DAVID Y. IGE
GOVERNOR

JOSH GREEN
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
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Health
Tuesday, March 12, 2019
9:00 a.m.
State Capitol, Conference Room 329

On the following measure:
S.B. 1401, S.D. 2, RELATING TO PHARMACY BENEFIT MANAGERS

Chair Mizuno 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 offers comments on this bill.

The purposes of this bill are to: (1) prohibit pharmacy benefit managers (PBMs) from engaging in self-serving business practices; (2) replace a registration requirement with a license requirement; (3) increase PBM reporting requirements to the Insurance Commissioner; and (4) increase application fees, renewal fees, and penalties for failing to renew.

Implementation of this bill would be difficult, as the Insurance Division lacks the requisite expertise to assess qualifications of PBMs for licensure. While the Insurance Division currently registers PBMs, it is unclear whether currently registered PBMs must become licensed if this bill is enacted. If PBMs will be subject to more oversight by the

Insurance Division, the Department respectfully requests the following amendments to S.D. 2:

1. Retain the current registration provisions in Hawaii Revised Statutes (HRS) chapter 431S and delete all licensing requirements, as chapter 431S already gives the Insurance Commissioner broad discretion to issue a license to a PBM;
2. Increase the PBM application fee to $2,500;
3. Increase the PBM renewal fee to $2,000;
4. Require transparency reports to be submitted by March 31, instead of January 1, of each year to account for accuracy of information. In addition, require an accompanying $100 filing fee to be deposited to the Compliance Resolution Fund;
5. Require the Insurance Commissioner to publish the annual report on the Insurance Division's website no later than June 30;
6. Maintain the current penalty amount in HRS section 431S-5 of $500 for each day the violation occurs; and
7. If PBM licensure is required, add a delayed implementation date of January 1, 2020, to allow the Insurance Division to modify its licensing systems.

Additionally, the Department notes a potential problem with the publication of transparency reports. Subsection (b) on page 3, lines 13 to 18 provides that information submitted in transparency reports that is "identifiable to an individual pharmacy benefit manager shall not be disclosable under chapter 92F[.]" However, subsection (c) on page 3, line 19 to page 4, line 3 requires publication of transparency reports on the Insurance Division's website. Publication of these transparency reports may be impracticable, since their contents are protected from disclosure under HRS chapter 92F. The Department has been discussing proposed language with the Office of Information Practices regarding chapter 92F.

The Department also notes that this bill may present issues regarding the Employee Retirement Income Security Act (ERISA), given that some PBMs may be servicing ERISA-covered benefit plans.

Finally, if this bill passes, the Department respectfully requests an adjustment of the Insurance Division's budget ceiling to cover the fiscal impact of this bill.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019

ON THE FOLLOWING MEASURE:
S.B. NO. 1401, S.D. 2, RELATING TO PHARMACY BENEFIT MANAGERS.

BEFORE THE:
HOUSE COMMITTEE ON HEALTH

DATE: Tuesday, March 12, 2019 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Clare E. Connors, Attorney General, or
Daniel K. Jacob, Deputy Attorney General

Chair Mizuno and Members of the Committee:

The Department of the Attorney General makes the following comments about the bill.

The purposes of this bill are to: (1) prohibit pharmacy benefit managers from engaging in self-serving business practices; (2) increase the pharmacy benefit managers' annual reporting requirements; and (3) replace the registration requirement for pharmacy benefit managers with a licensure requirement.

This bill may be subject to an Employee Retirement Income Security Act (ERISA) preemption challenge. ERISA is a comprehensive federal legislative scheme that "supersede[s] any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." 29 U.S.C.A. § 1144(a).[1] A state law relates to an ERISA plan and is preempted if it has either an impermissible connection with an ERISA plan or an impermissible reference to an ERISA plan. This bill may be preempted because of (a) an arguably impermissible connection with an ERISA plan or (b) an impermissible reference to an ERISA plan.

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[1] The subsection, in full, provides as follows:

> Except as provided in subsection (b) of this section, the provisions of this subchapter and subchapter III of this chapter shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan described in section 1003(a) of this title and not exempt under section 1003(b) of this title. This section shall take effect on January 1, 1975.

