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**TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE**

**TWENTY-EIGHTH LEGISLATURE**  
Regular Session of 2016

Monday, March 21, 2016  
3:00 p.m.

**TESTIMONY ON SENATE BILL NO. 2376, S.D. 1, H.D. 1 – RELATING TO  
PRESCRIPTION DRUG BENEFITS.**

TO THE HONORABLE ANGUS L.K. MCKELVEY, 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 submits the following comments.

The purpose of this bill is to allow prescription drug benefit plan beneficiaries to obtain a prescription without penalty from a non-network retail community pharmacy located within ten miles of a beneficiary’s residence in any county with an area of two thousand square miles or more, when the nearest network retail community pharmacy is located over ten miles away.

This bill may impact the cost of health plans due to the mandatory participation of non-network pharmacies that have not negotiated reimbursement rates and agreements with health insurers. Rates and agreements that have not been negotiated, as well as an additional dispensing fee, may hinder insurers’ efforts to optimally manage their network and costs. Ultimately, this may result in increasing premiums for plan beneficiaries.

The reimbursement process for non-participating providers as set forth in a plan may also be impacted. In addition, proposed subsection (c) on page 3, lines 15 to 19, does not clearly specify the reimbursing entity.


Section 3 of the bill requires the Insurance Commissioner to submit reports annually to the Legislature prior to the convening of the 2017, 2018, 2019, 2020, and 2021 Regular Sessions on the effects of this measure on healthcare costs. The Office of the Auditor may be more suited for reporting on this measure due to the Office's broad powers to examine all books, records, files, papers, and documents, to summon persons to produce records and answer questions under oath, as well as the Office of the Auditor's role to conduct sunrise analyses of proposed regulatory programs.

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



## THE QUEEN'S HEALTH SYSTEMS

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To: The Honorable Angus L.K. McKelvey, Chair  
The Honorable Justin H. Woodson, Vice Chair  
Members, Committee on Consumer Protection & Commerce  


From: Paula Yoshioka, Senior Vice President, The Queen's Health Systems

Date: March 18, 2016

Hrg: House Committee on Consumer Protection & Commerce Hearing; Monday, March 21, 2016 at 3:00PM in Room 325

**Re: Comments on SB 2376, SD1, HD1, Relating to Prescription Drug Benefits**

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My name is Paula Yoshioka and I am a Senior Vice President at The Queen's Health Systems (Queen's). I would like to express comments on SB 2376, SD1, HD1, Relating to Prescription Drug Benefits. This bill authorizes in any county with an area of 2,000 square miles or more, a beneficiary of a prescription drug benefit plan whose residence is 10 or more miles away from the nearest retail community pharmacy to obtain a prescription, without penalty, from a non-network retail community pharmacy located within 10 miles of the beneficiary's residence.

While Queen's supports the intent of the bill, the latest draft would exclude geographically smaller islands where the prescription drug benefit described in this bill would be a benefit to those communities as well.

Thank you for your time and consideration of this matter.

**Testimony of  
Gary M. Slovin / Mihoko E. Ito  
on behalf of  
Walgreen Company**

DATE: March 19, 2016

TO: Representative Angus McKelvey  
Chair, Committee on Consumer Protection and Commerce  
[CPCTestimony@capitol.hawaii.gov](mailto:CPCTestimony@capitol.hawaii.gov)

RE: **S.B. 2376, S.D.1, H.D.1 – Relating to Prescription Drug Benefits**  
**Hearing Date: Monday, March 21, 2016 at 3:00 p.m.**  
**Conference Room: 325**

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Dear Chair McKelvey and Members of the Committee:

We submit this testimony on behalf of Walgreen Co. (“Walgreens”). Walgreens operates stores at more than 8,200 locations in all 50 states, the District of Columbia and Puerto Rico. In Hawaii, Walgreens now has 20 stores on the islands of Oahu, Maui and Hawaii.

