DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
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
www.hawaii.gov/dcca

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Friday, February 27, 2015
11:00 a.m.

Agenda # 1

TESTIMONY ON HOUSE BILL NO. 261, H.D. 2 – RELATING TO CONSUMER PROTECTION.

TO THE HONORABLE SYLVIA LUKE, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department supports the intent of this bill, and submits the following comments on this bill.

The purpose of this bill is to require health insurers, mutual benefit societies, and health maintenance organizations on or after January 1, 2017, to make available complete and updated formularies to enrollees, potential enrollees, and providers.

This bill would better ensure transparency of prescription drug benefits, and assist consumers with making more informed choices about health care coverage. Formularies are changed, replaced, and deleted throughout the plan year. The Department notes, however, that the detailed requirements of the proposed formulary posting may be technically difficult. In addition, on February 27, 2015, the Centers for Medicare and Medicaid Services issued a final rule improving transparency by amending section 156.122(d) with the goal to ensure that formulary drug lists are accurate, complete, and up-to-date effective with the 2016 plan year, but not requiring detailed cost-sharing information.

We thank the Committee for the opportunity to present testimony on this matter.

HAWAII MEDICAL ASSOCIATION
1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

TO: Committee on Finance
Chair Sylvia Luke
Vice Chair Scott Nishimoto

DATE: Friday, February 27, 2015
TIME: 11:00A.M.
PLACE: Conference Room 309

FROM: Hawaii Medical Association
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: HB 261

Position: SUPPORT

Hawaii Medical Association supports this measure. This measure will require entities that offer or renew health plans on or after January 1, 2017, to make available a complete and updated formulary to enrollees, potential enrollees, and providers.

Many patients have specific drug needs and choose a health plan that promises to cover their drugs. Unfortunately, plans can change their formularies at any time, leaving patients with significantly higher co-pays than they had budgeted for when they originally contracted with their health insurance plan.

We think this is unfair to patients. We believe this bill will go a long way to remedy this issue.

Thank you for the opportunity to submit testimony.

hmsa

An Independent Licensee of the Blue Cross and Blue Shield Association

February 27, 2015

The Honorable Sylvia Luke , Chair
The Honorable Scott Y. Nishimoto, Vice Chair
House Committee on Finance

Re: HB 261, HD2 – Relating to Consumer Protection

Dear Chair Luke, Vice Chair Nishimoto and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 261, HD2, which would require health plans to post drug formularies on their websites. HMSA has concerns with the Bill as drafted, and we offer comments. .

We should first note that HMSA already posts our formulary on our website. We also make every attempt to provide advanced notice of formulary changes, and that is particularly true for a major drug change such as when Lipitor was taken off of the formulary. We also executed an elaborate and exacting communications plan for our Akamai Advantage members when changes were made to that formulary.

That said, we are concerned that the requirements of this Bill do not fully contemplate our having to contend with the thousands of drugs in the formulary which may change on a daily basis. It would be extremely difficult to comply with the provisions of the legislation because reporting co-pay amounts in a uniform manner is virtually impossible. Some of our plans have co-pay amount based on percentages. And, the costs of drugs vary, and vary from pharmacy to pharmacy as well.

We have been in discussions with the proponents of this Bill, and we are hopeful that we will be able to come to an understanding and agreement on this measure as the Bill moves forward.

Thank you for allowing us to testify on HB 261, HD2. Your consideration of our concerns is appreciated

Sincerely,

Jennifer Diesman
Vice President
Government Relations

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Government Relations

Testimony of
John M. Kirimitsu
Legal and Government Relations Consultant

Before:
House Committee on Finance
The Honorable Sylvia Luke, Chair
The Honorable Scott Y. Nishimoto, Vice Chair

February 27, 2015
11:00 am
Conference Room 308

Re: HB 261, HD2 Relating to Consumer Protection

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on this bill requiring insurers to post and update formulary information.

Kaiser Permanente supports the intent of this bill, but with amendments.

Kaiser Permanente Hawaii currently publishes formulary information on our KP.org website and believes it is good practice to provide information that will be useful to our members in a convenient and easy to use way. We are asking for amendments to this proposed bill to make it more user-friendly and more accurate for viewers. Our Pharmacy and Therapeutic ("P & T") Committee meets almost every month, and therefore, our formularies may change as frequently as monthly, which would make it extremely difficult, if not impossible, to meet the proposed short 72 hour turnaround time to update all the formulary information. Also, since we sell hundreds of different plans it is not possible to provide general cost and payment information, but each member may access that information in their evidence of benefits specific to each plan. In addition, as we note below some information is better accessed by calling us directly and letting us find the information that is specific to each member's plan. We urge you to accept our amendments.

