

**TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION
AND COMMERCE
ON
HOUSE BILL 65, H.D. 1**

February 27, 2013

RELATING TO PRESCRIPTION DRUGS

House Bill No. 65, House Draft 1, will allow beneficiaries of prescription drug benefits providers to opt out of the requirement to purchase prescription drugs from a mail-order pharmacy and as an alternative allow the purchase of prescription drugs at a retail pharmacy; prohibit a pharmacy benefit management company from restricting a patient's choice of pharmacy to include a requirement to receive prescription medications from mail-order pharmacies; and also prohibits a pharmacy benefits manager from providing incentive co-payments to members for the utilization of the mail order channel.

We oppose this bill. First, the Department of Budget and Finance has serious concerns that this bill would eliminate from the current Hawaii Employer-Union Health Benefits Trust Fund (EUTF) benefit plans the mandatory mail order/maintenance choice and specialty drug carve out benefits which would impact the costs for the subscribers, their dependent beneficiaries, and employers. Second, this bill would eliminate any pharmacy network, and this would require the EUTF and Kaiser to pay the charges that are rendered by any pharmacy, without regard to any existing contracted pharmacies or contracted discounts. These impacts would be counter to cost control measures which have been implemented by the EUTF that have benefited the overall group of subscribers, dependent beneficiaries, and the employers.

While this bill would benefit a certain group, it would in effect increase the overall costs for the majority of subscribers, their dependent beneficiaries, and the employers through higher premiums and co-payments and would impact both the active employee and retiree drug benefits. This bill, by increasing the overall cost for retiree benefits would also increase the State's already substantial Other Post Employment Benefits liability which is driven primarily by the costs of these benefit plans. Finally, another consequence of this bill is that it could make it more likely for the costs of retiree benefit plans to one day exceed the cap rates as established in the statute and thereby could result in out of pocket premium costs being partially borne by retirees in addition to possibly higher drug co-payment amounts.

**Testimony of
Gary M. Slovin / Mihoko E. Ito
on behalf of
Walgreens**

DATE: February 26, 2013

TO: Representative Angus McKelvey
Chair, Committee on Consumer Protection & Commerce
Submitted Via CPCtestimony@capitol.hawaii.gov

RE: **H.B. 65 HD1 – Relating to Prescription Drugs**
Hearing Date: Wednesday, February 27, 2013 at 3:30 pm
Conference Room 325

Dear Chair McKelvey and Members of the Committee on Consumer Protection & Commerce:

We are testifying on behalf of Walgreen Co. (“Walgreens”).

Walgreens operates more than 8,200 locations in all 50 states, the District of Columbia and Puerto Rico. In Hawai`i, Walgreens now has 11 stores on the islands of Oahu, Maui and Hawai`i.

Walgreens **supports** H.B. 65 HD1, which allows beneficiaries of prescription drug benefits providers to opt out of the requirement to purchase prescription drugs from a mail-order pharmacy and to alternatively purchase prescription drugs from a retail pharmacy.

Walgreens believes that patients should be in control of their choices when filling their prescriptions. From a patient perspective, face-to-face counseling is the most effective at driving patient adherence. Regulating prescription drug benefit plans by 1) prohibiting mandatory mail order and 2) prohibiting the ability of prescription drug benefit plans to manipulate pricing that it charges in a way that encourages mail order will help to protect patient choice, and will level the playing field among pharmacy service providers.

Thank you very much for the opportunity to submit testimony regarding this measure.

Gary M. Slovin
Mihoko E. Ito
Tiffany N. Yajima
Nicole A. Velasco

1099 Alakea Street, Suite 1400
Honolulu, HI 96813
(808) 539-0840



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

Wednesday, February 27, 2013; 3:30 p.m.
Hawaii State Capitol; Conference Room 325

RE: HB 65 HD1 – Relating to Prescription Drugs – In Opposition

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

My name is Todd Inafuku, testifying on behalf of CVS Caremark Corporation (“CVS Caremark”) in opposition to HB 65 HD1, Relating to Prescription Drugs. The plan sponsors, including self-insured employer plans, commercial health plans, Medicare Part D plans, state government employee plans such as the Employer Union Trust Fund (EUTF), union plans, and the Federal Employees Health Benefits Program (FEHBP) determine the pharmacy benefit plan for their beneficiaries and employees. The plan includes the pharmacy network and the use of mail service pharmacies. Pharmacy benefit managers (PBMs) do *not* determine the plan design, but administer the benefit under contract with the plan sponsors.

PBMs’ plan sponsors are sophisticated purchasers of health care. Plan sponsors contract with the PBM that best meets their goal, budget, and philosophy to administer their desired pharmacy benefit plan for their beneficiaries and employees.

