THE SENATE
THIRTY-THIRD LEGISLATURE, 2026
STATE OF HAWAII

S.B. NO. 2751 S.D. 1

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

SECTION 1. The legislature finds that workers' compensation costs and transparency are critical to maintaining fair and predictable benefits for injured workers while controlling employer expenses. The legislature further finds that compounded prescription drugs can provide essential therapeutic options for injured workers when commercially available Food and Drug Administration (FDA)-approved medications are unsuitable due to allergies, dosage requirements, or other clinical needs. However, inconsistent definitions have led to confusion. Federal law under section 503A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353a) establishes clear standards for pharmacy compounding, including patient specific prescriptions, quality requirements for bulk substances, and exclusions for simple reconstitution. Aligning state law with these standards will promote patient safety by ensuring compounded drugs meet recognized quality

benchmarks and enhance regulatory consistency between state and federal oversight.

Accordingly, the purpose of this Act is to ensure that injured workers in the State receive appropriate, individualized medical care that is necessary and reasonable for the specific injury by:

(1) Defining "compounded prescription drug" in the State's Workers' Compensation Law that references section 503A of the Federal Food, Drug, and Cosmetic Act;

(2) Limiting the dispensing of prescription drugs by physicians to thirty days following the industrial injury and requiring all prescription drugs to be obtained through the employer's pharmacy benefit manager thereafter; and

(3) Requiring prescription drugs not approved by the Food and Drug Administration, such as compounds, to be identified as compounds when listed on the treatment plan and when billed, and be supported by a statement of medical necessity documenting the case of medical need for a compound drug over an over-the-counter or

prescription drug of similar therapeutic effect that is approved by the Food and Drug Administration.

SECTION 2. Section 386-21.7, Hawaii Revised Statutes, is amended to read as follows:

"§**386-21.7 Prescription drugs; pharmaceuticals.** (a) Notwithstanding any other provision to the contrary, immediately after a work injury is sustained by an employee and so long as reasonably needed, the employer shall furnish to the employee all prescription drugs as the nature of the injury requires; provided that initial concurrent prescriptions for opioids and benzodiazepines shall meet the requirements of section 386-29. The liability for the prescription drugs shall be subject to the deductible under section 386-100.

(b) Payment for all forms of prescription drugs including repackaged and relabeled drugs shall be one hundred forty per cent of the average wholesale price set by the original manufacturer of the dispensed prescription drug as identified by its National Drug Code and as published in the Red Book: Pharmacy's Fundamental Reference as of the date of dispensing, except where the employer or carrier, or any entity acting on

behalf of the employer or carrier, directly contracts with the provider or the provider's assignee for a lower amount.

(c) Payment for compounded prescription drugs shall be the sum of one hundred forty per cent of the average wholesale price by gram weight of each underlying prescription drug contained in the compounded prescription drug. For compounded prescription drugs, the average wholesale price shall be that set by the original manufacturer of the underlying prescription drug as identified by its National Drug Code and as published in the Red Book: Pharmacy's Fundamental Reference as of the date of compounding, except where the employer or carrier, or any entity acting on behalf of the employer or carrier, directly contracts with the provider or provider's assignee for a lower amount.

(d) All pharmaceutical claims submitted for repackaged, relabeled, or compounded prescription drugs shall include the National Drug Code of the original manufacturer. If the original manufacturer of the underlying drug product used in repackaged, relabeled, or compounded prescription drugs is not provided or is unknown, then reimbursement shall be one hundred forty per cent of the average wholesale price for the original manufacturer's National Drug Code number as listed in the Red

Book: Pharmacy's Fundamental Reference of the prescription drug that is most closely related to the underlying drug product.

(e) Notwithstanding any other provision in this section to the contrary, equivalent generic drug products shall be substituted for brand name pharmaceuticals unless the prescribing physician certifies that no substitution shall be prescribed because the injured employee's condition does not tolerate an equivalent generic drug product.

(f) Physician dispensing of prescription drugs shall be allowed for thirty days following the industrial injury. Thereafter, all prescription drugs shall be obtained through the employer's pharmacy benefit manager.

(g) Prescription drugs not approved by the Food and Drug Administration, such as compounds, shall be identified as compounds when listed on the treatment plan and when billed, and be supported by a statement of medical necessity documenting the case of medical need for a compound drug over an over the counter or prescription drug of similar therapeutic effect approved by the Food and Drug Administration. Failure to identify a compound on a treatment plan or when billed shall make the payment for the drug non-reimbursable.

[~~(f)~~] (h) For purposes of this section[~~, "equivalent~~]:

"Compounded prescription drug" means a drug product that is compounded in a compounding facility in compliance with 503A of the Food, Drug, and Cosmetic Act (21 U.S.C. 353a), or any other type of similar compounding facility approved by the Food and Drug Administration.

"Equivalent generic drug product" has the same meaning as provided in section 328-91."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on January 1, 2077.

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Report Title:
Workers' Compensation; Benefits; Prescription Drugs; Compounded Prescription Drugs; Physician Dispensing Timeframe; Non-FDA-Approved Drugs; Identification; Statement of Medical Necessity

Description:
Defines compounded prescription drugs for the purposes of the State's Workers' Compensation Law. Limits dispensing of prescription drugs by physician to 30 days after the industrial injury and requires all prescription drugs to be obtained through the employer's pharmacy benefit manager thereafter. Requires prescription drugs not approved by the Food and Drug Administration (FDA), such as compounds, to be identified as compounds when listed on the treatment plan and when billed, and be supported by a statement of medical necessity documenting the case of medical need for a compound drug over an FDA-approved over-the-counter or prescription drug of similar therapeutic effect. Effective 1/1/2077. (SD1)

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