On Page 1, paragraph (a)(2), lines 11-13, change the 72 hour deadline for insurers to update the formularies on their website as this is too short of a turnaround time for insurers to adequately respond. Kaiser Permanente recommends its current practice of updating its formulary changes within 30 days of a formulary decision. Therefore, this section should be amended as follows:

(2) Update the formulary on the insurer's website no later than ~~seventy-two hours~~ [thirty days] after making a change to the

711 Kapiolani Blvd
Honolulu, Hawaii 96813
Telephone: 808-432-5224
Facsimile: 808-432-5906
Mobile: 808-282-6642
E-mail: John.M.Kirimitsu@kp.org

formulary;

On Page 2, paragraph (b)(1), lines 7-9, delete this paragraph in its entirety because the pre-authorization, step and utilization management edit requirements are practitioner valued information, i.e., important to practitioners, but not patient useful. These special requirement types of information are oftentimes complex and practitioner focused, and not easily understood or useful to patients. Instead, Kaiser Permanente recommends that members access the user friendly toll free customer service number for any special inquiries on a particular drug. Therefore, this section should be amended as follows:

(b) Each insurer posting the formulary pursuant to subsection (a)shall include all of the following:

(1) ~~Any prior authorization, step edit requirements, or utilization management edits for each specific drug included on the formulary~~ [Any information on prior authorization, step edit requirements, or utilization management edits may be provided via a toll free number that is staffed at least during normal business hours];

With respect to the pricing language in this bill, specifically referenced below, remove all references to "co-payments," and "cost-sharing" disclosure requirements because health plans are unable to provide general price comparisons that are plan specific. Kaiser Permanente sells hundreds of health plans to individuals and commercial groups, with a variety of different deductibles, i.e., medical deductible, pharmacy deductible, or combination of both. Since this cost sharing information is so plan specific, each member acquires this cost information through the individual's Evidence of Coverage. If a Kaiser Permanente member desires information on drug cost-sharing, the member can request a simulation claim by calling the customer service number and identifying the member's specific type of plan to get a cost estimate. Therefore, the following sections should be amended as follows:

- On Page 2, paragraph (b)(2), lines 10-14, remove the "co-payments" disclosure requirement This section should be amended as follows:

(2) If the planuses a tier-based~~formulary~~ [benefit design],theplan shall specify for each drug listed on the formulary the specific tier the drug ~~occupies~~[is placed in] ~~and list the specific co-payments for each tier in the evidence of coverage~~;

- On Page 2, paragraph (b)(3), lines 15-20, continuing to Page 3, lines 1-2, remove the "cost-sharing" disclosure requirement and instead directing

American Cancer Society
Cancer Action Network
2370 Nu`uanu Avenue
Honolulu, Hawai`i 96817
808.432.9149
www.acscan.org

February 27, 2015

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair

HB 261, HD2 - RELATING TO CONSUMER PROTECTION.
Cory Chun, Government Relations Director – Hawaii Pacific
American Cancer Society Cancer Action Network

Thank you for the opportunity to provide testimony in *support* of HB 261, HD2, which requires specific information provided in drug formularies more consumer friendly and easily accessible.

The American Cancer Society Cancer Action Network (ACS CAN) is the nation's leading cancer advocacy organization. ACS CAN works with federal, state, and local government bodies to support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem.

Persons living with serious and chronic conditions like cancer need to be sure that the health insurance plan they choose covers the medicine they need. All of the health plans available in the current individual and small group market must provide a benefit package that includes a minimum standard of prescription drug coverage, but the specific drugs covered will vary by plan.

Full formulary information is not currently available on all insurance carrier websites. As a result, patients must track down each plan's formulary to see if their medication is covered. Often formularies are not exhaustive of all covered drugs, in particular, formularies are much less likely to list drugs typically administered in a provider's office and covered under a plan's medical benefit. Adding another layer of difficulty, plan formularies are displayed in different formats making it very time consuming to compare different plans.

Even if a patient is able to find their drug on a plan's formulary, they have no way to compare out of pocket costs across available plans. Adding to this difficulty, quite often

cancer drugs are placed on the specialty drug formulary tier. In some cases, the patient cost for these drugs can be up to 30% or more of the total cost of the drug as opposed to a flat dollar amount. Not knowing the total cost of the drug makes it very difficult for the patient to know how much they will have to pay out of pocket. For many patients, the cost of that drug could mean their ability to pay for groceries or a rent payment that month.

When adequate formulary information is unavailable to consumers, people are more likely to choose plans that don't actually cover the medicine they need, or don't cover their drugs at a cost they can afford. For a cancer patient, access to drugs can be the difference between possible life saving treatment, or the alterative, going without. Patients need formulary transparency so they can avoid ever having to face that alternative.

HB 261, HD2, will make drug formularies more consumer friendly. Patients in need of specific medications will be able to identify which plan covers their drug and how much it will cost them each month. For cancer patients, access to life saving drugs can make all the difference in their survival of the disease. This bill will ensure they have the information they need to buy a plan that will give them that chance.

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