Mail-Service Pharmacies Make Prescriptions More Affordable

- Beneficiaries and employees of the plan sponsor may go to any retail pharmacy to have their prescriptions filled. However, they will only be able to access their determined pharmacy benefit if they select a retail pharmacy that is participating within the plan network.
- While local retail pharmacies in the plan sponsor’s pharmacy network are used for new therapy starts and acute care prescriptions, plan sponsors sometimes choose to provide their beneficiaries and employees with the option of a lower co-payment on a 90-day supply of their chronic medications through the use of mail-service pharmacies. This provides significant cost savings for the plan sponsors.
- The Federal Trade Commission (“FTC”) concluded in a 2005 study of the PBM industry that for a common basket of drugs, with the same sized prescriptions, “retail prices were typically higher than [PBM] mail prices[.]” (p. 23) More specifically, the FTC’s analysis of more than five million prescriptions showed that retail prices for 90-day prescriptions were higher than PBM-owned mail service prices by 6.8% for generic drugs and 11.3% for single-source brands. (p. 34)¹
- A recent study by Visante concluded that mail-service pharmacies will save employers, unions, government employee plans, consumers, and other commercial-sector payers \$203 million over the next ten years in Hawaii.²

¹ Federal Trade Commission, Pharmacy Benefit Managers: Ownership of Mail-Order Pharmacies, August 2005.

² “How Mail-Service Pharmacies will Save \$46.6 Billion Over the Next Decade,” Visante, February, 2012.



This legislation takes away the ability of plan sponsors to design a cost effective pharmacy benefit plan that best suits their needs and the needs of their beneficiaries and employees. This bill would also prohibit the use of co-payment incentives that would encourage beneficiaries and employees to utilize a more cost-effective prescription drug channel that would result in savings for the plan sponsor as well as lessening the out of pocket expense for beneficiaries and employees. In effect, this bill would have the unintended consequence of restricting the choices that a plan sponsor would be able to offer to their beneficiaries and employees and penalizes the beneficiaries and employees for making a better choice. For this reason, CVS Caremark respectfully requests this bill be held.

Thank you for the opportunity to testify on this matter of importance,

Todd K. Inafuku

Cell – (808) 620-2288



EXPRESS SCRIPTS®

Cynthia M. Laubacher
Senior Director, State Affairs
(916) 771-3328
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February 26, 2013

To: Representative Angus McKelvey, Chair
Members of the House Consumer Protection & Commerce Committee

Fr: Cynthia Laubacher, Senior Director, State Government Affairs
Express Scripts Holding Company

Re: House Bill 65 HD1
Hearing: February 27, 2013 3:30pm

On behalf of Express Scripts, I am writing to express our opposition to House Bill 65. Express Scripts administers prescription drug benefits on behalf of our clients – employers, health plans, unions, and government health programs including the Department of Defense TRICARE program. We provide integrated pharmacy benefit management services including pharmacy claims processing, home delivery, specialty benefit management, benefit-design consultation, drug-utilization review, formulary management, medical and drug data analysis services, as well as extensive cost-management and patient-care services.

Our clients – the plan sponsors – design their pharmacy benefit to meet their needs. The details as to how that benefit is structured including the pharmacy network, mail service options, and copayment structure are governed by the plan sponsor. PBMs offer a variety of cost-management tools from which our clients can choose to build their pharmacy benefit while also providing an affordable benefit to their members/employees. These tools include pharmacy networks and lower copayments to use mail service pharmacy. Plan sponsors often choose a limited pharmacy network in order to lower their costs by securing discounts from pharmacies who want to be in the network. Pharmacies are incentivized to offer deeper discounts in exchange for a contract-based expectation that they will, in return, receive a substantial amount of the plan sponsor's business.

HB 65 proposes two things. First, patients can fill their prescription at any pharmacy and they cannot be required to fill prescriptions through a mail service pharmacy. This is generally referred to as an "any willing provider" or "freedom of choice" law. The Federal Trade Commission has written extensively on similar proposals, warning states that, "By eliminating an important form of competition in the market for pharmaceutical services, the bills are likely to increase the cost of those services. These cost increases are likely to undermine the ability of some consumers to obtain the

pharmaceutical services they need at a price they can afford.” (Letter to RI Attorney General Lynch, 2004).

HB 65 also prohibits plan sponsors from offering their members lower copayments in exchange for filling their prescriptions through mail service. Eighty-five percent or more of our patients fill their prescription drugs at a local pharmacy. Mail service is generally limited to patients taking maintenance medications or medications available only through regular or specialty mail service pharmacies. The FTC concluded in a 2005 report that PBM-owned mail-order pharmacies offer lower prices on prescription drugs than retail pharmacies and are very effective at capitalizing on opportunities to dispense generic medications. Limiting mail service incentives takes choices away from consumers to lower their prescription drug costs and would force one-size-fits-all copayments.