A state law has an impermissible connection with ERISA plans when it governs a central matter of plan administration or interferes with nationally uniform plan administration. *Pharmaceutical Care Management Association v. Gerhart*, 852 F.3d 722, 730 (8th Cir. 2017). The concern here arises from the fact this bill would prohibit pharmacy benefit managers from engaging in self-serving business practices, increase the pharmacy benefit managers' annual reporting requirements, and replace the registration requirement for pharmacy benefit managers with a licensure requirement. One or more of these mandates may be found to implicate areas central to plan administration.

An impermissible reference to an ERISA plan may also be an issue. In *Gerhart*, the United States Court of Appeals for the Eighth Circuit found that an Iowa law had an implicit reference to ERISA and ERISA plans because the Iowa law regulated PBMs that administer benefits for health benefit plans, employers, and other groups that provide health coverage. 852 F.3d at 729-730. PBMs are subject to ERISA regulation, and the Eighth Circuit found that the law affected benefits provided by these ERISA programs and that the law was preempted by ERISA. *Id*. at 732. This bill may be similarly challenged as containing an impermissible reference to ERISA.

We note, however, that the United States Court of Appeals for the First Circuit upheld a law regulating PBMs as not preempted by ERISA. *Pharmaceutical Care Management Association v. Rowe*, 429 F.3d 294 (1st Cir. 2005). Therefore, there may be a split between the Circuit Courts of Appeals. Nevertheless, this bill may be subject to a court challenge.

Thank you for the opportunity to comment.

1275 Pennsylvania Avenue, NW
Suite 700
Washington, DC 20004

March 12, 2019

Representative John Mizuno, Chair
Representative Bertrand Kobayashi, Vice Chair
Committee on Health
415 South Beretania Street
Honolulu, Hawaii 96813

RE: SB 1401 S.D.2 Relating to Pharmacy Benefit Managers
March 12, 2019, 9:00 a.m., conference room 329

Aloha Chair Mizuno, Vice Chair Kobayashi and members of the committee:

CVS Health is writing to share with you our concerns and some suggested amendments regarding Senate Bill 1401 S.D. 2 ("SB 1401 S.D. 2"), relating to pharmacy benefit managers (PBMs). CVS Health is the nation's premier health innovation company helping people on their path to better health. Whether in one of its pharmacies or through its health services and plans, CVS Health is pioneering a bold new approach to total health by making quality care more affordable, accessible, simple and seamless. CVS Health is community-based and locally focused, engaging consumers with the care they need when and where they need it. The Company has more than 9,800 retail locations, approximately 1,100 walk-in medical clinics, a leading pharmacy benefits manager with approximately 93 million plan members, a dedicated senior pharmacy care business serving more than one million patients per year, expanding specialty pharmacy services, and a leading stand-alone Medicare Part D prescription drug plan. CVS Health also serves an estimated 39 million people through traditional, voluntary and consumer-directed health insurance products and related services, including a rapidly expanding Medicare Advantage offering. This innovative health care model increases access to quality care, delivers better health outcomes and lowers overall health care costs.

The amendments we would like to request are as follows:

Delete Section 2, Page 2, lines 4-12.

- **Rationale:** Existing law already addresses this issue. See Haw. Rev. Stat. § 431R-3:

"(a) If a retail community pharmacy enters into a contractual retail pharmacy network agreement pursuant to section 431R-2, a prescription drug benefit plan, health benefits plan under chapter 87A, or pharmacy benefit manager shall permit each beneficiary, at the beneficiary's option, to fill any covered prescription that may be obtained by mail order at any retail community pharmacy of the beneficiary's choice within the pharmacy benefit manager's retail pharmacy network.

(b) A prescription drug benefit plan, health benefits plan under chapter 87A, or pharmacy benefit manager who has entered into a contractual retail pharmacy network agreement with a retail community pharmacy shall not:

(1) Require a beneficiary to exclusively obtain any prescription from a mail order pharmacy;

(2) Impose upon a beneficiary utilizing the retail community pharmacy a copayment, fee, or other condition not imposed upon beneficiaries electing to utilize a mail order pharmacy;

(3) Subject any prescription dispensed by a retail community pharmacy to a beneficiary to a minimum or maximum quantity limit, length of script, restriction on refills, or requirement to obtain refills not imposed upon a mail order pharmacy;

(4) Require a beneficiary in whole or in part to pay for any prescription dispensed by a retail community pharmacy and seek reimbursement if the beneficiary is not required to pay for and seek reimbursement in the same manner for a prescription dispensed by a mail order pharmacy;

(5) Subject a beneficiary to any administrative requirement to use a retail community pharmacy that is not imposed upon the use of a mail order pharmacy; or

(6) Impose any other term, condition, or requirement pertaining to the use of the services of a retail community pharmacy that materially and unreasonably interferes with or impairs the right of a beneficiary to obtain prescriptions from a retail community pharmacy of the beneficiary's choice."

