HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

H.B. NO. 6

A BILL FOR AN ACT

RELATING TO PRESCRIPTION DRUGS.

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

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . ACTUAL PRICE DISCLOSURE AND CERTIFICATION OF PRESCRIPTION DRUG PRICES

§346-A Quarterly report. A manufacturer of prescription drugs dispensed in this State under a health benefits or health insurance program directed or administered by the State, on a quarterly basis, shall report by national drug code the following pharmaceutical pricing data to the director for each of its drugs:

(1) The average wholesale price;

(2) The wholesale acquisition cost;

(3) The average manufacturer price as defined in 42 United States Code, section 1396r-8(k)(1); and

(4) The best price as defined in 42 United States Code, section 1396r-8(c)(1)(C).

§346-B Calculation. The calculation of the average wholesale price and the wholesale acquisition cost shall be net of all volume discounts, prompt payment discounts, charge-backs, short-dated product discounts, cash discounts, free goods, rebates, and all other price concessions or incentives provided to a purchaser that result in a reduction in the ultimate cost to the purchaser.

§346-C Description of methodology. When reporting the average wholesale price, wholesale acquisition cost, average manufacturer price, and best price, a manufacturer of prescription drugs dispensed in this State shall also include a detailed description of the methodologies by which the prices were calculated.

§346-D Certification. When a manufacturer of prescription drugs dispensed in this State reports the average wholesale price, wholesale acquisition cost, average manufacturer price, or best price, the president or chief executive officer of the manufacturer shall certify to the director, on a form provided by the director, that the reported prices are accurate.

§346-E Confidentiality. Except as provided in this part, all information provided to the director by a manufacturer of prescription drugs under this part is confidential and shall not

be disclosed by any person or by the department to any person without the consent of the manufacturer; provided that disclosure may be:

(1) Made by the department to an entity providing services to the department under this part; or

(2) Ordered by a court for good cause shown or made in a court filing under seal or until otherwise ordered by a court.

§346-F Violation. (a) A violation of this part shall be deemed an unfair or deceptive act or practice under section 480-2. This section shall be enforced by the attorney general.

(b) Nothing in this part limits the attorney general's use of civil investigative demand authority under chapter 480 to investigate violations of this part.

§346-G Funding restriction. The department's costs for implementing this part shall be funded by revenues that the attorney general has received as a result of consumer protection litigation involving pharmaceutical pricing or practices. General funds may not be expended for the purposes of this part.

§346-H Reporting. Manufacturers of prescription drugs subject to section 346-A shall begin the submission of quarterly

reports at the end of the first full calendar quarter after the effective date of this part."

SECTION 2. Section 28-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established in the state treasury the antitrust trust fund, into which shall be deposited:

(1) Ten per cent of any antitrust judgment or settlement received by the State except where the deposit is inconsistent with the court order or settlement agreement relating to the amount; provided that amounts received due to litigation involving pharmaceutical pricing or practices shall be expended as provided in part of chapter 346; and

(2) Appropriations made by the legislature."

SECTION 3. When the attorney general receives revenues based upon consumer protection litigation involving pharmaceutical pricing or practices and the attorney general designates these revenues as available to implement this Act, the attorney general shall submit a letter to the director of human services that informs the director of these facts. Section 1 of this Act shall take effect thirty days after the director receives the letter from the attorney general.

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SECTION 4. In codifying the new sections added by section section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval; provided that this Act shall be repealed if the attorney general has not received by June 30, 2012 any revenues from consumer protection litigation involving pharmaceutical pricing or practices.

INTRODUCED BY: _____

JAN 17 2007

Report Title:
Prescription Drugs; Manufacturer Disclosure

Description:
Requires quarterly reports that disclose the average wholesale price, wholesale acquisition cost, average manufacturer price, and best price for each of the manufacturer's drugs from manufacturers of certain prescription drugs dispensed in this State.