Walgreens respectfully **opposes** section 1, subsection (c) of S.B. 2376, S.D.1, H.D.1 which would establish a tiered dispensing fee for non-network retail community pharmacies. As drafted, subsection (c) would mandate that non-network retail community pharmacies be reimbursed a set dispensing fee for prescriptions dispensed to patients who choose non-network community pharmacies and are 10 or more miles away from the nearest network pharmacy.

While we appreciate that the previous committee blanked out the amount of the fee in the H.D.1 version of the bill, Walgreens believes that establishing a dispensing fee in statute would create inequity between non-network retail community pharmacies and network pharmacies by establishing a dispensing fee by statute as opposed to by contract.

We would respectfully request that subsection (c) of this measure be removed from the bill, or that the bill be held in its entirety.

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

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Gary M. Slovin  
Mihoko E. Ito  
C. Mike Kido  
Tiffany N. Yajima

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Testimony of  
John M. Kirimitsu  
Legal & Government Relations Consultant

Before:  
House Committee on Consumer Protection and Commerce  
The Honorable Angus L.K. McKelvey, Chair  
The Honorable Justin H. Woodson, Vice Chair  
March 21, 2016  
3:00 pm  
Conference Room 325

**Re: SB 2376 SD1, HD1 Relating to Prescription Drug Benefits**

Chair, Vice Chair, and committee members thank you for this opportunity to provide testimony on SB 2376 SD1, HD1 relating to non-network prescription drug coverage.

**Kaiser Permanente Hawaii opposes this bill.**

Kaiser Permanente Hawaii opposes this bill requiring health plans to reimburse non-network pharmacies that choose not to contract with health plans. Current law already allows any pharmacy to participate in a health plan's network, so any pharmacy that is not included is choosing not to participate.

Kaiser Permanente utilizes pharmacy benefit managers ("PBM") to contract with retail pharmacies whenever Kaiser Permanente does not have its own pharmacy available within a service area. Most important, Kaiser Permanente's PBMs evaluate retail pharmacies for quality and pharmaceutical safety before including them in Kaiser Permanente's contracted network. This involves ensuring that retail pharmacies meet patient safety goals and credentialing standards. In contracting with retail pharmacies, formularies are also established by PBMs to ensure high quality and safety of drug prescribing. Without a contract, pharmacies do not have to adhere to formulary requirements at the risk of the uninformed consumer. Allowing just *any* non-network pharmacy to prescribe medications, especially non-formulary drugs, to its members would undermine Kaiser Permanente's efforts to create pharmacy networks that deliver efficient, safe, and high quality care. To accomplish the goal of high-value pharmacy networks, health plans must have the flexibility to select the most effective and efficient pharmacy providers for the safety of its members. Why would it be acceptable to allow an unqualified pharmacy to prescribe an unsafe, non-formulary, drug to a patient?

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Additionally, Kaiser Permanente relies on its PBMs to manage costs and utilization for the benefit of its enrolled members. In managing costs, PBMs build networks of pharmacies to provide consumers convenient access to prescriptions at discounted rates. It is important to have pharmacies compete to be part of the pharmacy network for a particular PBM in order to keep the rising costs of prescription drugs down. This approach to gaining lower prices for enrollees will not work as well if pharmacy providers declining to be in the network will be paid higher reimbursement rates under this bill. In fact, providers will have no incentive to join a network if they are rewarded under this bill with a dispensing fee, plus the product cost at the higher rate of reimbursement.

Lastly, a non-network pharmacy will not be able to administer a consumer's prescription drug benefit plan, because that non-network pharmacy will not know what to charge the patient, nor are there any agreements on reimbursement with the health plan to determine what to reimburse that non-participating pharmacy. Therefore, the consumers directly benefit from contracted pharmacies since contracted pharmacies are able to adjudicate the benefit that the consumer has purchased.

For the foregoing reasons, Kaiser Permanente strongly urges that this bill be held.

Thank you for the opportunity to comment.



March 21, 2016

The Honorable Angus L.K. McKelvey, Chair  
The Honorable Justin H. Woodson, Vice Chair  
House Committee on Consumer Protection and Commerce

Re: SB 2376, SD1, HD1 - Relating to Prescription Drug Benefits

Dear Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2376, SD1, HD1. This measure, which applies to a county with an area of 2,000 square miles or more, would authorize plan members to obtain a prescription from a non-network pharmacy when a network pharmacy is not located within 10 or more miles of the member's residence. In addition, this Bill specifies that the non-network pharmacy will be reimbursed an unspecified dispensing fee plus the product cost at the highest rate of reimbursement. While we appreciate the intent of this measure, HMSA respectfully opposes this Bill.

Network-based managed care plans, whether for pharmacy, medical, or dental services, are essential for an efficient health care system. We need health professionals, including pharmacists, who appreciate the value of, and their role in, our patient-centered medical home model of health care delivery.

This Bill may impede quality management of our provider network as more scrutiny may be necessary. This would result in additional administrative costs to the healthcare system. An even more serious concern is the provision statutorily specifying the dispensing fee and the rate of reimbursement. Such a provision interferes with the contractual relationship between the health plan and the pharmacy. It impedes a health plan's ability to negotiate a fair and comprehensive reimbursement rate, while still tempering the cost to the system.

It will impact all health plans, including QUEST and the EUTF.

HMSA appreciates the desire to ensure access to pharmacy coverage, particularly in our neighbor island rural communities. The overwhelming majority of our members currently enjoy reasonable access to a pharmacy. For example, on Hawaii Island, 95% of our Medicaid members, 96.3% of our Medicare members, 94.8% of our commercial members, and 93.8% of our ACA Exchange members have access to a pharmacy within a 10-mile radius of their homes.

Given these concerns, we believe this Bill is unnecessary and potentially detrimental to efforts to create a balanced healthcare system.

Thank you for the opportunity to testify on SB 2376, SD1, HD1. Your consideration of our concerns is appreciated.

Sincerely,

Mark K. Oto  
Director, Government Relations



Hawaii Association of Health Plans

March 21, 2016

The Honorable Angus McKelvey, Chair  
The Honorable Justin Woodson, Vice Chair  
House Committee on Consumer Protection and Commerce

**Re: SB 2376, SD1, HD1 – Relating to Prescription Drug Benefits**

Dear Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

The Hawai'i Association of Health Plans (HAHP) respectfully submits comments in opposition to SB 2376, SD1, which authorizes in any county with an area of 2,000 square miles or more, a beneficiary of a prescription drug benefit plan whose residence is 10 or more miles away from the nearest retail community pharmacy to obtain a prescription, without penalty, from a non-network retail community pharmacy located within 10 miles of the beneficiary's residence and requires reimbursement to a non-network retail community pharmacy.

While we appreciate the intent of this measure, we are concerned that this bill would negatively impact the quality management aspect of a health plan's pharmacy network. A health plan's ability to manage its medical, pharmacy, and dental provider network is essential in maintaining an effective and cost-efficient healthcare system for our members.

If a claim from non-participating pharmacies are to be treated as if they are participating, it would eliminate any incentive for pharmacies to join a health plan network. This would result in additional cost to the overall health system.

Thank you for allowing HAHP to testify in opposition to SB 2376, SD1, HD1.

Sincerely,

Wendy Morriarty, RN, MPH  
Chair, HAHP Public Policy Committee

Cc: HAHP Board Members

• AlohaCare • HMAA • HMSA • HWMG • Kaiser Permanente • MDX Hawaii  
• 'Ohana Health Plan • UHA • UnitedHealthcare •

HAHP c/o Jennifer Diesman, HMSA, 818 Keeaumoku Street, Honolulu HI 96814

[www.hahp.org](http://www.hahp.org)





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March 21, 2016

To: The Honorable Angus McKelvey  
Chair, House Committee on Consumer Protection and Commerce

From: 'Ohana Health Plan  
Danny Cup Choy, Government & Community Affairs Manager

Re: SB 2376, SD1, HD1 Relating to Prescription Drug Benefits; Oppose  
March 21, 2016; Conference Room 325