Delete Section 2, Page 2, lines 13-21, Page 3, Page 4, lines 1-9, and Section 4:

Rationale: CVS Health believes that it is important to keep the competitive marketplace among drug manufacturers in place in order to drive down the cost of prescription medications. Any public disclosure of rebate information could allow manufacturers to learn what type of price concessions other manufacturers are giving and could disincentivize them from offering deeper discounts, which benefit plan sponsors and their beneficiaries. Mandating the disclosure of competitive pricing information will not lead to better health care or lower health care costs.

The FTC has reviewed a number of state legislative proposals that would have required the public disclosure of competitive rebate information and opined that, "[i]f pharmaceutical manufacturers learn the exact amount of rebates offered by their competitors, then tacit collusion among them is more feasible" and that such knowledge of competitors' pricing information would dilute incentives for manufacturers to bid aggressively "which leads to higher prices."[1] The FTC also concluded that "[a]ny such cost increases are likely to undermine the ability of some consumers to obtain the pharmaceuticals and health insurance they need at a price they can afford." [2]

While the bill includes provisions to attempt to protect confidential, trade secret, or sensitive information provided to the state, we believe the risk of any disclosure at all of proprietary competitive information is too great. If this information were to be in the public sphere, using basic enrollment and coverage market information, manufacturers could easily figure out what price concessions their competitors are providing which eliminates their incentive to lower the cost of their medications. This will lead to increased costs for plan sponsors and their members in Hawaii.

Replace Deleted language with new "Section 2":

SECTION 2. Chapter 431S, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

***§431S – Gag clause prohibited**: A pharmacy benefits manager may not prohibit a pharmacist or pharmacy from providing an insured individual information on the amount of the insured's cost share for such insured's prescription drug and the clinical efficacy of a more affordable alternative drug if one is available. Neither a pharmacy nor a pharmacist shall be penalized by a pharmacy benefits manager for disclosing such information to an insured or for selling to an insured a more affordable alternative if one is available*

Rationale: Our pharmacists are committed to helping patients find the most affordable options, and we ensure that pharmacists in our Caremark networks do the same. Accordingly, CVS Health does not engage in gag clauses, and we support efforts to ban them.

[1] Letter from FTC to Rep. Patrick T McHenry, U.S. Congress, Jul. 15, 2005.
[2] Id.

Delete Sections 3, 5-7:

Rationale: All of these sections relate to amending existing code which already requires PBMs to register with the Insurance Commissioner. We are currently registered and regulated by the Insurance Commissioner and do not see a justification for amending existing law as is proposed in this legislation.

On behalf of CVS Health, I thank you for allowing us to provide our concerns and amendments for consideration.

Respectfully,

Melissa Schulman
Senior Vice President, Government and Public Affairs
CVS Health

DAVID Y. IGE
GOVERNOR

STATE OF HAWAII
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
P.O. BOX 2121
HONOLULU, HAWAII 96805-2121
Oahu (808) 586-7390
Toll Free 1(800) 295-0089
www.eutf.hawaii.gov

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DEREK M. MIZUNO

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 HEALTH
ON SENATE BILL NO. 1401 S.D. 2

March 12, 2019
9:00 a.m.
Room 329

RELATING TO PHARMACY BENEFIT MANAGERS

Chair Mizuno, Vice Chair Kobayashi, and Members of the Committee:

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees opposes Section 2, §431S- Pharmacy benefit manager business practices – relating to the prohibition from penalizing, requiring or providing financial incentives for members to use a retail or mail order service pharmacy in which a pharmacy benefit manager has an ownership interest. The EUTF Board has not taken a position on the rest of the bill.

The EUTF plans currently charge members a copayment of 2X the 30-day copayment for a 90-day prescription if the member uses a pharmacy in the Retail 90 network or mail order. Copayments for 90-day prescriptions at non-Retail 90 pharmacies are 3X the 30-day copayment. Approximately 93% of the CVS network pharmacies have joined the Retail 90 network. It is important to note that the Retail 90

network is open to all CVS network pharmacies and the CVS network is open to all pharmacies.

