H.B. NO. ¹⁴⁴⁴ H.D. 2 S.D. 2 C.D. 1

A BILL FOR AN ACT

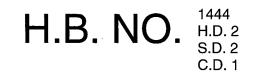
RELATING TO PHARMACY BENEFIT MANAGERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that pharmacy benefit 2 managers are administrators of prescription drug programs and 3 are responsible for developing and maintaining formularies and 4 other clinical management programs, processing prescription drug 5 claims for insurance companies or corporations, and negotiating 6 contracts with pharmaceutical manufacturers. Pharmacy benefit 7 managers also perform utilization reviews, manage clinical 8 programs targeted to specific disease states, and operate 9 pharmacies, including mail order and specialty pharmacies. Over 10 the past decade, the role of pharmacy benefit managers in the 11 delivery of health care has increased due to a variety of 12 factors, including coverage expansions under the medicare Part D 13 prescription drug benefit and the federal Affordable Care Act 14 and an increase in prescription drug spending that has motivated 15 commercial health plans and self-insured employers to outsource 16 the management of their spending on outpatient prescription 17 drugs.



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1 The legislature further finds that the actions of pharmacy 2 benefit managers can have wide-ranging impacts on pharmacies and 3 consumers in Hawaii, particularly on consumers in rural areas 4 who may have limited access to pharmacies within a pharmacy 5 benefit manager's network and local independent pharmacies. Despite these potential impacts, pharmacy benefit managers are 6 7 not currently required to be registered. The legislature 8 additionally finds that increased transparency is needed 9 regarding many aspects of pharmacy benefit management, including 10 pharmacy benefit managers' relationships with pharmaceutical 11 companies, formulary creation, and evidence of rebates provided 12 to health plans in the State. 13

Finally, the legislature notes that prescription drugs are a major factor of the spiraling increase in health care costs, of which pharmacy benefit managers are a contributing factor. Giving clear authority to the insurance commissioner to regulate pharmacy benefit managers is therefore an important first step toward regulating this industry and is necessary to provide transparency and ensure adequate consumer protection.



1 Accordingly, the purpose of this Act is to require pharmacy 2 benefit managers in Hawaii to register with the insurance 3 commissioner. 4 SECTION 2. The Hawaii Revised Statutes is amended by 5 adding a new chapter to title 24 to be appropriately designated 6 and to read as follows: 7 "CHAPTER 8 PHARMACY BENEFIT MANAGERS 9 -A Definitions. As used in this chapter: S 10 "Commissioner" means the insurance commissioner. "Covered entity" means: 11 A health benefits plan regulated under chapter 87A; 12 (1)13 health insurer regulated under article 10A of chapter 14 431; mutual benefit society regulated under article 1 15 of chapter 432; or health maintenance organization 16 regulated under chapter 432D; provided that a "covered 17 entity" under this paragraph shall not include a 18 health maintenance organization regulated under 19 chapter 432D that owns or manages its own pharmacies; 20 (2) A health program administered by the State in the 21 capacity of a provider of health coverage; or

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1	(3) An employer, labor union, or other group of persons
2	organized in the State that provides health coverage
3	to covered persons employed or residing in the State.
4	"Covered entity" shall not include any plans issued for coverage
5	for federal employees or specified disease or limited benefit
6	health insurance as provided by section 431:10A-102.5.
7	"Covered person" means a member, policyholder, subscriber,
8	enrollee, beneficiary, dependent, or other individual
9	participating in a prescription drug benefit plan.
10	"Person" means an individual, partnership, corporation,
11	organization, or other business entity.
12	"Pharmacy benefit management" means:
13	(1) Any of the following services provided with regard to
14	the administration of pharmacy benefits:
15	(A) Mail service pharmacy;
16	(B) Claims processing, retail network management, and
17	payment of claims to pharmacies for prescription
18	drugs dispensed to covered persons;
19	(C) Clinical formulary development and management
20	services;
21	(D) Rebate contracting and administration;



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1		(E)	Certain patient compliance, therapeutic		
2			intervention, and generic substitution programs;		
3			or		
4		(F)	Disease management programs involving		
5			prescription drug utilization;		
6	(2)	The	procurement of prescription drugs by a pharmacy		
7		bene	fit manager at a negotiated rate for dispensation		
8		to c	overed persons in the State; or		
9	(3)	The	administration or management of prescription drug		
10		bene	fits provided by a covered entity for the benefit		
11		of c	overed persons.		
12	"Pharmacy benefit manager" means any person that performs				
13	pharmacy	benef	it management, including but not limited to a		
14	person or entity in a contractual or employment relationship				
15	with a pharmacy benefit manager to perform pharmacy benefit				
16	management for a covered entity.				
17	"Pre	scrip	tion drug benefit plan" means a health insurance		
18	plan offe	red b	y a covered entity that includes coverage for		
19	prescript	ion d	lrugs.		
20	S	-B A	pplicability. This chapter shall apply to any		
21	pharmacy	benef	it manager that provides pharmacy benefit		



1 management services to covered persons who are residents of the 2 State.

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3 S -C Registration required. (a) Notwithstanding any
4 law to the contrary, no person shall act or operate as a
5 pharmacy benefit manager without first obtaining a valid
6 registration issued by the commissioner pursuant to this
7 chapter.

8 (b) Each person seeking to register as a pharmacy benefit
9 manager shall file with the commissioner an application on a
10 form prescribed by the commissioner. The application shall
11 include:

12 The name, address, official position, and professional (1)qualifications of each individual who is responsible 13 14 for the conduct of the affairs of the pharmacy benefit 15 manager, including all members of the board of 16 directors; board of trustees; executive commission; 17 other governing board or committee; principal 18 officers, as applicable; partners or members, as 19 applicable; and any other person who exercises control 20 or influence over the affairs of the pharmacy benefit 21 manager;



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1	(2) The name and address of the applicant's agent for				
2	service of process in the State; and				
3	(3) A nonrefundable application fee of \$140.				
4	§ -D Annual renewal requirement. (a) Each pharmacy				
5	benefit manager shall renew its registration by March 31 each				
6	year.				
7	(b) When renewing its registration, a pharmacy benefit				
8	manager shall submit to the commissioner the following:				
9	(1) An application for renewal on a form prescribed by the				
10	commissioner; and				
11	(2) A renewal fee of \$140.				
12	(c) Failure on the part of a pharmacy benefit manager to				
13	renew its registration as provided in this section shall result				
14	in a penalty of \$140 and may cause the registration to be				
15	revoked or suspended by the commissioner until the requirements				
16	for renewal have been met.				
17	§ -E Penalty. Any person who acts as a pharmacy benefit				
18	manager in this State without first being registered pursuant to				
19	this chapter shall be subject to a fine of \$500 for each				
20	violation.				



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S -F Rules. The commissioner shall adopt, amend, or
 repeal rules pursuant to chapter 91 to carry out the purposes of
 this chapter."
 SECTION 3. In codifying the new sections added by section
 2 of this Act, the revisor of statutes shall substitute
 appropriate section numbers for the letters used in designating
 the new sections in this Act.

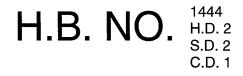
8 SECTION 4. This Act shall take effect on July 1, 2017.



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Report Title: Pharmacy Benefit Managers; Registration; Insurance Commissioner

Description:

Requires pharmacy benefit managers to register with the Insurance Commissioner. (HB1444 CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

