
A BILL FOR AN ACT

RELATING TO PHARMACY BENEFIT MANAGEMENT COMPANIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that pharmacy benefit
2 management companies are intermediaries that negotiate services
3 and costs between pharmaceutical companies and third payer
4 parties, such as insurance companies, businesses, and cash-
5 paying customers; and the pharmacy benefit management institute
6 reported that the combined market share of prescriptions
7 processed by MedCo, Express Scripts, and CVS/Caremark in the
8 third quarter of 2010 was 47.17 per cent of all prescriptions in
9 the United States. Currently, there is no standardized or
10 integrated reporting mechanism across service environments in
11 the State. As a result, pharmacy providers, such as chain drug
12 stores and independent pharmacies, are currently subjected to
13 unregulated auditing practices that attempt to recoup, gather
14 negative data, and penalize.

15 The legislature also finds that guidelines should be
16 developed that encourage audits to be performed in a fair and
17 balanced manner and legislation drafted to establish a more
18 regimented and reliable audit procedure.



1 The purpose of this Act is to establish a task force to
2 make recommendations to regulate the licensing of pharmacy
3 benefit management companies by ensuring financial reliability
4 and mandating full disclosure of drug costs and financial
5 contracts.

6 SECTION 2. (a) There shall be a task force attached to the
7 department of commerce and consumer affairs for administrative
8 purposes. The purpose of the task force is to review the
9 policies of the state-funded prescription drug coverage program
10 and its services and customer complaints with the forced use of
11 the mail order program.

12 (b) The task force shall:

13 (1) Suggest prohibited activities by pharmacy benefit
14 management companies and define appropriate penalties
15 for violations of prohibited activities;

16 (2) Delineate strategies and methodologies for the
17 insurance commissioner to use as a guideline for a
18 schedule of allowable acquisition costs and
19 professional dispensing fees;

20 (3) Determine the feasibility of implementing a licensure
21 fee for any pharmacy benefit management company
22 applying for licensure in the State;



- 1 (4) Make recommendations on the disclosure to the
2 purchaser and insurance commissioner regarding a
3 complete report of all rebates, manufacturer payments,
4 incentives, and prescription reimbursements to
5 pharmacies on a quarterly basis;
- 6 (5) Review potential alternatives to the use of the
7 mandated mail order formula and incorporate these
8 alternatives into the protocols of the various options
9 available allowing for "Patients Right to Choose Their
10 Own Pharmacy", to address language barrier issues and
11 to provide for timely access to prescription
12 medication and pharmacy personnel;
- 13 (6) Develop specifications for a quality monitoring system
14 that:
- 15 (A) Can be replicated across departments for
16 consistency;
- 17 (B) Prohibits:
- 18 (i) Manipulation of co-payments or other
19 tangible incentives;
- 20 (ii) Differential reimbursements to different
21 pharmacy providers; and



- 1 (iii) Mandatory mail order programs for
- 2 prescription drug coverage after three fills
- 3 on maintenance medications;
- 4 (C) Audits pharmacies to assure formulary compliance,
- 5 accurate dispensing, and patient safety and
- 6 enhance the overall quality of care provided;
- 7 (D) Tracks serious injuries or problems from any
- 8 provider, in any setting, whether the provider is
- 9 a mail order service or local pharmacy; and
- 10 (E) Establishes guidelines for quality reviews and
- 11 data analysis to identify trends.
- 12 (c) The task force shall consist of eleven members as
- 13 follows:
- 14 (1) A member of the house of representatives appointed by
- 15 the speaker of the house of representatives;
- 16 (2) A member of the senate appointed by the president of
- 17 the senate;
- 18 (3) The director of health or the director's designee;
- 19 (4) The insurance commissioner or the insurance
- 20 commissioner's designee;
- 21 (5) Two members selected by the director of health who are
- 22 from different private service providers;



1 (6) Two members selected by the Hawaii employer-union
2 health benefits trust fund board who are members of
3 the trust fund; and

4 (7) Three members appointed by the governor from a list
5 submitted by the speaker of the house of
6 representatives and president of the senate, with each
7 member representing a different organization that
8 represents pharmacists and their consumers, one of
9 which must be from the island of Kauai.

10 The members of the task force shall serve without
11 compensation and shall receive no reimbursement for expenses.

12 (d) No later than twenty days prior to the convening of
13 the 2012 regular session, the task force shall submit a report
14 to the legislature on its findings and recommendations,
15 including any proposed legislation or funding appropriation
16 necessary to implement the recommendations.

17 SECTION 3. The task force shall cease to exist on May 1,
18 2012.

19 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Pharmacy Benefit Management Companies

Description:

Creates a task force to make recommendations to regulate the licensing of pharmacy benefit management companies by ensuring financial reliability and mandating full disclosure of drug costs and financial contracts. (SB591 HD2)

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