Thank you for the opportunity to provide testimony on this measure.

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 27, 2013

The Honorable Angus L. K. McKelvey, Chair
The Honorable Derek S. K. Kawakami, Vice Chair

House Committee on Consumer Protection and Commerce

Re: HB 65, HD1 – 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 65, SD1, which would allow health plan beneficiaries to opt out of a plan requirement to purchase prescriptions by mail. HMSA opposes this Bill.

HMSA's goal in the provision of outpatient pharmacy services is to ensure our members have access to affordable, high quality medication. HMSA believes that optimal drug therapy results in positive medical outcomes, which helps to manage overall health care costs.

There may be a misconception that PBMs dictate pharmacy benefits – such as restrictive network, mandatory mail order and copayments. This is not the case. The employer groups or other payers are the entities that make these benefit design decisions.

Prohibiting employer groups the authority to design the best plan for their employees will prohibit health plans from utilizing cost-saving methods. We believe health plans should retain the flexibility to develop the most economical plans that meet the needs of our varied customers.

Thank you for the opportunity to testify in opposition to this measure.

Sincerely,

A handwritten signature in black ink that reads 'Mark K. Oto'.

Mark K. Oto
Director
Government Relations



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

Wednesday February 27, 2013

3:30 P.M.

Capitol Rm. 325

To: HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Rep. Angus L.K. McKelvey, Chair
Rep. Derek S.K. Kawakami, Vice Chair

From: Hawaii Medical Association
Dr. Stephen Kemble, MD, President
Dr. Linda Rasmussen, MD, Legislative Co-Chair
Dr. Joseph Zobian, MD, Legislative Co-Chair
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: HB 65 HD1

In Support

Chair, Vice Chair, and Committee Members:

The Hawaii Medical Association is in strong support of this measure.

The Hawaii Medical Association has long advocated for quality care and the safety of our patients. This bill enhances both.

As Hawaii strives to improve quality and effectiveness of care, patient compliance with prescribed therapy is paramount. Mountain Pacific Quality Health, the Quality Improvement Organization for the Centers for Medicare and Medicaid Services in Hawaii has been tracking healthcare quality for nearly 20 years. They report the top diagnosis leading to patient readmissions is Congestive Heart Failure (CHF), and the number one cause leading to readmission of CHF patients is non-compliance with prescribed medications.

Many times patients run out of their medications before they can get them refilled by mail. Instead of going to a pharmacy, they choose to wait for the mailed medications to arrive. Not only does this constitute a setback for the treatment of their underlying condition, but may, particularly with cardiac medications, be harmful and potentially life threatening.

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Patients must be allowed to decide what is most convenient for them in filling their prescriptions. Convenience is the most cost effective way of insuring compliance. The Hawaii Medical Association feels it is vitally important to put the safety, convenience and compliance of patients before the profits of insurers.

Thank you for the opportunity to provide this testimony.



HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)
1050 Bishop St. PMB 235
Honolulu, HI 96813
Fax : 808-791-0702
Telephone : 808-533-1292

DATE: Feb 27, 2013 TIME: 3:30 PM PLACE: CR 325

TO: COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Angus L.K. McKelvey, Chair
Representative Derek S.K. Kawakami, Vice Chair

FROM: Hawaii Food Industry Association - Lauren Zirbel, Executive Director

Re: HB 65 RELATING TO PRESCRIPTION DRUGS

In 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.

I am writing on behalf of HFIA members across the State of Hawaii regarding Pharmacy Benefit Managers, (PBM's) and the importance of increasing oversight. We support this measure which allows beneficiaries of prescription drug benefits providers to opt out of the requirement to purchase prescription drugs from a mail – order pharmacy and may alternatively purchase prescription drugs from a retail pharmacy.

Thank you for the opportunity to provide this testimony.

Re: H.B. No. 65
H.D. 1
February 27th, 2012

Honorable Angus L.K. McKelvey
Chair Consumer Protection Committee
Honorable Derek S.K. Kawakami
Vice Chair Consumer Protection Committee
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Hawaii Community Pharmacists Association, (HCPA) wishes to provide this letter of **STRONG SUPPORT** for this bill.

This bill seeks to protect the individual patient's right to choose their pharmacy provider free of restrictions, financial coercion, restricted networks or other tactics commonly employed by Pharmacy Benefit Managers, (PBM).

Pharmacy Benefit Managers have opposed this type of legislation across the U.S.A. based upon the argument that it will result in increased health care costs. This argument is in direct conflict with statements noted in Drug Benefit News November 16th, 2012, Volume 13, issue 22. In this article Adam Fein notes that "the law is more likely to impact PBM's like Express Holdings, and CVS Caremark Corp. which make a significant chunk of per-prescription profits through their mail-order pharmacies". Currently in Hawaii since Hawaii Medical Services Association contracted with CVS/Caremark there has been an average gross revenue decrease in community pharmacies of approximately 11%, while patient co-payments have increased and the drugs available on the formulary has decreased.

