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Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Consumer Protection and Commerce
Thursday, February 13, 2020
2:00 p.m.
State Capitol, Conference Room 329

On the following measure:
H.B. 2561, H.D. 1, RELATING TO PRESCRIPTION DRUG RATE SETTING

Chair Takumi and Members of the Committee:

My name is Colin Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department appreciates the intent of this bill and offers comments.

The purpose of this bill is to require the Insurance Commissioner to conduct a study on the feasibility of establishing a mechanism to review prescription drug costs and set levels of reimbursements and rates without additional cost to the State.

While the Department appreciates the bill's intent to analyze prescription drug prices, setting prescription drug reimbursement rates may present legal issues and impact entities that are outside the Department's jurisdiction. In addition, if the study is intended to cover economic feasibility, the Insurance Division lacks requisite staff expertise and would need to hire a consultant. Accordingly, the Insurance Division may not be the appropriate entity to conduct this study.

The Department is available to work with the Committee on this important issue.

Thank you for the opportunity to testify on this bill.

OFFICE OF INFORMATION PRACTICES

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To: House Committee on Consumer Protection & Commerce

From: Cheryl Kakazu Park, Director

Date: February 13, 2020, 2:00 p.m.
State Capitol, Conference Room 329

Re: Testimony on H.B. No. 2561, H.D. 1
Relating to Prescription Drug Rate Setting

Thank you for the opportunity to submit testimony on this bill, which would require the Insurance Commissioner to conduct a study on the feasibility of establishing a mechanism to review prescription drug costs and set levels of reimbursements and rates. The Office of Information Practices (OIP) takes no position on the substance of this bill. OIP testified on an earlier version of this bill, but the H.D. 1 version of this bill removed the language of concern to OIP and OIP has no further concerns regarding this bill.

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Government Relations

Testimony of
Jonathan Ching
Government Relations Manager

Before:
House Committee on Consumer Protection & Commerce
The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair

February 13, 2020
2:00 p.m.
Conference Room 329

Re: HB2561, HD1, Relating to Prescription Drug Rate Setting

Chair Takumi, Vice Chair Ichiyama, and committee members, thank you for this opportunity to provide testimony on HB2561, HD1, which requires the Insurance Commissioner to conduct a study on the feasibility of establishing a mechanism to review prescription drug costs and set levels of reimbursements and rates without additional cost to the State.

Kaiser Permanente Hawai‘i offers the following COMMENTS on HB2561, HD1.

Prescription drug prices present unique affordability challenges to the health care system because decades of government policies such as patent laws and various coverage and payment rules have empowered manufacturers to price with impunity. As a result, the U.S. market for prescription drugs is highly dysfunctional, and prices are often devoid of economic reason. For example, new drugs are being approved and marketed with higher prices than their predecessor treatments, often with no difference in effectiveness or safety. Drugs that have been on the market for years are seeing double digit price increases each year without an explanation. In some cases, drugs that have long been available are going up in price even faster, with triple and quadruple digit price increases.

Kaiser Permanente Hawai‘i is appreciative of the innovation in pharmaceuticals that makes a profoundly better quality of life available to our patients. However, patients will not benefit if a medication is priced out of reach and does not provide additional value from a quality and/or safety perspective or if ultimately these price increases bankrupt the system. The problem of high drug prices is growing increasingly unsustainable, and we commend legislators for advancing bold and thoughtful solutions to address this crisis.

Kaiser Permanente Hawai‘i therefore supports HB2561, HD1’s focus on the source of the drug pricing problem: manufacturers’ virtually unfettered pricing power. HB2561, HD1, would help shine a light on manufacturer pricing practices and assess whether drug prices are reasonable. **Imposing upper payment limits on drug prices, however, is a significant departure from current practices that warrants rigorous evaluation.**

Kaiser Permanente is continuing to evaluate the potential impact of HB2561, HD1 on our members and overall drug costs. **We appreciate a study on the feasibility of establishing a mechanism to**

review prescription drug costs and set levels of reimbursements and rates without additional cost to the State but would defer to the Insurance Commissioner on the feasibility or the availability of resources to conduct this study comprehensively.

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

An Independent Licensee of the Blue Cross and Blue Shield Association

February 11, 2020

The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Consumer Protection & Commerce

Re: HB 2561, HD1 – Relating to Prescription Drug Rate Setting

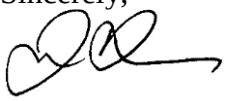
Dear Chair Takumi, Vice Chair Ichiyama, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 2561, HD1, which requires the Insurance Commissioner to conduct a study on the feasibility of establishing a mechanism to review prescription drug costs and set levels of reimbursements and rates without additional cost to the State.

HMSA supports HB 2561, HD1, and its efforts to study regulating prescription drug costs for the State. The prescription drug market has gone unmanaged for much too long, making prescription drugs increasingly unaffordable. As the original draft of this measure also looked at regulating prescription drug costs, through a prescription affordability commission, HMSA also supported the original draft of this measure. Should this bill revert to the original draft, we do ask the committee not to assess fees on pharmacy benefit managers and health insurance carriers.

Thank you for allowing us to testify in support of HB 2561, HD1. Your consideration of our comments is appreciated.

Sincerely,



Jennifer Diesman
Senior Vice-President-Government Relations

HB-2561-HD-1
Submitted on: 2/11/2020 8:21:54 PM
Testimony for CPC on 2/13/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ronald Taniguchi, Pharm.D.	Individual	Support	No

Comments:

AARP Real Possibilities in Hawaii

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THE HOUSE OF REPRESENTATIVES
Committee on Consumer Protection and Commerce
Thursday, February 13, 2020
2:00 p.m.
Conference Room 329

To: Representative Roy Takumi, Chair
Re: H.B. No. 2561, HD1, Relating to Prescription Drug Rate Setting

Dear Chair Takumi, Vice-Chair Ichiyama, and Members of the Committee on Health,

My name is Keali'i Lopez and I am the State Director for AARP Hawai'i. AARP is a membership organization of people age fifty and over, with nearly 145,000 members in Hawai'i. AARP advocates for issues that matter to Hawai'i families, including the high cost of long-term care; access to affordable, quality health care for all generations; and serving as a reliable information source on issues critical to people over the age of fifty.

AARP Hawai'i **supports the intent of H.B. No. 2561 HD1 with comments.**

This amended bill requires the insurance commissioner to conduct a study on the feasibility of establishing a mechanism to review prescription drug costs and set levels of reimbursement rates without additional cost to the State. Our preference is to retain the original purpose of the bill which would have established a prescription affordability commission within the Department of Commerce and Consumer Affairs.

AARP knows the cost of prescription drugs is critically important to all consumers, but especially to the many people over 50 who depend on prescription drugs to keep them healthy, and who've been devastated by the price increases we've seen in recent years.

- **Drug prices are out of control.** Prices of brand-name prescription drugs increased almost 130 times faster than inflation did in 2015 alone.
- **Americans depend on their prescription.** A recent AARP survey found that 3 of 4 adults age 50+ regularly take at least one prescription medication, and over 8 in 10 take at least two drugs. More than half of seniors take four or more drugs.
- **High drug prices raise costs for everyone**. High drug costs increase health insurance premiums and cost sharing for all people with health coverage. High drug spending also increases the cost for programs such as Medicare and Medicaid, which translates into higher taxes to the general public.

AARP Hawai'i doesn't think Hawai'i residents should have to continue choosing between paying for their medications versus food or shelter. Astronomically priced drugs are making everyone sick, but Hawai'i seniors are vulnerable to endless escalations in their prescription drug costs. AARP believes the establishment a prescription affordability commission within the Department of Commerce and Consumer

Affairs to review prescription drug costs and establish levels of reimbursement will significantly help lower the high cost of prescription to consumers. Thank you for the opportunity to testify and support the intent of H.B. 2561 HD 1.

Biotechnology Innovation Organization

February 12, 2020

The Honorable Roy M. Takumi, Chair
House Consumer Protection and Commerce Committee
State Capitol
415 S Beretania St.
Honolulu, HI 96813

Dear Representative Takumi:

The Biotechnology Innovation Organization (BIO) respectfully opposes HB 2561, which as amended in HD 1, would require the Insurance Commissioner to study the feasibility of implementing government price controls on prescription drugs. The original version of this bill—and what the Insurance Commissioner would study—proposed the creation of a Prescription Drug Affordability Commission tasked with reviewing prescription drug costs and setting upper payment limits for specified prescription drugs. Government price controls like those proposed by this bill are an especially drastic action with unpredictable consequences. While the intent of this bill is to lower drug prices, we fear it will fail to bring down costs for consumers or institutions and instead disincentivize development of new therapeutic breakthroughs.

Setting upper payment limits for health care payers and providers will not lower prescription drug costs for patients because it does not address out-of-pocket costs. Patients pay a given price when they visit a pharmacy based on what their health insurer determines—it is for this reason why two patients will pay a different price for the same drug. Out-of-pocket costs have been rising for patients as a result of decisions made by health insurers. HB 2561 does not address the price patients pay out-of-pocket and will therefore not directly impact patient affordability for prescription medications.

