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**TESTIMONY ON HOUSE BILL 2799
A BILL FOR AN ACT RELATING TO
CONTROLLED SUBSTANCES**

by
Clayton A. Frank, Director
Department of Public Safety

House Committee on Health
Representative Josh Green, Chair
Representative John Mizuno, Vice Chair

Wednesday, February 13, 2008, 8:00 a.m.
State Capitol, Room 329

Representative Green, Representative Mizuno, and Members of the Committee:

The Department of Public Safety does not support the amendments proposed in House Bill 2799, which would expand the definition of "identification number" in Section 329-1 definitions and "proper identification," as utilized in Section 329-41 Prohibited Act B penalties Hawaii Revised Statutes, to include all unique patient identifier numbers issued by insurance companies or pharmacy benefits managers. Presently the term "identification number" refers to the patient's unique:

- 1) Valid driver's license number with State abbreviation;
- 2) Valid State identification card number with State abbreviation;
- 3) Military identification number;
- 4) Passport number; or

- 5) If patient do not have any of the above identifications the patient's Social Security number.

The term "proper identification," as utilized in Section 329-41 Prohibited Act B, means government-issued identification containing the photograph, printed name, and signature of the individual obtaining the controlled substance."

All of the above listed identifications are government issued and the numbers utilized can be verified through their respective issuing state or federal agency. However, the amendment being proposed in House Bill 2799 to allow the use of all unique patient identifier numbers issued by insurance companies or pharmacy benefits managers would be almost impossible to verify, making it useless as a valid identification number. Other problems with the use of patient identifier numbers issued by insurance companies or pharmacy benefits managers is the fact that there is no central database for these numbers, which will lead to the problem of duplication of a patient's identification number by other insurance companies and pharmacy benefit managers. It would also be necessary for every insurance company and pharmacy benefits manager issuing a patient/customer identification number to furnish a list of those numbers with corresponding patient information to the Department. Moreover, every dispenser of controlled substances in the State, where a customer may present a prescription for a controlled substance, will also need a list of those numbers in

order to verify and document the customer/patient obtaining the controlled substance.

In addition, the amendments being proposed in House Bill 2799 would adversely affect the anti-diversion precautions built into Sections 329-38 (relating to prescriptions), 329-41 (Prohibited acts B Penalties), 329-42 (Prohibited acts C Penalties), 329-101(Reporting of dispensation of controlled substances; electronic prescription accountability system), 329-102 (Central repository; electronic prescription accountability system), and 329-123 (Registration requirement; medical use of marijuana program). In these sections, the term "Identification number" is utilized as a means of patient identification for reporting requirements set forth in Chapter 329, Hawaii Revised Statutes.

The Department feels that the amendments being proposed in House Bill 2799 would not improve the sections affected. In most cases, it will increase the possibility of individuals providing fraudulent identification to obtain controlled substances, as well as cause delays at the pharmacy due to the inability to verify the identity of customers who choose to utilize a patient identification card issued by insurance companies or pharmacy benefits managers as his proper identification.

The Department, for the reasons stated, cannot support passage of House Bill 2799.

Thank you for the opportunity to testify on this matter.



February, 12, 2008

HOUSE COMMITTEE ON HEALTH
Rep. Josh Green, Chair
Rep. John Minzuno, Vice Chair

Re: TESTIMONY ON House Bill 2799, A BILL RELATING TO CONTROLLED SUBSTANCES

Wednesday, February 13, 2008, 8:00 a.m.
State Capitol, Conference Room 329

Dear Chair Green and Members of the Committee:

I am submitting written testimony on behalf of Express Scripts, Inc. (ESI) in strong support of House Bill 2799. Express Scripts provides the pharmacy benefit for millions of Americans through employers, managed-care plans, unions and governmental entities.

Current Hawaii law requires a patient who might choose to save money on a prescribed controlled substance by using a mail service pharmacy to first provide to that pharmacy a copy of some form of government-issued identification or their social security number.

This is problematic for several reasons. First, health plans and other payers are prohibited from using a social security number as a patient identifier. Moreover, many people who would like to have the option to save money and control their prescription drug costs are uncomfortable with sharing either their social security number or government-issued identification card.

It is almost universal in the administration of prescription drug benefit plans to identify a beneficiary and verify that beneficiaries eligibility through the use of a unique patient identifier number created by a plan sponsor or pharmacy benefit manager. House Bill 2799 would allow mail service pharmacies to rely upon that unique patient identifier number, which will both ease the potential means and expand the choices available to patients when they're deciding how they'd like to receive a prescribed drug and manage their prescription drug costs.

Express Scripts strongly supports HB 2799 and appreciates the committee considering our testimony.

Sincerely,

Michael Harrold
Senior Director, State Government Affairs
Express Scripts

medco[®]

To: Chair, Josh Green, Members of the House Committee on Health

From: Cynthia Laubacher, Senior Director, State Government Affairs
Medco Health Solutions, Inc.

Hearing Date: February 13, 2008 8am

Re: HB 2799: Controlled Substances: Valid Identification

Medco Health Solutions supports HB 2799 to address a problem in existing law that impacts our ability to dispense controlled substances by mail. Medco is the nation's largest pharmacy benefits manager and mail order pharmacy administering the prescription drug benefit to over 65 million Americans including more than 150,000 residents of Hawaii.

