

LATE TESTIMONY



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Tuesday, February 8, 2011

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

From: 'Ohana Health Plan

Re: House Bill 275-Relating to Pharmacy Benefit Management Companies

Hearing: Tuesday, February 8, 2011, 9:30 a.m.
Hawai'i State Capitol, Room 329

Since February 2009, 'Ohana Health Plan has provided services under the Hawai'i QUEST Expanded Access (QExA) program. 'Ohana is managed by a local team of experienced health care professionals who embrace cultural diversity, advocate preventative care and facilitate communications between members and providers. Our philosophy is to place members and their families at the center of the health care continuum.

'Ohana Health Plan is offered by WellCare Health Insurance of Arizona, Inc. WellCare provides managed care services exclusively for government-sponsored health care programs serving approximately 2.3 million Medicaid and Medicare members nationwide. 'Ohana has utilized WellCare's national experience to develop an 'Ohana care model that addresses local members' healthcare and health coordination needs.

We appreciate this opportunity to testify in opposition to House Bill 275-Relating to Pharmacy Benefit Management Companies.

The purpose of this bill is to require pharmacy benefit management companies (PBMs) to register with the insurance commissioner before administering pharmacy benefits of health insurers and implement regulations on PBMs in the state.

While we understand the reasons behind this legislation, we cannot support it as it could prevent 'Ohana Health Plan's current PBM from fulfilling its contractual requirements that maintain our compliance with State and Federal contracts and regulations. This may also become a disincentive for mainland-based PBMs to enter into contracts with local-based health insurance companies.

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Health Plan Pharmacy & Therapeutics (P&T) Committee; or physicians and pharmacists decide on the prescription benefits and the PBM implements the benefit through sophisticated information technology systems). The Health Plans also develop policies and procedures, for which they are solely responsible, and the PBMs develop and implement the processes that enact the policies, such as mail order programs. Any issues that occur with administering the pharmacy benefit should be directed to the Health Plan, not the PBM.

The PBM market is very competitive and releasing proprietary contractual information will dissuade health plans from doing business in Hawaii. Since advanced information technology infrastructure is required and Hawai'i's small market size cannot support this level of sophistication, this legislation may deprive Hawai'i people of the advantages of state-of-the-art PBM technology. PBM technology automates the claims process so eligibility and benefits are checked instantly unlike claims for other medical claims which typically take weeks. PBM technology also provides immediate patient safety features which address overdoses, drug-drug interactions and other possible dangers to patients.

Many of Hawai'i's locally-based health care insurance providers with local staff choose to contract with PBMs in order to better manage the complex business of managing pharmacy benefits for their members. Pharmacy costs account for approximately 20% of health care costs and therefore is an area that needs to be very carefully managed in order to better control the rising cost of health care. Without state-of-the-art PBM services, Hawai'i would experience increased costs for the same level of care.

We respectfully request that you hold House Bill 275- Relating to Pharmacy Benefit Management Companies. Thank you for the opportunity to provide these comments on this measure.

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February 7, 2011

RE: HB 275 RELATING TO PHARMACY BENEFIT MANAGEMENT COMPANIES

Dear House Representatives:

Robert Herkes, Chair of the Consumer Protection and Commerce Committee,
Ryan Yamane, House Chair of the Health Committee and Vice Chair of the Consumer
Protection and Commerce Committee,
Dee Morikawa, Vice Chair of the Health Committee &
Honorable Committee Members

I am a pharmacist who has served on the island of Kauai, providing needed medications and counseling to residents and visitors for more than 17 years. I am in support of HB275 for some very important reasons and ask for your consideration in these areas:

- Hawaii's people need access to their medications. Mail order prescriptions being shipped from out of the state requires excess time for the patient to receive their medication compared to walking in to a local Hawaii pharmacy to obtain their prescription. Excess time is required to receive a prescription through mail order due to the additional time it takes to obtain a prescription from a physician, then fill the prescription and added time to obtain payment for the prescription from the patient and then the time it takes for the prescription to be shipped from the mail order company to be received by the patient in Hawaii.
- Medications shipped through mail order are often received damaged, or received late. During shipping, medications are tossed which can crush tablets, resulting in patients not receiving the full dosages. Hot temperatures in cargo areas can also affect the stability and potency of medications during shipping.
- Excess health care costs are experienced by the patient and their employer offering their prescription plan when the patient's medications are changed after recently receiving a 3 month supply (as required by mail order) of a discontinued medication.
- Hawaii is isolated from the mainland and needs a sufficient supply of medications in the state's inventory in island pharmacies in case of natural disaster, epidemic, terrorist attack or other state health care emergency. By allowing mail order businesses to move prescription services out of the state, pharmacies in the state will decrease their inventories due to decreased demand and will be unable to supply the people and visitors in Hawaii with needed medications in time of urgent need.
- I have observed mainland based companies not comply with Hawaii laws, rules and regulations governing pharmacy practice with harmful effects to the patient for wrongful substitution on medications, or dispensing practices or pharmacist counseling practices that are not in compliance with Hawaii law.
- Pharmacy Benefit Management (PBM) companies currently have vague and clouded reimbursement fees and profit reports that make it difficult for pharmacies to operate fairly.
Transparency would make profits and other information available to clients and customers of PBM companies which could work towards lowering health care costs in the state.