This bill also provides no clear path for lowering prescription drug costs for public or private payers or the healthcare system overall. While it tasks the commission with establishing a process for setting upper payment limits for certain medications, the bill utilizes arbitrary measures for the selection of such medications and prescribes no process for setting this "limit." The price control scheme in the introduced version of HB 2561 is designed around the premise that prescription drug costs have ballooned out of control or are increasing at an unsustainable rate. Yet prescription drugs, including inpatient medicines, have and continue to make up about 14% of national health expenditures—both in the past and projected for the next decade.[1] And medicine spending on a per-patient-per-year basis, adjusted for inflation, grew by less than 1% between 2009 and 2018.[2]

Unfortunately, artificial price controls only serve to disincentivize biopharmaceutical companies from developing new, more effective therapies. Economists have estimated that government price controls can have a significant, damaging effect on the development

[1] Roehrig, Charles. *Projections of the Prescription Drug Share of National Health Expenditures Including Non-Retail*. June 2019.
[2] IVQIA Institute for Human Data Science. *Medicine Use and Spending in the U.S.: A Review of 2018 and Outlook to 2023*. May 2019.

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pipeline. For example, one study found that an artificial 50% decrease in prices could reduce the number of drugs in the development pipeline by as much as 24%,[3] while another study found investment in new Phase I research would fall by nearly 60%,[4] decreasing the hopes of patients who are seeking new cures and treatments.

Price controls will dampen investment and would not allow companies to adequately establish prices that will provide a return on investment. The average biopharmaceutical costs $2.6 billion to bring from research and development to market.[5] Small and mid-sized innovative, therapeutic biotechnology companies who make up most of BIO's membership are responsible for more than 72% of all "late-stage" pipeline activity.[6] They sacrifice millions of dollars, often for decades before ever turning a profit, if at all. In fact, 92% of publicly traded therapeutic biotechnology companies, and 97% of private firms, operate with no profit.[7] Out of thousands of compounds only one will receive approval. The overall probability that a drug or compound that enters clinical testing will be approved is estimated to be less than 12%.[8] Only five out of 5,000 compounds become viable marketed products. Pricing must also account for the 4,995 failures before the company discovers that successful drug compound.

Proposals such as these target the most innovative medicines, disproportionately impacting patients with diseases where there is high unmet need and where low-cost treatment options are not available (e.g. rare diseases), running counter to the aims of personalized medicine, and availability of new treatments. Further troubling, the arbitrary nature of upper payment limits ignores the value that an innovative therapy can have to an individual patient—especially one who may have no other recourse—or the societal impact innovative technologies can have, including increased productivity and decreased overall healthcare costs (e.g., due to fewer hospitalizations, surgical interventions, and physicians' office visits).

For these reasons, we respectfully urge your no vote on HB 2561. If you have any questions, please do not hesitate to contact me to discuss this further.

Sincerely,

Brian Warren
Director, State Government Affairs

cc: Members, House Consumer Protection and Commerce Committee

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[3] Maloney, Michael T. and Civan, Abdulkadir. *The Effect of Price on Pharmaceutical R&D* (June 1, 2007). Available at SSRN: https://ssrn.com/abstract=995175 or http://dx.doi.org/10.2139/ssrn.995175

[4] Vernon, John A., and Thomas A. Abbott, "The Cost of US Pharmaceutical Price Reductions: A financial simulation model of R&D Decisions," *NBER Working Paper*. NBER, February 2005. https://www.nber.org/papers/w11114.pdf Accessed: April 18, 2019.

[5] DiMasi, JA, et al., Innovation in the pharmaceutical industry: New estimates of R&D costs. Journal of Health Economics. February 12, 2016.

[6] "The Changing Landscape of Research and Development: Innovation, Drivers of Change, and Evolution of Clinical Trial Productivity," IQVIA Report, April 2019.

[7] Ibid.

[8] Biopharmaceutical Research and Development, The Process Behind New Medicines. PhRMA, 2015. http://phrma-docs.phrma.org/sites/default/files/pdf/rd_brochure_022307.pdf

Hawaii Association of Health Plans

February 12, 2020

LATE

House Committee on Consumer Protection & Commerce
The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair

House Bill 2561, HD1 – Relating to Prescription Drug Rate Setting

Dear Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to testify on HB 2561, HD1.

HAHP supports this bill, which will require the Insurance Commissioner to conduct a study on the feasibility of establishing a mechanism to review prescription drug costs and set levels of reimbursements and rates, without additional cost to the State. As prescription drugs have become increasingly unaffordable, there needs to be an effort to address this national issue.

HAHP also supported the intent of the previous draft of this bill, to regulate prescription drug costs through a prescription affordability commission. However, if the original draft of this bill is reintroduced, we continue to ask that the fees described in that draft only be paid by manufacturers and wholesale distributors.

Thank you for allowing us to respectfully express our support of HB 2561, HD1.

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members