If this bill becomes law and the EUTF is no longer able to incentivize the Retail 90 network and mail order pharmacies, annual claims are estimated to increase $3.2 million and $1.1 million for the employee and retiree plans, respectively. Such an increase in annual retiree claims is estimated to increase the State and counties unfunded liability by $22.1 million.

Thank you for the opportunity to testify.

SB-1401-SD-2
Submitted on: 3/8/2019 11:28:54 PM
Testimony for HLT on 3/12/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Miri	Weinstein Pharmacy	Support	No

Comments:

Please pass and support this critically important bill. Thank you.

SB-1401-SD-2
Submitted on: 3/9/2019 2:52:57 PM
Testimony for HLT on 3/12/2019 9:00:00 AM

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

Comments:

SB-1401-SD-2
Submitted on: 3/11/2019 9:13:09 AM
Testimony for HLT on 3/12/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lu Ann Faborito	Individual	Support	No

Comments:

Absolutely support the efforts to help- manage and hold accountable.

PCMA

March 12, 2019

The Honorable John Mizuno and Betrand Kobayshi
The Committee on Health and Human Services
415 S. Beretania St,
Honolulu, Oahu, HI, 96813-2425

Re: S.B. 1401, a bill relating to pharmacy benefit managers

Dear Chairmen Mizuno and Kobayashi:

On behalf of the Pharmaceutical Care Management Association (PCMA), we greatly appreciate the opportunity to provide comments on the provisions in S.B. 1401relating to pharmacy benefit managers. We respectfully request the Committee to consider our amendments in the interest of payers and consumers of prescription medication.

PCMA is the national trade association for America's Pharmacy Benefit Managers (PBMs), which administer prescription drug plans for more than 266 million Americans with health coverage through independent businesses, health insurers, labor unions, and federal and state-sponsored health programs.

Our requested amendments are as follows:

Delete Section 2, Page 2, lines 4-12.

Rationale: Existing law already addresses this issue. See Haw. Rev. Stat. § 431R-3;

Delete Section 2, Page 2, lines 13-21, Page 3, Page 4, lines 1-9, and Section 4:

Rationale: Competition among drug manufacturers is important to help drive down the cost of prescription medications. Any public disclosure of rebate information could allow manufacturers to learn what type of price concessions other manufacturers are giving and could very well discourage them from offering deeper discounts, which directly benefit plan sponsors and their beneficiaries. Mandating the disclosure of competitive pricing information will not lead to better health care or lower health care costs.

The FTC has reviewed a number of state legislative proposals that would have required the public disclosure of competitive rebate information and opined that, "[i]f pharmaceutical manufacturers learn the exact amount of rebates offered by their competitors, then tacit collusion among them is more feasible" and that such knowledge of competitors' pricing information would dilute incentives for manufacturers to bid aggressively "which leads to higher prices."[1] The FTC also concluded that "[a]ny such cost increases are likely to undermine the ability of some consumers to obtain the pharmaceuticals and health insurance they need at a price they can afford."[2]

[1] Letter from FTC to Rep. Patrick T McHenry, U.S. Congress, Jul. 15, 2005.
[2] Id.

Pharmaceutical Care Management Association
325 7th Street, NW, 9th Floor
Washington, DC 20004
www.pcmanet.org

PCMA

While the bill includes provisions to attempt to protect confidential, trade secret, or sensitive information provided to the state, we believe the risk of any disclosure at all of proprietary competitive information is too great. If this information were to be in the public sphere, using basic enrollment and coverage market information, manufacturers could easily figure out what price concessions their competitors are providing which eliminates their incentive to lower the cost of their medications. This will lead to increased costs for plan sponsors and their members in Hawaii.

Replace Deleted language with new "Section 2":

SECTION 2. Chapter 431S, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

***§431S – Gag clause prohibited**: A pharmacy benefits manager may not prohibit a pharmacist or pharmacy from providing an insured individual information on the amount of the insured's cost share for such insured's prescription drug and the clinical efficacy of a more affordable alternative drug if one is available. Neither a pharmacy nor a pharmacist shall be penalized by a pharmacy benefits manager for disclosing such information to an insured or for selling to an insured a more affordable alternative if one is available*

Rationale: Ensuring pharmacists are empowered to inform patients about the most affordable medication options will directly help beneficiaries at the pharmacy counter.

Delete Sections 3, 5-7:

Rationale: These sections relate to amending existing code which already requires PBMs to register with the Insurance Commissioner. We are currently registered and regulated by the Insurance Commissioner and amending existing law failures to further any public benefit.