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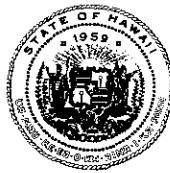
'Ohana Health Plan ('Ohana) is a member of the WellCare Health Plans, Inc.'s ("WellCare") family of companies and provides healthcare for Hawai'i residents statewide. Since 2009, 'Ohana has utilized WellCare's national experience to develop a Hawai'i -specific care model that addresses local members' healthcare and health coordination needs. By focusing on the state's Medicaid and Medicare population, 'Ohana serves Hawaii's most vulnerable residents: low-income, elderly, disabled, and individuals with complex medical issues. Our mission is to help our members' lead better, healthier lives.

'Ohana Health Plan opposes SB 2376, SD1, HD1 which authorizes in any county with an area of 2,000 square miles or more, a beneficiary of a prescription drug benefit plan whose residence is 10 or more miles away from the nearest retail community pharmacy to obtain a prescription, without penalty, from a non-network retail community pharmacy located within 10 miles of the beneficiary's residence and requires reimbursement to a non-network retail community pharmacy.

While we appreciate the intent of this measure, we would like to provide the following concerns. A health plan's ability to manage its pharmacy network is important for the quality and cost to the entire health system. Allowing non-network pharmacies to be able to dispense medication could weaken our ability ensure our members receive safe and cost effective care.

In addition, allowing a non-participating pharmacy to submit a claim and be reimbursed at a non-negotiated rate would eliminate any incentive for pharmacies to join a health plan network. This would undermine our ability to build a quality, cost-effective pharmacy network to best serve our members.

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



**STATE OF HAWAII**  
**HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND**  
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# LATE TESTIMONY

**BOARD OF TRUSTEES**  
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**ASSISTANT ADMINISTRATOR**  
DONNA A. TONAKI

**TESTIMONY BY DEREK MIZUNO**  
**ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND**  
**DEPARTMENT OF BUDGET AND FINANCE**  
**STATE OF HAWAII**  
**TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**  
**ON**  
**SENATE BILL NO. 2376 S.D.1, H.D.1**

March 21, 2016, 3:00 p.m.

**LATE**

**RELATING TO PRESCRIPTION DRUG BENEFITS**

Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees opposes this bill. The EUTF's pharmacy benefit manager, CVS Caremark has identified approximately 1,236 (or 1.3%) active employees and non-Medicare retirees in the prescription drug plans that live in a county with an area of 2,000 square miles or more and do not have a network pharmacy within 10 miles of their residence. The highest impacted areas are Naalehu (212 subscribers), Captain Cook (207), Volcano (200), Paauilo (144) and Laupahoehoe (99).

The bill does not describe how the affected non-network pharmacies will be reimbursed by the plan or pharmacy benefit manager. Currently, the non-network pharmacy charges the member who pays the full amount. The member then submits a claim for the prescription to CVS Caremark who reimburses the member at the same rate as the network pharmacies less a higher copayment and coinsurance than a

**EUTF's Mission:** We care for the health and well being of our beneficiaries by striving to provide quality benefit plans that are affordable, reliable, and meet their changing needs. We provide service that is excellent, courteous, compassionate, and informative.

member would have paid at an in-network pharmacy. It is unclear how the non-network pharmacy will 1) know whether there's a network pharmacy within 10 miles of the member's residence and 2) be reimbursed by the pharmacy benefit manager.

This bill may have a significant cost impact to the active employees, retirees and the State and counties since the incentive for pharmacies to join the CVS network, that reduces costs to the EUTF, will be diminished as the copayment incentives that drive use of network pharmacies are eliminated. In addition, because the potential exists for additional costs related to retirees, if that were to occur an additional impact would be an increase to the State and counties unfunded OPEB liability.

Additionally, the EUTF Board of Trustees recently approved implementation of a sub-network within the CVS Caremark network ("Retail 90 network") for 90 day prescriptions for July 1, 2016 that is projected to save the EUTF plan \$5.8 million annually. The Retail 90 network will also be negatively impacted by this bill.

Thank you for the opportunity to testify.

# LATE TESTIMONY



**Eric P. Douglas**  
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The Honorable Angus McKelvey  
Chair, House Consumer Protection & Commerce Committee

Monday, March 21, 2016  
Conference Room 325; 3:00 PM

## **RE: SB 2376 SD1 HD1 – Relating to Prescription Drug Benefits – OPPOSE**

Aloha Chair McKelvey, Vice Chair Woodson and members of the Committee:

CVS Health has concerns with SB 2376 SD1 HD1 as it sets up a framework that undermines the fabric of a healthcare network, by creating incentives for pharmacies on the Island of Hawaii not to be in a health plan or Pharmacy Benefit Manager networks. As background, CVS Health's Pharmacy Benefit Management ("PBM") division, CVS Caremark, maintains a robust retail pharmacy network for our PBM clients encompassing in excess of 92 percent of all pharmacies in Hawaii and over 70,000 pharmacies nationally. We are concerned that SB 2376 SD1 HD1, however well intended it may be, will inevitably increase overall healthcare costs to plan members in Hawaii, and the bill also likely increases upfront, out of pocket costs to certain plan members and would definitely serve as a deterrent toward utilization of cost saving measures adopted by plan sponsors (i.e. health plans, Taft-Hartley trusts, state employee/retiree plans, etc.).

Specifically, we would like to highlight the following for your consideration:

- Healthcare networks are key to not only access and affordability but also safety. When health plans and PBMs have a contract with a pharmacy provider, the provider must meet certain obligations, e.g. hours of operation, proof of licensure, right to inspect/audit, formulary/plan design standards, and many other aspects that are directly or indirectly related to patient safety. SB 2376 SD1 HD1 threatens to erode this framework by creating a mandated contract that bypasses all cost and safety control measures.
- The mandate of a potentially high prescription dispensing fee is a concern. These fees are negotiated as part of our commercial contracts. The bill also mentions an unworkable "higher rate of reimbursement" on the drug product itself, which is not reflective of how a prescription drug reimbursement formula works.
- Very few retail pharmacies in Hawaii are not in the CVS/caremark PBM network and a pharmacy may join the CVS Caremark network, or any other PBM/health plan network at any time for that matter. However, if SB 2376 SD1 HD1 were to pass we are unsure how it would serve as a convenience to patients or could even be implemented. If a pharmacy is not part of the CVS Caremark network and has no contract with us, an Rx claim would be forced to be billed to the patient as a cash prescription. This results in having the patient chase their own claim back through their insurer, and if the insurer must pay whatever the pharmacy has charged this will necessarily result in an increase in overall healthcare costs in Hawaii. Also, as a non-network pharmacy, they cannot access patient Rx history or plan formulary because they will not have access to our network.
- Pursuant to HB65/Act 226 of 2013 every retail pharmacy in Hawaii is eligible to be in any health plan or PBM network, CVS Caremark included. Any retail pharmacy that is not within our PBM network has made a conscience business decision not to join a retail pharmacy network—therefore, SB 2376 SD1 HD1 is adverse to the pharmacies that have made a decision to join a retail pharmacy network. It has the potential to negate all of the cost-savings measures and health benefits such as DUR, adherence/compliance and generic utilization targets such networks ensure along with it.



CVS Health proudly operates as the largest pharmacy chain in Hawaii, under our Longs Drugs banner and we also offer our patients and clients a wide range of comprehensive, integrated pharmacy and health operations statewide including: Pharmacy Benefit Management (PBM) services (CVS Caremark), Specialty Pharmacy (CVS Specialty), Mail-Order and Retail Pharmacy (CVS Pharmacy/Longs Drugs), Retail Health Clinics (CVS Minute Clinic) and a warehousing distribution center.

We thank you for your consideration of our comments in opposition to the measure and ask that the Committee hold SB 2376 SD1 HD1 for the *aforementioned* reasons.

Respectfully,

Eric P. Douglas