

LINDA LINGLE
GOVERNOR



LILLIAN B. KOLLER, ESQ.
DIRECTOR

HENRY OLIVA
DEPUTY DIRECTOR

LATE

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 16, 2010

MEMORANDUM

TO: Honorable Ryan I. Yamane, Chair
House Committee on Health

Honorable John M. Mizuno, Chair
House Committee on Human Services

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 2810, S.D. 2 – RELATING TO PRESCRIPTION DRUGS**

Hearing: Tuesday, March 16, 2010, 11:00 AM.
Conference Room 329, State Capitol

PURPOSE: The purpose of this bill is to authorize pharmacists to provide medication management to qualified QUEST patients and requires pharmacies to maintain prescription records and medication therapy management records electronically.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) opposes this bill which will worsen patient safety.

DHS supports improving the safety, quality, and efficiency of prescribing, however, this bill does not require that pharmacists have the necessary knowledge and skills in clinical pharmacy, a specialized area of pharmacy. This is a very serious concern, and patients would be more likely to benefit from such a program if there was some assurance of the participating pharmacist's qualifications, such as by a formal clinical pharmacist license or credential.

LATE

Not all physicians know how to manage all medical conditions; assuming all pharmacists are capable of managing all pharmacy issues would not be prudent and would place patients at risk of harm. This bill would have the effect of expanding the scope of practice for all pharmacists.

This bill does not provide adequate measures to prevent abuse of this service. For example, how would medical necessity be determined for a particular visit? Nothing would prevent billing for multiple visits in which no medication change is made. This could lead to wasted State funds.

The value of a medication management program is far less in a managed care program than in a fee-for-service program. If such a medication management program is cost-effective, health plans will provide this service on their own. Health plans might be more likely to reimburse such clinical pharmacy services if the state took a thoughtful approach to determining the requirements and scope of clinical pharmacy.

DHS does support increased use of information technology to improve quality and efficiency of health care. Electronic prescribing (e-prescribing) is an important component. While implementation may be a burden, particularly on small or independent pharmacies, the administrative efficiencies once implemented would benefit that pharmacy. E-prescribing mandated under this bill should be required to meet federal standards to optimally allow health information exchange.

This bill will also increase health care expenditures and require a new appropriation at a time the State faces a substantial budget deficit. Approval by the federal Centers for Medicare and Medicaid Services would also be needed in order to receive matching federal funds.

Thank you for this opportunity to provide testimony.

LATE

**PRESENTATION OF THE
BOARD OF PHARMACY**

TO THE HOUSE COMMITTEE ON HEALTH

AND

TO THE HOUSE COMMITTEE ON HUMAN SERVICES

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Tuesday, March 16, 2010
11:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2810, S.D. 2, RELATING TO PRESCRIPTION
DRUGS.**

TO THE HONORABLE RYAN I. YAMANE, CHAIR, AND
TO THE HONORABLE JOHN M. MIZUNO, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Dr. Elwin Goo, Chair of the Board of Pharmacy ("Board") and I appreciate the opportunity to submit testimony on Senate Bill No. 2810, S.D. 2, Relating to Prescription Drugs. The Board opposes Senate Bill No. 2810, S.D. 2.

This bill creates a new section in Chapter 461, Hawaii Revised Statutes ("HRS") to allow pharmacists to provide medication therapy management services to QUEST patients pursuant to the promulgation of administrative rules.

The Board is unclear as to the purpose of this bill that would require pharmacists to perform aspects from their scope of practice defined in Chapter 461, HRS for a specific group of Hawaii residents, QUEST patients. The "Practice of pharmacy" as defined in Chapter 461, HRS, already includes a collaborative agreement with other health professionals and encompasses medication therapy management as described

LATE

Testimony on Senate Bill No. 2810, S.D. 2
Tuesday, March 16, 2010
Page 2

in this bill as the professional activities and responsibilities within the registered pharmacist's scope of practice.

Also, mandating that there shall be the promulgation of administrative rules to effectuate the purpose of the new section will delay implementation.

Thank you for the opportunity to provide testimony on Senate Bill No. 2810, S.D. 2.

LATE

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:
GARY M. SLOVIN
ANNE T. HORIUCHI
MIHOKO E. ITO
CHRISTINA ZAHARA NOH

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:
gslovin@goodsill.com
ahoriuchi@goodsill.com
meito@goodsill.com
cnoh@goodsill.com

MEMORANDUM

TO: Representative Ryan I. Yamane
Chair, Committee on Health

Representative John M. Mizuno
Chair, Committee on Human Services

Via Email: HLTtestimony@Capitol.hawaii.gov

FROM: Mihoko E. Ito

DATE: March 16, 2010

RE: **S.B. 2810, SD2 – Relating to Prescription Drugs**
Hearing: Tuesday, March 16, 2010 at 11:00 a.m.