For many years Medco has dispensed controlled substances by mail to our patients in Hawaii. In doing so, we report various information to the state as required by law, including the unique patient identifier either assigned by us or provided to us by our clients for identification and verification of eligibility. The state notified us that this unique identifier is unacceptable and that they will prohibit us from dispensing by mail unless we obtain one of several forms of identification required under current law. We are working with the state to comply with the law, but doing so at the expense of the residents. We are forced to reject prescriptions when we can't reach the patient's by phone to obtain their driver's license or other approved government identification number.

Existing law requires pharmacies to report specified information to the state when dispensing a controlled substance, including a patient's "identification number." This is defined in Section 329-1 as a driver's license, state or military identification number, passport number if from a foreign country, Social Security Number if none of the others is available, or a parent's identification number if under the age of 18. HB 2799 proposes to amend the definition of identification number to include "a unique identifier assigned to the individual by the payor or pharmacy benefit manager." We would like to propose an additional amendment to include "insurer" because some insurers also own and operate a mail pharmacy and assign a unique identifier to their members.

Our clients - health plans, unions, employers, public agencies - are prohibited from using a Social Security Numbers as a patient identifier in most, if not all, states. As a result, they have created unique patient identifiers which they provide to us to positively identify a member and verify eligibility. We do not dispense drugs to the general public. We only dispense to patients who come to us based on our relationship with our clients. Eligibility of members is verified by Medco's clients through eligibility data transferred to Medco. As such, we know who we are dealing with when we receive a prescription to process. Additionally, we have in place a number of programs geared to detecting prescription fraud and abuse. For example, we have programs that detect if a patient is attempting to fill multiple scripts for a controlled substance in an inappropriate time-frame.

Mail service pharmacies do not ever physically see a patient, therefore a photo ID serves no value in verifying identification. The law must be balanced against the interruption or delay in therapy that will result from enforcement of existing requirements in the case of mail. The health and safety of patients must take precedence over an ineffective law as legitimate mail order pharmacies have numerous other mechanisms in place to verify identity and guard against fraud and abuse.

The integrity of the state's electronic controlled substances tracking system will remain intact if not, in fact, strengthened for purposes of preventing fraud and abuse, and patients will retain an effective tool for controlling their prescription drug costs through the use of mail.

For these reasons, Medco respectfully requests your support for HB 2799.

Thank you.



February 13, 2008

The Honorable Josh Green, M.D.
Chair, House Committee on Health

In support of HB 2799

Thank you for the opportunity to testify in support of HB 2799.

AlohaCare is a non-profit, Hawaii based health plan providing health care coverage to low income families and Medicare beneficiaries. Founded in 1994 by Hawaii's community health centers, AlohaCare serves only Medicaid and Medicare beneficiaries on all islands.

HB 2799, Relating to Controlled Substances, allows mail services pharmacies to use a payor provided identification number in order to dispense a controlled substance.

Health plans, unions, employers and other payors are prohibited from using a social security number as a patient identifier. Therefore, prescription drug benefit plans use a unique patient identification number provided by their clients to identify a patient and verify eligibility. It makes sense for the use of these patient identification numbers to represent valid identification, especially in the case of mail service pharmacies because these dispensers never physically see a patient, making a photo id worthless.

This bill will bring Hawaii in line with the rest of the United States and preserve the integrity of the electronic controlled substances tracking system created to prevent fraud and abuse and protect Hawaii's patients' ability to control their prescription drug costs through the use of mail service pharmacies.

We urge you to pass this measure. Thank you.

Sincerely,
John McComas
Chief Executive Officer

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House of Representatives
The Twenty-Fourth Legislature
Regular Session of 2008

Attn: COMMITTEE ON HEALTH

Re: Hearing, Wednesday February 13, 2008
8 a.m.
House Bill 2799

On behalf of WellPoint, Inc., thank you for the opportunity to comment on House Bill 2799, which would authorize the use of a payor-provided identification number in mail order prescriptions.

WellPoint's mission is to improve the lives of the people we serve and the health of our communities. WellPoint, Inc. is the largest health benefits company in terms of commercial membership in the United States, with medical enrollment of 34.9 million members. Through its nationwide networks, the company delivers a number of leading health benefit solutions through a broad portfolio of integrated health care plans and related services, along with a wide range of specialty products, such as life and disability insurance benefits, pharmacy benefit management, dental, vision, behavioral health benefit services, as well as long term care insurance and flexible spending accounts.

WellPoint strongly supports the proposed legislation allowing the use of a unique patient identifier in dispensing prescriptions for medications involving controlled substances. However, in recognition that prescription drug benefits are often offered in conjunction with medical benefits, WellPoint respectfully requests that the following proposed language on page 1, line 11, and page 4, line 16, be modified to include insurers and health plans:

“...or a unique patient identifier assigned to the individual by the payor, pharmacy benefit manager, insurer or health plan”.

Thank you for the opportunity to comment on House Bill No. 2799. WellPoint supports the State of Hawaii's efforts to safeguard the health of its residents while facilitating the efficient provision of and access to necessary medications.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann-Louise Kuhns", written over a horizontal line.

Ann-Louise Kuhns
Vice President, State Affairs

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