
HOUSE CONCURRENT RESOLUTION

REQUESTING THE GOVERNOR OF THE STATE OF HAWAII TO CONVENE A TASK FORCE TO REVIEW POLICIES AND PROCEDURES FOR STATE-FUNDED DRUG COVERAGE PROGRAMS AND SERVICES ON THE USE OF REBATES, MANUFACTURER PAYMENTS, INCENTIVES, PRESCRIPTION REIMBURSEMENTS, AND PATIENTS' RIGHTS TO SELECT A PHARMACY PROVIDER OF THEIR OWN CHOICE.

1 WHEREAS, pharmacy benefit management companies are
2 intermediaries that negotiate services and costs between
3 pharmaceutical companies and third-payer parties, such as
4 insurance companies, businesses, and cash-paying customers; and
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6 WHEREAS, the Pharmacy Benefit Management Institute reported
7 that the combined market share of prescriptions processed by
8 MedCo, Express Scripts, and CVS/Caremark in the third quarter of
9 2010 has 47.17 percent of all prescriptions in the United
10 States; and
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12 WHEREAS, the Legislature seeks to establish a task force
13 that will regulate the licensing of pharmacy benefit management
14 companies, ensure financial reliability, and mandate full
15 disclosure of drug costs and financial contracts, while
16 eliminating the term "mandatory" from any pharmacy benefit
17 contract; and
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19 WHEREAS, within the State, there is no standardized or
20 integrated reporting mechanism across service environments and
21 consequently, pharmacy providers, such as chain drug stores and
22 independent pharmacies, are currently subject to unregulated
23 auditing practices that attempt to recoup from them, gather
24 negative data from them, and/or penalize them; and



1 WHEREAS, guidelines should be developed that encourage
2 audits to be performed in a fair and balanced manner and
3 legislation drafted that establish a more regimented and
4 reliable audit procedure; and
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6 BE IT RESOLVED by the House of Representatives of the
7 Twenty-sixth Legislature of the State of Hawaii, Regular Session
8 of 2011, the Senate concurring, that the Governor is requested
9 to convene a task force to:
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- 11 (1) Recommend prohibited activities by pharmacy benefit
12 management companies;
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- 14 (2) Define appropriate penalties for violations of
15 prohibited activities by pharmacy benefit management
16 companies;
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- 18 (3) Delineate strategies, methodologies, and a base for
19 the Insurance Commissioner to use as a guideline for a
20 schedule of allowable acquisition costs and
21 professional dispensing fees;
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- 23 (4) Determine the feasibility of implementing a licensure
24 fee of \$ per year for any pharmacy benefit
25 management company applying for licensure in the
26 State;
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- 28 (5) Make recommendations on the complete disclosures of
29 transactions made to pharmacies;
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- 31 (6) Make recommendations on the complete disclosures to
32 the purchaser, Department of Commerce and Consumer
33 Affairs, and/or Insurance Commissioner, including a
34 complete report of all rebates, manufacturer payments,
35 incentives, and prescription reimbursements to
36 pharmacies on a quarterly basis;
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- 38 (7) Review potential alternatives to the use of the
39 mandated mail order formula and incorporate the
40 alternatives into the protocols of the various options
41 available allowing for "Patients Right to Choose Their
42 Own Pharmacy" to better address language barrier
43 issues and to provide timely and equal access to
44 prescription medication and pharmacy personnel;



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2 (8) Develop a consistent statewide policy and
3 specifications for a quality monitoring system that:
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5 (A) Can be replicated across departments for
6 consistency;
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8 (B) Prohibit manipulation of co-payments or other
9 tangible incentives, differential reimbursements
10 to different pharmacy providers, and mandatory
11 mail order program for prescription drug coverage
12 after three fills on maintenance medications;
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14 (C) Audit pharmacies to assure formulary compliance,
15 accurate dispensing, patient safety, and overall
16 enhancement of the quality of care provided;
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18 (D) Track serious injuries/problems from any
19 provider and in any setting, whether it be mail
20 order or local pharmacy; and
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22 (E) Establish guidelines for quality reviews and
23 data analysis to identify trends;

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25 and

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27 (9) Review the policies of the state-funded prescription
28 drug coverage program and its services, and customer
29 complaints with the forced use of the mail order
30 program;

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32 and

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34 BE IT FURTHER RESOLVED that the task force comprise 13
35 members as follows:

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37 (1) A member of the House of Representatives appointed by
38 the Speaker of the House of Representatives;
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40 (2) A member of the Senate appointed by the President of
41 the Senate;
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43 (3) The Director of Health or the Director's designee;
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- 1 (4) The Insurance Commissioner or the Insurance
2 Commissioner's designee;
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- 4 (5) Two members selected by the Director of Health who are
5 from different private service providers;
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- 7 (6) Two members selected by the Hawaii Employer-Union
8 Health Benefits Trust Fund Board of Trustees who are
9 members of the Hawaii Employer-Union Health Benefits
10 Trust Fund; and
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- 12 (7) Five members appointed by the Governor from a list
13 submitted by the Speaker of the House of
14 Representatives and President of the Senate, with each
15 member representing a different organization that
16 represents pharmacists and their consumers, and at
17 least one from each of the islands of Hawaii, Kauai,
18 Maui, and Oahu;

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20 and

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22 BE IT FURTHER RESOLVED that the Governor is requested to
23 involve representatives of all relevant agencies and
24 organizations, both public and private, in the convening of the
25 task force; and
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27 BE IT FURTHER RESOLVED that the members of the task force
28 serve without compensation and receive no reimbursement for
29 expenses; and
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31 BE IT FURTHER RESOLVED that the task force shall cease to
32 exist on May 1, 2012; and
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34 BE IT FURTHER RESOLVED that the task force is requested to
35 submit to the Legislature a report, including its findings,
36 recommendations, and any proposed legislation and funding
37 appropriation necessary to implement the recommended policy, no
38 later than 20 days prior to the convening of the Regular Session
39 of 2012; and



1 BE IT FURTHER RESOLVED that certified copies of this
2 Concurrent Resolution be transmitted to the Auditor, the
3 Insurance Commissioner, and the Director of Health, who in turn
4 are requested to transmit copies to each insurer in the State
5 that issues health insurance policies.

