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TO:
THE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Rep. Angus McKelvey, Chair
Rep. Derek Kawakami, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: January 27, 2014
TIME: 2:10pm
PLACE: Conference Room 325

RE: HB1763

Position: Support

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers and distributors of food and beverage related products in the State of Hawaii.

We believe this bill is an important continuation of the regulation of pharmacy benefit managers. As with HB62 which was passed last session we believe that this bill will help protect consumers and businesses here in Hawaii.

Ensuring that there is strong oversight of Pharmacy Benefit Managers and that the insurance commissioner has the necessary tools to enforce that oversight is important. This legislation will help to ensure that pharmacy patients have real choice and that businesses providing pharmacy services in Hawaii are geared toward providing better care, not just bigger profits.

HFIA asks that HB1763 be passed as is.

Thank you for the opportunity to testify.



HO'ŌLA LĀHUI HAWAI'I
P.O. Box 3990; Līhu'e, Hawai'i
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January 24, 2014

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Rep. Angus L.K. McKelvey, Chair

Rep. Derek S.K. Kawakami, Vice Chair

Hearing

Monday, January 27, 2014

2:10 pm Conference Room 325

Testimony in **Support** of HB 1763
Relating to Prescription Drugs

Ho'ola Lahui Hawaii the only Federally Qualified Health Center and Native Hawaiian Health Care System on Kauai is strongly **SUPPORTING** this bill to give the Insurance Commission the Authority to fine Pharmacy Benefit Managers when they violate state statutes.

Other states do regulate PBM's and it is very important that patients have local access to pharmacy services at multiple points of entry, not just limited to mail order. It is equally important that patient choice is maintained.

Therefore we support this important bill.

Respectfully Requested,

David Peters
Chief Executive Officer



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

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KEALI' I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2014

Monday, January 27, 2014
2:10 p.m.

TESTIMONY ON HOUSE BILL NO. 1763 – RELATING TO PRESCRIPTION DRUGS.

TO THE HONORABLE ANGUS McKELVEY, 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, and submits the following comments:

This bill changes the penalty provision of the chapter that regulates pharmacy
benefits managers by making an assessment of a fine mandatory instead of
discretionary. Chapter 431R was enacted just last year and has not yet been fully
implemented. It is important that the Commissioner maintains discretion in evaluating
the nature and seriousness of a violation in determining whether a fine is appropriate.

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



Eric P. Douglas
Senior Director
Government Affairs

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January 27th, 2014

The Honorable Angus L.K. McKelvey
Chair, House Committee on Consumer Protection and Commerce
Conference Room 325
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: House Bill 1763 Relating to Prescription Drugs

Dear Chairman McKelvey:

CVS Caremark wishes to convey concerns with HB1763 which seeks to amend Act 226/Vol. 9 HRS Ch.431R ("Act 226") from the current discretionary construct to one that instead mandates a financially punitive action by the Insurance Commissioner. We would respectfully submit that such legislation is minimally premature. As background, CVS Caremark / Longs Drugs is the largest pharmacy healthcare provider in the United States, with integrated pharmacy and health operations statewide including: Pharmacy Benefits Management, Specialty, Mail and Retail Community Pharmacy and recently adding Retail Health Clinics employing in total more than 2500 colleagues in the State of Hawaii throughout our more than 60 locations on the islands of Oahu, Kauai, Maui and Hawai'i.

CVS Caremark is generally opposed to unnecessary or premature mandates. We therefore question the need for HB1763, as it creates a mandated penalty in a law that is less than 7 months old. For example, the first annual reporting requirement to the Insurance Commissioner, due by March 31st and regarding compliance under Act 226 has not even occurred, nor has the Insurance Commissioner yet determined the "form and detail" of this report. The Insurance Commissioner has not yet determined certain key aspects of Act 226, such as the standards and requirements for a retail community pharmacy to be deemed "otherwise qualified". For the legislature to amend this Act so soon after its enactment and before several key aspects of the law have even been established is extraordinary and we believe unwarranted at this time.

For the aforementioned reasons, CVS Caremark asks the Committee to forego any action on HB1763. Should members have any questions I would be pleased to address them or you may contact me anytime at 847.559.3422 or eric.douglas@cvscaremark.com.

Very truly yours,

Eric P. Douglas
Senior Director, Government Affairs
CVS Caremark

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

January 27, 2014

The Honorable Angus L. K. McKelvey, Chair
The Honorable Derek S. K. Kawakami, Vice Chair
House Committee on Consumer Protection and Commerce

Re: HB 1763 – Relating to Prescription Drugs

Dear Chair McKelvey, Vice Chair Kawakami and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 1763, which mandates the Insurance Commissioner (Commissioner) to assess a fine of up to \$10,000 for each violation by a pharmacy benefit manager (PBM) or prescription drug benefit plan provider. HMSA opposes this Bill.

HB 1763 seeks to amend Act 226, SLH 2013, (Act) which was only enacted last year. The Act requires each PBM and health benefit plan to submit a compliance report to the Commissioner, in a form and with detail prescribed by the Commissioner, by March 31 of each year. The Act authorizes the Commissioner to levy penalties on a PBM or plan that violates the Act.

HB 1763 seeks to remove the Commissioner's discretion in assessing penalties.

While there are provisions of the Act that lack clarity, HMSA fully intends to comply with comply with Act 226, SLH 2013. We have been actively working with our Pharmacy Benefit Manager, CVS-Caremark, to implement the Act. Compliance with this Act involves a number of substantive changes including coding and systems updates, alterations, and testing for all impacted groups. Compliance also requires updating the Guide to Benefits we are required to provide each member which describes the benefits each member receives. Making those changes are time and resource consuming. But, we are committed to fully comply with the Act.

We believe the amendment sought in HB 1763 is premature. We anticipate the Commissioner will be issuing reporting instructions, and HMSA plans to submit our report by the mandated March 31 deadline in order to ensure compliance with the Act. The Commissioner should be afforded the opportunity to execute his current authority under the Act and review reports to confirm compliance with the Act. Changes to the Act should not be contemplated until all affected parties have been provided to a reasonable period to initially implement its provisions.

Thank you for the opportunity to express our concerns and testify in opposition to this measure. Should the Committee wish to move the Bill forward for further consideration, we would appreciate the opportunity to work with you to further clarify provisions of the Act.

Sincerely,

A handwritten signature in black ink, appearing to read "JDiesman", with a long horizontal flourish extending to the right.

Jennifer Diesman
Vice President
Government Relations