizations, both  
19 public and private, in the convening of the task force; and

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21 BE IT FURTHER RESOLVED that the purpose of the task force  
22 is to review the policies of the state-funded prescription drug  
23 coverage program and its services and the customer complaints  
24 with the forced use of the mail order program ; and

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26 BE IT FURTHER RESOLVED that the task force is requested to:

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28 (1) Suggest prohibited activities by a PBMC and define  
29 appropriate penalties for violations of prohibited  
30 activities;
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32 (2) Delineate strategies and methodologies for the  
33 Insurance Commissioner to use as a guideline for a  
34 schedule of allowable acquisition costs and  
35 professional dispensing fees;
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37 (3) Determine the feasibility of implementing a licensure  
38 fee \$ \_\_\_\_\_ per year for any PBM applying for  
39 licensure in the State of Hawaii,
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41 (4) Make recommendations on the complete disclosure to the  
42 purchaser, DCCA and or Insurance Commissioner a  
43 complete report of all rebates, manufacturer payments,



1 incentives, prescription reimbursements to pharmacies  
2 on a quarterly basis;

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4 (5) Review potential alternatives to the use of the  
5 mandated mail order formula, and incorporate these  
6 alternatives into the protocols of the various options  
7 available allowing for "Patients Right to Choose Their  
8 Own Pharmacy" and timely/equal access to prescription  
9 medication and pharmacy personnel; and

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11 (6) Develop specifications for a quality monitoring system  
12 that:

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14 (A) Can be replicated across departments for  
15 consistency;

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17 (B) Prohibit:

18 (1) Manipulation of co-payments or other  
19 tangible incentives,

20 (2) Differential reimbursements to  
21 different pharmacy providers and

22 (3) Mandatory mail order program for  
23 prescription drug coverage after three  
24 fills on maintenance medications.

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26 (C) Audit pharmacies to assure formulary compliance,  
27 accurate dispensing and patient safety and will  
28 overall enhance the quality of care provided;

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30 (D) Track serious injuries/ problems from any  
31 provider, in any setting, whether it be mail  
32 order or local pharmacy; and

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34 (E) Establishes guidelines for quality reviews and  
35 data analysis to identify trends; and  
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37 BE IT FURTHER RESOLVED that the task force membership shall  
38 include nine members as follows:

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40 (1) A member of the House of Representatives appointed by  
41 the Speaker of the House of Representatives;

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43 (2) A member of the Senate appointed by the President of  
44 the Senate;



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- (3) The Director of Health or the Director's designee;
- (4) The Insurance Commissioner or the Insurance Commissioner's designee;
- (5) Two members selected by the Director of Health who are from different private service providers;
- (6) Two members selected by the Employee Union Trust Fund (EUTF) Board who are members of the EUTF;
- (7) Three members appointed by the Governor from a list submitted by the Speaker of the House of Representatives and President of the Senate, with each member representing a different organization that represents pharmacists and their consumers, one of which must be from the island of Kauai; and

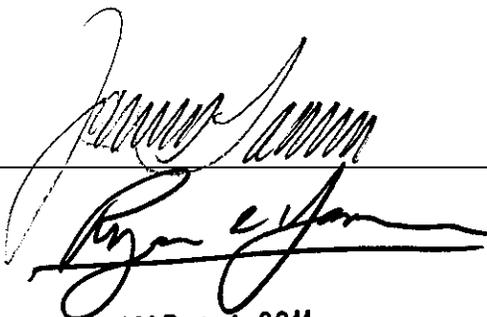
BE IT FURTHER RESOLVED that the members of the task force shall serve without compensation and shall receive no reimbursement for expenses.

BE IT FURTHER RESOLVED that the task force is requested to submit to the Legislature an annual report no later than twenty days prior to the start of the Regular Session of 2012, on its findings and recommendations, including any legislation or funding appropriation necessary to implement the recommended policy; and

BE IT FURTHER RESOLVED that the task force shall cease to exist on May 1<sup>st</sup>, 2012.

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Auditor, the Insurance Commissioner and the Director of Health, who in turn is requested to transmit copies to each insurer in the State that issues health insurance policies.

OFFERED BY:




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