

STAND. COM. REP. NO.

587

Honolulu, Hawaii

FEB 17 2023

RE: S.B. No. 1381

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1381 entitled:

"A BILL FOR AN ACT RELATING TO THE REPEAL OF SECTION 328-106, HAWAII REVISED STATUTES,"

begs leave to report as follows:

The purpose and intent of this measure is to repeal section 328-106, Hawaii Revised Statutes, which provides the Department of Health the authority to regulate pharmacy benefit managers that reimburse a contracting pharmacy for a drug on a maximum allowable cost basis.

Your Committee received testimony in support of this measure from the Department of Health. Your Committee received testimony in opposition to this measure from one individual.

Your Committee finds that pursuant to chapter 328, Hawaii Revised Statutes, the Department of Health regulates food, drugs, and cosmetics in a similar manner that the federal Food and Drug Administration (FDA) regulates food, drugs, and cosmetics under the Federal Food, Drug, and Cosmetics Act (Title 21 United States Code sections 301 et seq.). The FDA and the Department of Health promote and protect public health by ensuring the efficacy and safety of prescription drugs. Neither agency regulates the business practices of insurance companies or pharmacies. However, section 328-106, Hawaii Revised Statutes, requires pharmacy



benefit managers that reimburse contracting pharmacies for a drug on a maximum allowable cost basis to make certain information available to those pharmacies and establishes an appeals process for those pharmacies. Ensuring that pharmacy benefit managers comply with section 328-106, Hawaii Revised Statutes, is outside the scope of the Department of Health's purview and expertise. This measure therefore repeals section 328-106, Hawaii Revised Statutes.

Your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1381, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1381, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



JARRETT KEOHOKALO, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB1381	CPN, JDC	02-03-23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.	✓			
RICHARDS, III, Herbert M. "Tim"	✓			
AWA, Brenton	✓			
TOTAL	✓	0	0	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>Carol Fukunaga</i>				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes