

LATE



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TO THE SENATE COMMITTEES ON  
COMMERCE AND CONSUMER PROTECTION  
AND HEALTH

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2011

Thursday, February 10, 2011  
8:30 a.m.

**TESTIMONY ON SENATE BILL NO. 591 – RELATING TO PHARMACY BENEFIT  
MANAGEMENT COMPANIES.**

TO THE HONORABLE ROSAYLN H. BAKER AND JOSH GREEN, M.D., CHAIRS,  
AND MEMBERS OF THE COMMITTEES:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department opposes this bill which creates a regulatory scheme for pharmacy benefit management companies enforced by the Insurance Commissioner. We don't oppose the idea of regulation of pharmacy benefit managers, but we do oppose the idea that the regulation should be conducted by the Insurance Commissioner.

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 Insurance Commissioner.

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

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## 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 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/ncpamailordercosts.ppt](http://www.ncpanet.org/pdf/leg/ncpamailordercosts.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

February 7, 2011

**RE: SUPPORT SB 591 / HB 275 - RELATING TO PHARMACY BENEFIT MANAGEMENT COMPANIES**

Dear Senate Representatives:

Josh Green, M.D., Chair of the Senate Health Committee  
Clarence Nishihara, Vice Chair of the Senate Health Committee  
Rosalyn Baker, Chair of the Commerce and Consumer Protection Committee  
Brian Taniguchi, Vice Chair of the Commerce and Consumer Protection Committee  
& Honorable Committee Members

I am a pharmacist, serving on the island of Kauai, providing needed medications and counseling to residents and visitors for more than 17 years. I am in **support of SB 591** for very important reasons and ask for your consideration in these areas:

- Pharmacy Benefit Management (PBM) companies currently have vague reimbursement fees, MAC pricing and profit reports that make it difficult for pharmacies to operate fairly and for their clients to realize their ability to maximize savings. Increased transparency would allow information to become available to clients and customers of PBM companies which could work towards lowering health care costs in the state.
- Current auditing practices from PBMs are not regulated and cause excessive, repetitive administrative costs to a pharmacy when being audited. For example, 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 laws. Such auditing practices result in higher health care costs across the state.
- The term "Mandatory" on pharmacy agreements denies the people of Hawaii choice in their health care options. Currently, some plans have a "mandatory" mail order requirement on prescription drug plans. 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 into a 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, added time to fill the prescription, time to obtain payment for the prescription from the patient and time 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. Patients have also had to go the emergency room or have additional visits to their physician due to ill effects from not receiving their medications on time through mail order. 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 safe pharmacy practice resulting in harmful effects to the patient for wrongful substitution on medications. Also, I have observed dispensing or counseling practices that are not in compliance with Hawaii law.

For example, as stated in Chapter 328-92 (c): The pharmacist shall not substitute an equivalent generic drug product for any prescription for an anti-epileptic drug, except upon the consent of the practitioner and the patient or the patient's parent or guardian.

I have a patient who has not given his consent for a substitution for a certain anti-epileptic drug, but the mainland based company has substituted this medication which resulted in the patient having seizures. Upon repeated request by the patient and myself, the insurance company refused to provide him with the proper medication and refused to give me an override so the patient can receive the proper medication which we stock in our pharmacy. As a result, the patient has had to pay out of pocket for his needed seizure medication or I have given it to him at no charge to help him have his needed seizure medication. This is an ongoing situation my patient and I face.

- The culture, diet and people of Hawaii is unique. Local foods and drug interactions, lack of credit cards by the elderly affect their ability to pay and receive their medications, etc...leave mainland based companies out of touch and often unable to meet the patient's needs.

I have served on the Hawaii Board of Pharmacy and care for the people of Hawaii. I operate two pharmacies on the island of Kauai and am concerned about the well being and health of Hawaii's residents and visitors. It is of importance, especially for the people of Hawaii because we are geographically isolated, to allow people to have quick and available access to their needed medications and for the state to be able to operate optimally and safely regarding pharmacy practices. **Please vote in support of SB 591 / HB 275.**

Thank you for your consideration.

Respectfully Submitted,



Lianne Malapit, Pharm. D.

February 8, 2011

Dear Honorable Senate and House Representatives concerning

**SB 591 & HB 275**

**RELATING TO PHARMACY BENEFIT MANAGEMENT COMPANIES**

Thank you for hearing my testimony. My name is Adlai Hiraoka and I have a seizure disorder. I am a patient who has been placed in the Informed Rx mail order program.

I have not given Informed Rx permission to substitute my seizure medication for the one they send me in the mail. The one I receive from them in the mail has had bad effects on me and has not worked to control my seizures properly. I and my local pharmacist have told Informed Rx to not substitute my seizure medication with the one they have given me many times over the year, that I needed to continue on the same manufacturer I have been stable on which is available in my local pharmacy. Informed Rx has not allowed me to have my appropriate seizure medication and will not give my local pharmacy an override to fill my prescription where the appropriate medication and manufacturer is stocked either so I have had to pay for my medication or my pharmacist has given them to me at a discount or at no charge to help me so I don't have seizures. This has gone on for over a year now and I continue to pay for my medication to this day.

Informed Rx told me last year and again this year to fill out an exception form to get my medication covered, but after many phone calls and investigating by me and my pharmacist, there is no exception form to opt out of mail order or to get my medication to not be substituted as Informed Rx has said existed and they continue to withhold the override at my local pharmacy and will only mail me the medication and manufacturer that causes ill effects on me, substituting without my consent.

Please pass SB 591 so I can receive my proper prescriptions from our local pharmacy who knows me and my illnesses well and is able to meet my pharmacy needs and I can have my seizures properly controlled.

Thank you for your help and attention.

Adlai Hiraoka