Dear Chairs Yamane and Mizuno and Members of the Committee:

I am Mihoko Ito, an attorney with Goodsill Anderson Quinn & Stifel, testifying on behalf of Walgreen Co. (“Walgreens”). Walgreens operates and offers immunization services in all 50 states, the District of Columbia and Puerto Rico. In Hawai‘i, Walgreens now has 9 stores on the islands of Maui and Oahu.

Walgreens expresses concerns regarding **S.B. 2810, SD2**, which authorizes pharmacists to provide medication therapy management to qualified QUEST patients and requires pharmacies to have written collaborative pharmacy practice agreements on file for each qualified patient and have an electronically maintained patient records system for each qualified patient.

Walgreens is generally supportive of the concept of medication therapy management because it utilizes the training of pharmacists to provide counseling to patients regarding their medication use, prevention and wellness issues, enhances consulting with other health care providers to optimize patient medication therapy, and improves patients’ quality of life and health outcomes.

LATE

March 16, 2010

Page 2

However, as currently drafted, Walgreens has numerous concerns regarding the potential impacts of this measure, as follows:

- **Definition:** Walgreens would recommend that this bill be revised to be titled "collaborative drug therapy management" in place of "medication therapy management." This definition would be more accurate than "medication therapy management" which involves a broader scope of services, based upon Walgreens' experience in other states and payors.
- **Collaborative pharmacy practice:** Walgreens believes that this program should be opened up to allow for the broader practice of medication therapy management. Walgreens presently participates in comprehensive MTM systems with other payors and in some states.. As presently drafted, pharmacists appear to be limited in the practice of "MTM services" in situations where an agreement exists per patient, in writing, between the pharmacist and a physician (the patient's primary care physician or the prescribing physician). The measure also gives the physician authority to limit the scope of services that a pharmacist may perform.
- **Qualified Patients:** As presently drafted, the bill only applies to "qualified patients" (i.e., patients covered under the QUEST program). The bill also requires that the pharmacies have a collaborative agreement per qualified patient which will create a substantial record-keeping and administrative burden on pharmacies. The present proposal might also inadvertently create barriers to accessing prescriptions in a timely manner, because "MTM" agreements would need to be verified with the physician on a per patient basis.
- **Mandatory provision of services:** The bill mandates that pharmacies must be capable of providing "MTM services". However, because there is no requirement that the patients utilize the same pharmacies, this system might result in qualified patients receiving differing "MTM services/ consultations" if different providers are used. This may raise questions about the cost-savings ability for those programs and the liability risk that may be shouldered by individual pharmacies.

March 16, 2010
Page 3

LATE

- **Physician approval of services required:** The bill allows for physicians to specifically enumerate the services a pharmacist can perform with each agreement (in definition of “collaborative pharmacy practice” and section 461-F). Because the bill does not promote uniformity, this may lead to a contradicting scope of practice in various collaborative agreements for a single patient.
- **Scope of Services:** There are several ambiguities in the lists of services and reviews that are proposed to be a part of "MTM". The following sets forth some of these issues:
 - page 5, Section (b)(4) – the term "reasonable directions" is ambiguous.
 - Page 5, Section (b)(6) – “drug-drug” interactions – without the requirement that the patient see the same pharmacist, or at least the same pharmacy (chain), there may be an added liability issue or an issue with program billing-eligibility if there is a lack of available records?
 - Page 5, Section (b)(7) – “drug-food” interactions – pharmacists could face a liability issue for what patients do not tell them regarding their food-eating habits.
 - Page 8, Section (d) – states that "alternative forms" of patient information "shall be used... ..when appropriate." This is ambiguous because, on the one hand, it requires the use of such materials, but then states that pharmacists who use such materials must rely on their “professional knowledge and clinical judgment.” This section is ambiguous because it requires alternative information to be used, but does not indicate when it would be "appropriate" to use such materials, and also seems to give providers the ability to opt out.

Walgreens does participate in MTM with other payors, and supports this concept. However, as drafted, Walgreens respectfully submits that this measure will create problems for pharmacists and patients alike. Walgreens is willing to work with the advocates of this measure to provide a workable solution for this valuable program.

Thank you very much for the opportunity to provide testimony.

nishimoto2-Ashley

From: mailinglist@capitol.hawaii.gov
nt: Monday, March 15, 2010 7:11 PM
: HLTtestimony
Cc: ronaldt@hawaii.edu
Subject: Testimony for SB2810 on 3/16/2010 11:00:00 AM

Follow Up Flag: Follow Up
Flag Status: Completed

LATE

Testimony for HLT/HUS 3/16/2010 11:00:00 AM SB2810

Conference room: 329
Testifier position: support
Testifier will be present: No
Submitted by: Ronald Taniguchi
Organization: Individual
Address:
Phone: 808-933-3867
E-mail: ronaldt@hawaii.edu
Submitted on: 3/15/2010

Comments:

I support the intent of the bill. DHS/MQD should engage the pharmacy community to transform the provisions of the bill into something they can support in actual practice.