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- Current auditing practices from PBMs are not regulated and cause excessive, repetitive administrative costs to a pharmacy when being audited for the same prescription multiple times. The pharmacy also incurs financial losses due to the PBM taking back payment from a pharmacy for a technicality when the prescription was properly dispensed and the patient received the medication in compliance with Hawaii pharmacy law, all of which increases health care costs across the state.

I have served on the Hawaii Board of Pharmacy and care for and am concerned for the people of Hawaii. I operate two pharmacies on the island of Kauai and care deeply about the well being and health of our people in Hawaii, residents and visitors. It is of importance, especially for Hawaii because we are isolated geographically, that people have access to their needed medications and for the state to be able to operate optimally and safely regarding pharmacy practices.

Thank you for your consideration.

Respectfully Submitted,

Lianne Malapit, Pharm. D.

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House Committee on Health

Representative Ryan I. Yamane, Chair

Representative Dee Morikawa, Vice-Chair

DATE: Tuesday, February 08, 2011

TIME: 9:30am

PLACE: Conference Room 329

State Capitol 415 South Beretania Street

Kevin Glick, R.Ph.

Lihue Pharmacy Group

4491 A Kolopa Street

Lihue, Hawaii 96766

I SUPPORT SB 591/HB 275

I am an independent pharmacist having practices in Hawaii for almost 30 years. I write to you today concerning the impact changes in corporate structure have had on the provision of pharmacy care to residents of Hawaii.

Currently there is no regulation of the practices of Pharmacy Benefit Managers (PBM) in their dealings with patients, insurance carriers and pharmacies. They do not come under the Insurance Division, Department of Health, or Board of Pharmacy. In this era PBM's are able to manipulate prices, patients drug coverage and pharmacy access freely. There is no recourse available by the patients or the pharmacies that attempt to serve them.

The provisions in SB 591/HB 275 will go a long way towards making affordable pharmacy care a reality to all of the voters of Hawaii.

- A- Registration of PBM's will subject them to the same standards to which insurance carriers are held to in the state. Currently many tens of millions of dollars of business in the State of Hawaii are processed through PBM's without any reasonable oversight.

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- B- Disclosure and reporting provisions will enable the state and various insurance carriers to become informed consumers of the services PBM's provide in the state by mandating transparency in the financial dealings between PBM's and the drug manufacturers including the various forms of rebates that determine the composition of drug coverage formularies.
- C- Prohibited activities including any willing provider exclusion preserves access to pharmacies located in the voters immediate area as well as to medications needed on an urgent basis. Patients have the right to choose their medical provider based upon the quality of the services they receive. Currently the patients choice of pharmacy providers is determined by an interested third party whose choices are based upon financial advantage. Additionally the steering of patients based upon manipulation of cost shares and co-payments encourages the buying and selling of patient groups to the largest providers, and in essence is a form of predatory pricing. Also prohibited is the ability of a PBM to pay its own pharmacy more than a pharmacy located in the patients community. This is another method for PBM's to export revenue out of the state by paying differential amounts to out of state pharmacies, and then benefiting from these altered charges. Mandating mail order has the net effect of exporting revenue outside of the State of Hawaii while providing no proven financial advantage with the exception of the PBM and its associated pharmacy. **In fact a study done by Pharmacy Practice Department of the University of Arkansas in the year 2000 demonstrated increased waste of 3.3 times comparing community pharmacy to mail order.**
- D- The violations and penalties provision will enable the insurance division to exert financial leverage on the PBM's to assure that they comply with Hawaii State laws, and bear the burden of their non-compliance.
- E- Audits are currently used as a method of data gathering and revenue shifting by the PBM's in their continued efforts to weaken community pharmacies with the ultimate goal of either removing them from the market place or encouraging them to sell to one of the large chains. Paying audit companies based upon the amount recovered establishes a business relationship wherein the winners are the PBM, the auditor while the pharmacies are forced to respond to audits whose rules are determined and enforced by the audit company themselves. This bill will make the audits fair and functional encouraging accuracy and neutrality. Please note that the costs of responding to an audit exceed the reimbursement for any given prescription. This includes the time required to remove, copy and re-file the prescription, provide the extra staff during the audit and respond to the audit results in a timely manner.