Again, thank you for your consideration and we look forward to working with the Committee on this matter.

Sincerely,

Bill Head
Senior Director, State Affairs

Pharmaceutical Care Management Association
325 7th Street, NW, 9th Floor
Washington, DC 20004
www.pcmanet.org

Cynthia M. Laubacher
Senior Director
State Government Affairs
Office: 916.771.3328
Mobile: 916.425.6101
Cynthia_Laubacher@express-scripts.com

LATE

March 11, 2019

To: The Honorable John Mizuno, Chair
Members of the House Committee on Health

Fr: Cynthia Laubacher, Senior Director, State Affairs

Re: Senate Bill 1401 S.D.2: March 12, 2019 9:00am

Thank you for the opportunity to submit comments on Senate Bill 1401 S.D. 2. Cigna recently completed its purchase of a pharmacy benefits manager ("PBM"), Express Scripts, one of the nation's largest PBMs. Senate Bill 1401 S.D. 2 contains several problematic provisions that could increase the cost of prescription drugs for residents of the state of Hawaii.

Section 2. Pharmacy benefit manager business practices. This section contains two problems. First, PBM clients, not PBMs, determine benefit structure. Second, this provision will increase plan costs by prohibiting plan sponsors from incentivizing their members to use local independent, chain or mail pharmacies that offer lower costs in exchange for being in a preferred network resulting in more business. This provision eliminates plan sponsor flexibility to design their benefit in a manner that lowers their costs and, ultimately member costs.

Section 2. Transparency Report. This section requires the reporting to the state of proprietary and highly confidential rebate and fee information. While the language speaks to "aggregate" rebates, it also speaks to the reporting to the state of client level data. Government agencies - including the Congressional Budget Office ("CBO") and the Federal Trade Commission ("FTC") – have long cautioned that PBM disclosure mandates could raise costs.

- The CBO has noted that disclosure requirements could allow firms to "observe the prices charged by their rivals, which could lead to reduced competition." According to CBP, the "disclosure of rebate data would probably cause the variation in rebates among purchasers to decline" leaded to a compression in rebates."[1]
- The FTC has warned that "whenever competitors know the actual prices charged by other firms, tacit collusion – and thus higher prices – may be more likely." FTC concluded that

[1] Letter to Rep. Joe Barton and Rep. Jim McCrery, U.S. House of Representatives, Congressional Budget Office, March 12, 2007.

> PBM disclosure mandates could "undermine the ability of some consumers to obtain the pharmaceuticals and health insurance they need at a price they can afford.[2]

Of particular concern with this section is the requirement to disclose rebate and fee information relating to "each covered entity client." Disclosure of competitively sensitive information, including information relating to federal plan sponsors and entities that do not do business with or within the state, is outside the state's jurisdiction. More troubling, this required disclosure lacks sufficient confidentiality protections for this highly proprietary information that could lead to higher prices for Hawaii plan sponsors and their members.

The Federal Trade Commission, in a letter to the Advisory Council on Employee Welfare and Pension Benefit Plans regarding issues related to PBM Compensation and Fee Disclosure, noted a particular concern with mandatory disclosure that publicly reveal previously proprietary and private information about discounts negotiated with PBMs, disclosure may result in less aggressive pricing by, or even collusion among, pharmaceutical manufacturers."

Adam B. Jaffe, the Dean of Arts and Sciences at Brandeis University and the Fred C. Hecht Professor in Economics, discussed the issue of PBM disclosure in a declaration prepared for PCMA v. Rowe, the lawsuit filed by PCMA which sought to enjoin Maine from enforcing a law that would require PBM transparency, among other provisions. The U.S. District Court in Maine granted PCMA's request for an injunction and the law was later repealed.

> "Disclosure of commercially sensitive contract terms will tend to short-circuit this competitive dynamic. Sellers will know exactly what their competitors are offering, and will also know that the granting of any concession will likely lead to pressure for its widespread adoption. The effect will be to handicap competition, thereby inhibiting its ability to ensure that consumers get the best possible prices and service."

In addition to the disclosure concerns, this section impacts self-insured plans and therefore likely prohibited under ERISA.

Section 5. License Required. We also have numerous concerns with this section as it creates standards for licensure based on vague requirements, such as whether the commissioner is "satisfied" that the requirement were met, including whether the applicant possessed the "background expertise and financial integrity" to supply the services…These are undefined terms and there are no industry standards. PBMs and their clients are in a business relationship that does not include the traditional accepting of insurance risk that necessitates and examination of financial solvency. Contracts are developed and priced according to the services being performed, all within the boundaries/limits of insurance carrier responsibilities and solvency.

Finally, the language regarding revocation is overly broad, with no clear criteria to justify a revocation of a PBM license. The language does not include any regulatory review or provide

[2] Letter from FTC to Rep. Patrick T. McHenry, U.S. Congress, July 15, 2005; Letter from FTC to Assemblyman Greg Aghazarian, California State Assembly, Sept. 3, 2004.

for an appeal of such a decision. Under this bill, the commissioner could revoke a license, leaving tens of thousands of patients stranded with no access to their prescription drugs/benefit.

Thank you for your consideration of our concerns.

LATE

SB-1401-SD-2
Submitted on: 3/11/2019 6:42:19 PM
Testimony for HLT on 3/12/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Catalina Cross	Times Pharmacies	Support	No

Comments:

Hawaii Association of Health Plans

March 11, 2019

LATE

The Honorable John M. Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair
House Committee on Health

Senate Bill 1401 SD2 – Relating to Pharmacy Benefit Managers

Dear Chair Mizuno, Vice Chair Kobayashi, and Members of the Committee:

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to testify in opposition on SB 1401, SD2.

We believe that this could pose an administrative burden and increase costs for our members. Pharmacy benefits managers help health plans to control drug costs. As this bill will increase costs to our members, we ask that this bill be deferred.

Should this bill move forward, we respectfully request amendments be made to §431A-Transparency report (c) which prevents unauthorized disclosure of any Pharmacy Benefit Manager (PBM) "trade secrets." We believe that the "trade secret" protections be broadened to include any "confidential or proprietary information" and that, to the extent the information a PBM must disclose belongs to a third party, that the third party be afforded an opportunity to object to the disclosure and show cause to the Insurance Commissioner as to why it should not be published.

Thank you for allowing us to testify expressing concerns on SB 1401, SD2.

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members

LATE

The Hawaii Pharmacist Association Strongly Supports SB1401

Aloha Chair Mizuno and Members of the Committee,

A number of local independent pharmacies have been forced to close down or sell to large mainland corporations. The few local independent pharmacies that remain are struggling to survive due to the predatory practices employed by pharmacy benefit managers (PBMs). Pharmacies are being reimbursed below the cost of acquiring certain medications, sometimes losing up to hundreds of dollars per prescription. PBMs determine how much a pharmacy is reimbursed through a Maximum Allowable Cost (MAC) formula and claim that local pharmacies are being reimbursed at a fair price yet they have no way or are not willing to justify the reimbursement rate when questioned. The only recourse a pharmacy has when met with a below cost reimbursement is to submit a MAC appeal to the PBM to request a higher reimbursement or for them to inform us where the medication can be purchased so that a profit can be made. Hundreds of MAC appeals have been submitted with no response from the PBMs or them stating that the reimbursement rate is fair and no adjustments need to be made. Meeting with the PBMs has not done anything to solve this problem and yet local independent pharmacies continue to do everything they can to do the right thing for patients in their communities including dispensing medications at a loss. If the current pharmacy reimbursement model remains the same and the PBMs are not regulated or held accountable, it will only be a matter of time until all local independent pharmacies are forced to close or sell.

I hope the legislature recognizes that independent pharmacy owners and employees are residents of the State of Hawaii and that an independent pharmacy is a local business. By not supporting some form of regulation or accountability for PBMs, you are letting billion dollar national corporations take advantage and shut down local businesses. I humbly request that as legislatures you consider the larger picture and how this affects our state as a whole. PBMs are profiting from local plans, pharmacies, and consumers, where does that revenue go? Does it stay in Hawaii? Do PBMs help our local economy? Or communities? Or residents? Now think about local independent pharmacies that have been here for generations. Do they help our local economy? Our communities? Our residents?

Thank you for the opportunity to provide testimony on SB1401.

LATE

SB-1401-SD-2
Submitted on: 3/12/2019 12:24:57 AM
Testimony for HLT on 3/12/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

LATE

SB-1401-SD-2
Submitted on: 3/11/2019 4:32:48 PM
Testimony for HLT on 3/12/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cathy wilson	Work Injury Medical Association of Hawaii	Support	No

Comments: