

Honolulu, Hawaii

FEB 15 2013

RE: S.B. No. 667

S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committees on Health and Commerce and Consumer Protection, to which was referred S.B. No. 667 entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

beg leave to report as follows:

The purpose and intent of this measure is to regulate pharmacy benefit management companies in Hawaii. Specifically, this measure:

- (1) Requires the registration of and regulates the practices of pharmacy benefit management companies beginning on January 1, 2014; and
- (2) Authorizes periodic audits of pharmacies that submit claims to pharmacy benefit management companies.

Your Committees received testimony in support of this measure from three individuals. Testimony in opposition to this measure was submitted by the Hawaii Medical Service Association, CVS Caremark Corporation, and Pharmaceutical Research and Manufacturers of America.

Your Committees find that pharmacy benefit management companies provide prescription drug services on behalf of plan sponsors, including self-insured employers, insurers, unions, mutual benefit societies, and health maintenance organizations. As part of these services, pharmacy benefit management companies act as intermediaries that negotiate services and costs with



pharmacies and rebate earnings with pharmaceutical companies. This measure regulates pharmacy benefit management companies to ensure financial reliability, regulate the licensing of pharmacy benefit management companies, prevent predatory pricing, and mandate disclosure of drug costs and financial contracts.

Your Committees note the following concerns raised in the written testimony submitted in opposition to this measure. The Hawaii Medical Service Association raised concerns that this measure implies that pharmacy benefit management companies dictate pharmacy benefits, such as restrictive network, mandatory mail order, and copayments, but employer groups and other payers are the entities that make these benefits design decisions, not pharmacy benefit management companies. CVS Caremark Corporation testified that by regulating pharmacy benefit management companies, this measure may open the door to fraud, abuse, and wasteful spending in health care.

Accordingly, your Committees have amended this measure by:

- (1) Deleting the provisions that:
 - (A) Requires pharmacy benefit management companies to register with the Insurance Commissioner by January 1, 2014;
 - (B) Require an auditing entity to conduct an audit of the records of a pharmacy for claims submitted for payments after July 1, 2013, in accordance with specified criteria;
 - (C) Require each pharmacy benefit management company to make available to its enrollees specified information;
 - (D) Prohibit certain activities committed by a pharmacy benefit management company; and
 - (E) Establish penalties;
- (2) Clarifying that the Insurance Commissioner is required to consult with the Board of Pharmacy in adopting rules to implement this measure;



- (3) Inserting an effective date of January 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Health and Commerce and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 667, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 667, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committees on Health and
Commerce and Consumer
Protection,



ROSALYN H. BAKER, Chair



JOSH GREEN, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Health
HTH

Bill / Resolution No.:*	Committee Referral:	Date:		
<i>SB 667</i>	<i>HTH/CPN, JDL</i>	<i>02/13/13</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
GREEN, Josh (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
TOTAL	<i>5</i>	<i>-</i>	<i>-</i>	<i>-</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Rosalyn H Baker</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB 667	Committee Referral: HTH/CPN, JDL	Date: 2/13/13		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
GALUTERIA, Brickwood (VC)	✓			
NISHIHARA, Clarence K.	✓			
SOLOMON, Malama	✓			
TANIGUCHI, Brian T.				✓
WAKAI, Glenn	✓			
SLOM, Sam	✓			
TOTAL	6			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align: center; font-family: cursive;">Clarence K. Nishihara</div>				
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