In conclusion Hawaii has spent many millions of tax dollars to establish a pharmacy school in Hilo. This bill will make great strides in the leveling of the field with respect to the provision of pharmaceutical care and provide for the future of the generations of pharmacists to follow.

HOUSE OF REPRESENTATIVES

THE TWENTY-SIXTH LEGISLATURE

REGULAR SESSION OF 2011

COMMITTEE ON HEALTH

Rep. Ryan I. Yamane, Chair
Rep. Dee Morikawa, Vice Chair

AMENDED NOTICE OF HEARING

DATE: Tuesday, February 08, 2011
TIME: 9:30am
PLACE: Conference Room 329

I SUPPORT SB 591/HB 275

I am an independent community pharmacist on the west side of Kauai. I am testifying in support of HB 275/ SB 591.

This bill will protect the patient right to choose a healthcare provider, improve compliance to drug therapy, minimize healthcare costs to the state, create a more sustainable drug delivery system, and help to create a healthier and happier workforce.

The patient's right to choose a provider is one that has been compromised by the **mandatory mail order** clauses in the current insurance plan offered by the EUTF. This has caused much frustration by county and state employees. Many errors in medication delivery have resulted in hospitalization and increased cost to the patient as well as the state. This bill will enable for patients a right to receive prescriptions from whomever they choose, whenever they choose.

This ability to go to the local drug store and receive medication has been available during the past 2 years under the EUTF plan but the patient has been severely punished by having to pay out of pocket for medicine that they have not received by mail order. Having the option to go to their local drug store without penalty will increase compliance with physician's orders and give a more supportive care system for our patients.

The cost of doing business outside the state can only be seen as foolish in many ways. The current mail order facility in Florida that has been receiving **ALL** of the prescriptions for state and county

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employees does not pay taxes in Hawaii. All of the revenue generated by the facility stays in Florida. This “mail order to save money” strategy that has been used by the state has no statistical backing. There has never been released any study that finds the mail order is saving money and if one is eventually released it will not encompass costs like Emergency Room costs due to failure to receive medication on time. How much is it worth to have patients having to be hospitalized due to missed heart or blood pressure medication? There are studies that have shown the waste and higher cost of using mail order. See <http://www.ncpanet.org/pdf/leg/falsesavingsofmailorder.pdf> or www.ncpanet.org/pdf/leg/ncpamailorderpres.ppt for more information regarding the higher costs of mail order. One study “Effects of Mail Order Incentives on Prescription Plan Costs” by the University of Arkansas clearly debunks the mail order savings myth. (see above for link or call me I will e-mail it to you)

The increased competition in the marketplace will allow for a more sustainable drug delivery system. It is not to say that by the passage of this bill we will see a return to “old times” without mail order in the marketplace. Community pharmacies will have to work hard to provide a level of care that will compete with a mail order alternative. The service that we provide must be superior or patients won’t mind the hassles associated with mail order or may find it easier than going into a local pharmacy. The competitive market has been shown to bring out the best in many industries, this will be no different.

With mail order not being a mandatory requirement to receive medication people will be happier. Patients will respect their legislators giving them the freedom of choice and the opportunity to support their local economy. The pride of a self sustained community is in everyone within that community. **!** care for my neighbors and their needs. I want to live in a healthy community and am willing to do whatever it takes to make it a better more vibrant society.

I appreciate the opportunity to express my support for HB 275/ SB 591. I hope you will realize the value of this bill and what it means to the people of Hawaii. Thank you for taking the time to read my testimony.

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morikawa2 - Grant

From: Greg Harmon [kamrx96755@yahoo.com]
Sent: Monday, February 07, 2011 4:04 PM
To: HLTtestimony
Subject: HB275

Representative R Yamane, chair Hawaii Health Care Committee

Greg Harmon, Pharmacist Kamehameha Pharmacy PO Box 610 Kapaau, HI 96755

02/08/11

HB275 in favor of new bill

I am a pharmacist owner for over nine years here in North Kohala on the Big Island. I am testifying in favor of HB275 because it improves patient care. We do not have USPS delivery service here so people need to drive up to 10-15 miles to check their PO Box for the mail order package from Florida. The patients go without medications and or come in to buy a weeks supply from me. Again they are not receiving their medications on time and go without many times. We also see costly ER visits frequently at our local state hospital. Patients should be able to have freedom of choice and not to be forced into mandatory mail order pharmacy services. Some spouses have dual prescription insurance because they both work for different employers, but mail order will not bill dual coverage so their is not a net zero co-pay for the patient. Our community pharmacy has always billed dual coverage that has offered cost savings for years to help lower health care costs directly to the patient. We also offer a simple charge account available for patients having financial hardship. In summary if patients take their medications on a daily basis without delivery failures we can improve health care outcomes and help lower health care costs in Hawaii. I am highly in favor of HB275.