



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

EVERETT KANESHIGE
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON FINANCE
TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Friday, April 1, 2011 – Agenda #3
4 p.m.

**TESTIMONY ON SENATE BILL NO. 591, S.D. 2, H.D. 2 – RELATING TO
PHARMACY BENEFIT MANAGEMENT COMPANIES.**

TO THE HONORABLE MARCUS R. OSHIRO, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"),
testifying on behalf of the Department of Commerce and Consumer Affairs
("Department").

The Department opposes this bill, which creates a task force to make
recommendations to regulate pharmacy benefit management companies. The
Department does not oppose the regulation of pharmacy benefit managers, but does
not believe that pharmacy benefit managers should be regulated by the Commissioner
since the Commissioner does not have staff with the expertise or experience in this
subject matter. Items (b)(2) and (b)(4) of Section 2 of the bill continue to make
reference to the insurance commissioner as the regulator.

The primary justification for regulation of insurance companies is that they are
risk-bearing and that therefore potential insolvencies can be harmful to consumers and
disruptive to the market. Pharmacy benefit management companies do not present
these issues. Simply put, the regulation contemplated by this bill is not insurance
regulation and therefore does not belong under the Commissioner.

We thank this Committee for the opportunity to present testimony on this matter.



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

Friday, April 1, 2011 4:00 PM Conference Room 308

To: COMMITTEE ON WAYS AND MEANS
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

From: Hawaii Medical Association
Dr. Morris Mitsunaga, MD, President
Linda Rasmussen, MD, Legislative Co-Chair
Dr. Joseph Zobian, MD, Legislative Co-Chair
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: SB 591, SD2, HD 2 RELATING TO PHARMACY BENEFIT MANAGEMENT COMPANIES

Chairs & Committee Members:

The Hawaii Medical Association supports this bill, as the HMA supports the regulation of mainland pharmacy benefit management across the board.

In the past the HMA has submitted legislation that would require health plans to utilize local (Pharmacy and Therapeutics) P&T committees and local pharmacy benefit management. It is important to maintain local access to pharmacy services, especially in rural areas.

This bill addresses a broader philosophy of keeping healthcare local and not exporting important services, services, which once lost, will be very difficult to rebuild. It is a problem that spans the entire healthcare continuum.

Independent community pharmacies provide much-needed access to care to patients in traditionally underserved and rural areas, including seniors and low-income individuals. Independents represent 39% of all retail pharmacies, but represent 52% of all rural retail pharmacies. Over 1,800 independent community pharmacies operate as the only retail pharmacy within their rural community.

This year at a conference in Washington, Senate Appropriations Chairman Daniel Inouye touted the importance of pharmacists practicing in rural areas – one of the reasons for a new pharmacy school at the University of Hawaii at Hilo. **The HMA would like to join Sen. Inouye in supporting rural access to healthcare.**

Thank you for the opportunity to provide this testimony.

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HOUSE COMMITTEE ON FINANCE
Rep. Marcus Oshiro, Chair

Conference Room 308
April 1, 2011 at 4:00 p.m. (Agenda #3)

Supporting SB 591 SD 2 HD 2.

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. Our members employ more than 40,000 people statewide, delivering quality care to the people of Hawaii. Thank you for this opportunity to testify in support of SB 591 SD 2 HD 2, which creates a task force to make recommendations to regulate pharmacy benefit management companies (PBMCs).

PBMCs aggregate the buying power of millions of enrollees through their client health plans, enabling plan sponsors and individuals to obtain lower prices for their prescription drugs through price discounts from retail pharmacies, rebates from pharmaceutical manufacturers, and the efficiencies of mail-service pharmacies. PBMCs operate in a demanding marketplace where competition is vigorous. Many states, including Maine, Florida, and Indiana, have laws that regulate PBMCs. The task force created by this resolution is the first step in developing a regulatory structure for them.

We would like to highlight one of the alternatives that the task force will consider, specifically, the "Patients Right to Choose Their Own Pharmacy." We support the concept that each insurance plan pays all providers the same amount for a particular product or service, whether the provider is in the plan's network or outside of it. In certain cases, with plan approval, this concept should apply not only to pharmacies, but also to physicians, hospitals, nursing homes, medical equipment suppliers, and other types of health care providers.

Thank you for the opportunity to testify in support of SB 591 SD 2 HD 2.



94-450 Mokuola Street, Suite 106, Waipahu, HI 96767
808.675.7300 | www.ohanahealthplan.com

Friday, April 1, 2011

To: The Honorable Marcus R. Oshiro
Chair, House Committee on Finance

From: 'Ohana Health Plan

Re: Senate Bill 591, Senate Draft 2, House Draft 2-Relating to Pharmacy Benefit
Management Companies

Hearing: Friday, April 1, 2011, 4:00 p.m.
Hawai'i State Capitol, Room 308

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 submit these comments on Senate Bill 591, Senate Draft 2, House Draft 2-Relating to Pharmacy Benefit Management Companies.

The purpose of this bill was originally to require the registration of and regulation of pharmacy benefit management companies (PBMs) practices, and additionally includes reporting requirements of information that are considered to be proprietary. The previous committee felt that the bill in its previous draft was premature, and we concur. The bill was then subsequently amended to establish an 11-person task force made up of a wide variety of interested persons to investigate regulating licensing PBMs to ensure their financial reliability and full disclosure of drug costs and financial contracts.

While we appreciate the amendments made by the previous committee, we still have some concerns regarding the language that exist in the current draft. While we understand the reasons behind this legislation, we feel that the language is ambiguous and overly broad.

If the genesis of this measure is to address a specific problem or PBM, we would respectfully request that this bill be amended to limit its focus to that particular problem or PBM rather than having it apply broadly across the board as it could have an adverse impact against other PBMs that have maintained good standards and practices within the State. The proposed members of the task force indicate that this bill is aimed mainly to address issues with the State's Employer-Union Trust Fund (EUTF) and InformedRx.

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 Hawai'i 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 amend Senate Bill 591, Senate Draft 2, House Draft 2-Relating to Pharmacy Benefit Management Companies to narrow its focus. Thank you for the opportunity to provide these comments on this measure.