Another consideration is the impact of mandatory mail programs such as maintenance choice on the individual. Recently in California a lawsuit was brought against a large insurance carrier when it attempted to restrict a certain group of patients to their own pharmacy. The lawsuit was based upon the concept that requiring participation of a certain group of patients based upon their diagnosis or requirement for chronic medication is a form of discrimination and therefore prohibited by the ADA Act. Anthem Blue Cross subsequently suspended the program and allowed the insured members to obtain medications from the pharmacy provider of their choice.

In consideration of these issues HCPA strongly supports the passage of this bill intact from this committee for the health and welfare of the residents of Hawaii.

Sincerely,
Kevin Glick, R.Ph.
Chair, Hawaii Community Pharmacists Association



HO'OLA LĀHUI HAWAI'I
P.O. Box 3990; Līhu'e, Hawai'i
Phone: 808.240.0100 Fax: 808.246.9551

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Angus L.K. McKelvey, Chair

Rep. Derek S.K. Kawakami, Vice Chair

Testimony in Support of House Bill 65, HD1

Ho`ola Lahui Hawaii the only Federally Qualified Health Center and Native Hawaiian Health Care System on Kauai is strongly **SUPPORTING** this bill to regulate pharmacy benefit management companies (PBM).

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 safety is maintained and quality services are locally available to patients in person and via electronic communications.

Therefore we support the continued movement of this important bill.

Respectfully Requested,

David Peters
Chief Executive Officer

kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 25, 2013 9:38 PM
To: CPCtestimony
Cc: tabraham08@gmail.com
Subject: *Submitted testimony for HB65 on Feb 27, 2013 15:30PM*

HB65

Submitted on: 2/25/2013

Testimony for CPC on Feb 27, 2013 15:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Testimony Presented Before the
House Committee on Consumer Protection and Commerce
Wednesday, February 27, 2013 at 3:30 p.m.

By
Dr. John Pezzuto
Dean, College of Pharmacy, UH Hilo

HB65 HD1 RELATING TO PRESCRIPTION DRUGS

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

My name is Dr. John Pezzuto and I am the Dean of the College of Pharmacy at UH Hilo. I am testifying in support of the enactment of HB65 HD1. I am testifying as a private citizen and not as a representative of UH Hilo.

This bill reads like a breath of fresh air. Forcing patients to rely on mail order pharmacy is the antithesis of proper and effective health care. It is true that some medications taken on a chronic basis may be efficiently filled by mail order, and some patients may elect or prefer this option. More broadly, however, there is not clear evidence that mail order reduces cost, and there is no evidence whatsoever that it improves a patients' health.

The pharmacist is a health care professional, not a human dispensary or robot. As a health care professional, the pharmacist monitors the medication therapy of the patient, and works in collaboration with the physician to monitor a myriad of factors such as drug interactions, optimal therapeutic regimens, proper administration, and compliance. Forcing a patient to receive medications by mail order or even forcing a patient to visit only one pharmacist effectively eliminates all of these benefits.

This bill advocates for the rights of patients and for the best practice in health care.

Thank you for considering this testimony.

Good day to the State of Hawaii House of Representatives committee concerning HB 65 going to conference 2/27/13 at 3:30pm. I would like to testify in favor of HB 65 allowing patients/customers the ability to opt-out from mandatory mail order in Hawaii. Patients should have the freedom of choice to select their pharmacy of choice and not be forced into a mandatory situation. My name is Greg Harmon, Pharmacist-owner of Kamehameha Pharmacy in North Kohala on the Big Island serving a rural community of about 7,000 people. We have no mail service delivery available, we all go to our po boxes when driving to and from weather permitting. We still offer deliveries and charge accounts to our local customers. Our community retail pharmacy receives complaints on a daily basis from mostly medicare/seniors regarding their difficulty and user unfriendly system for ordering their prescriptions. Please be aware that I did not sign a medical contract with HMSA because they discriminate against certain patients with a specific disease state and require them to use a "specialty pharmacy only mail order". I have completed a meeting in December 2012 with a pending special request to be able to service this group of patients including all HMSA , Quest members only to be denied. HMSA 's decision to block medical access to its customers and my patients is not acceptable. I continue to service their customers and my patients by offering fair cash payment for services by allowing them to resubmit a bill back to HMSA. Their Quest members do not have cash funds available so they have no options having to drive to Hilo or Kona to receive their special medications. We need to give all our people the choice and place to fill their prescriptions so they will all have positive health outcomes and to prevent costly hospital emergency room visits.

Mahalo, Greg Harmon, Pharmacist