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## A BILL FOR AN ACT

RELATING TO PHARMACY BENEFITS MANAGERS.

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

1           The legislature finds that numerous states have enacted or  
2 are considering legislation to regulate pharmacy benefit  
3 managers. Pharmacy benefit managers are intermediaries that  
4 negotiate services and costs between pharmaceutical companies  
5 and third party payors, such as insurance companies, businesses,  
6 and cash-paying customers. Pharmacy benefits managers manage  
7 all aspects of a prescription drug benefit plan, from  
8 establishing formularies of preferred drugs, negotiations with  
9 drug manufacturers and pharmacies, to ownership of their own  
10 mail order pharmacy to directly fill prescriptions. The three  
11 largest pharmacy benefit managers administer prescription drug  
12 benefits for approximately eighty per cent of insured  
13 prescriptions and ninety per cent of insured mail order  
14 prescriptions.

15           Pharmacy benefits managers often use a patient's  
16 prescription drug claims information to directly market to that  
17 patient the services of a preferred pharmacy provider that is  
18 owned by the pharmacy benefits manager. This practice allows



1 pharmacy benefits managers to influence patient behavior in a  
2 manner that drives business to the pharmacy benefits managers'  
3 own subsidiary pharmacies. Such a practice would appear to be  
4 unfair and deceptive since the patient often does not know that  
5 the patient's claim information is being used in this manner and  
6 that the pharmacy network being advertised is affiliated with or  
7 owned by the pharmacy benefits manager.

8 The purpose of this Act is to prohibit pharmacy benefits  
9 managers from using a patient's claim information to market or  
10 advertise to that patient the services of a preferred pharmacy  
11 network that is owned by the pharmacy benefits manager.

12 SECTION 2. Chapter 481B, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15 "§481B- Pharmacy benefits managers, prohibited  
16 marketing practices. (a) A pharmacy benefit management company  
17 shall take no action that would restrict a patient's choice of  
18 pharmacy from which to receive prescription drug benefits,  
19 including:

20 (1) Use of an individual's prior prescription drug  
21 benefits claim information; or



1        (2) Requiring patients to receive prescription drug  
 2        benefits from any pharmacy affiliated with or owned  
 3        wholly or in part by the pharmacy benefit management  
 4        company, including mail order pharmacies.

5        (b) As used in this section, "pharmacy benefits manager"  
 6        means any person, business, or entity that performs pharmacy  
 7        benefits management, including but not limited to a person or  
 8        entity under contract with a pharmacy benefits manager to  
 9        perform pharmacy benefits management on behalf of a managed care  
 10       company, nonprofit hospital or medical service organization,  
 11       insurance company, third-party payor, or health program  
 12       administered by the State."

13       SECTION 3. New statutory material is underscored.

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

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INTRODUCED BY:

*Cindy Evans*  
*[Signature]*  
*[Signature]*

JAN 16 2013



# H.B. NO. 62

**Report Title:**

Pharmacy Benefits Managers; Prohibited Practices

**Description:**

Prohibits a pharmacy benefits manager from using a patient's prescription drug benefits claim information to market to that patient the services of a preferred pharmacy network that is owned by the pharmacy benefits manager.

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