

To: House Committee on Health *CPC*

From: Patrick Adams

RE: HB 65



In Support:

HB 65 is an important bill that gives Hawaii residents a choice as to where they may fill their prescriptions. Mail Order pharmacies dismantle the continuity of care for patients in Hawaii and results in higher healthcare cost. On the surface there appears to be a savings in the dispensing of medications but the end result is more hospital visits and medical cost that does not show up in the bottom line until the entire system is evaluated. Mail Order causes the closing of pharmacies and results in less access to the first level of healthcare, the pharmacist. The pharmacist is not the just the dispenser for RX medications but the counseling service for Over the Counter medications. Over the Counter medications put thousands of people in the hospital every year and as pharmacies close the rest of healthcare increases. As it stands today mail order customers come to Hawaii based pharmacies for counseling on everything from RX and Over the counter medications as well as general health questions. Many of those patients are no longer customers of the pharmacies they use for services. As these pharmacies close this service won't be available and healthcare will increase at the emergency rooms and doctor's visits. This bill is a simple opt out bill. It gives the patient a choice for improved healthcare. About 10% of the pharmacies have already closed because of mail order and we can expect more of the same. Pharmacy Benefits Mangers and larger pharmacies chains are slowly dismantling the pharmacy system in the state and will soon be the only pharmacies available. Please support HB 65 and improve health care while reducing the true overall cost.

Sincerely,

Patrick Adams, Rph

Re: H.B. No. 65  
H.D.1

February 27, 2013



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:

Please accept this letter for support of the above referenced bill.

I am one of the first graduates of the newly named Daniel K. Inouye College of Pharmacy. I have not worked long in my pharmacy career, but I have experienced the frustrations my patients have with mail order pharmacies. Either they do not get their medications on time or they receive too much of their medications while the doctor has changed their doses.

From my experiences, their main complaint is that they lose their right to choose which pharmacy they want to go to. I have patients who come to my pharmacy who pay cash instead of charging their insurances, because they feel more comfortable talking to me. I have developed the trust and the relationships that we pharmacists work hard to develop. We are the voices of patients to the doctors and that is something that mail order pharmacies cannot develop. This is why I support the above referenced bill.

Thank you for giving me the opportunity to submit my testimony in this matter.

Sincerely,  
Paul Brian Narciso, Pharm D

## Testimony of Phyllis Dendle

Before:

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

February 27, 2013  
3:30 pm  
Conference Room 325

**LATE****HB 65 HD1 RELATING TO PRESCRIPTION DRUGS**

Chair McKelvey and committee members, thank you for this opportunity to provide testimony on HB65 HD1 regarding pharmacy drug benefits.

**Kaiser Permanente Hawaii opposes this bill**

While we understand the intent of this measure to provide access and convenience for individual beneficiaries of prescription drug benefits plans it will have the opposite effect for patients of Kaiser Permanente Hawaii.

At Kaiser Permanente Hawaii we provide pharmacy benefits to our members primarily through our pharmacies located in our hospital and clinics. With our electronic medical record it is possible for a physician to order a prescription and the patient to pick it up from the pharmacy on their way out--without having to submit a handwritten prescription. This reduces the patient's wait time and reduces errors. We also encourage our members to get their maintenance prescriptions refilled via mail order which is more cost effective for KP and also more convenient for the member. We pass the savings on to our members by dispensing three months of their maintenance drug and charging the co-pay equivalent of two months. Any member who prefers may pick up their pharmaceuticals from a Kaiser pharmacy and pay a copay for each prescription. They can even order their refills via phone or our website- KP.org and then pick them up or have them mailed.

Whenever possible we provide this benefit exclusively through our own pharmacies. When we do not have a Kaiser Permanente pharmacy available we provide coverage through contracts with local pharmacies.

As written it appears that Kaiser Permanente as a prescription drug benefits provider and plan would not be able to continue our practices under this bill. We would not be able to pass on savings to our members who use Kaiser pharmacies and mail order service. We would not be able to either exclusively provide or contract with pharmacies to get our members their pharmacy benefits. For Kaiser Permanente members this bill will fail to provide access or convenience for the patient.

We urge this committee not pass this bill which potentially will have the opposite effect of what was intended.

Thank you for your consideration.

RE: Support of H.B. 65 (via email)

February 26, 2013



Dear Chairman Au Belatti:

On behalf of the 7,000 residents of Molokai, the 21 employees of Molokai Drugs strongly supports H.B.65. This bill would protect the right of all of our Hawaii residents, including our clients on Molokai, to utilize the valuable services of their local pharmacy rather than being forced to obtain their prescriptions only through the mail.

For our small population, a large majority would rather have the option of picking up their medicines at Molokai Drugs, which is a climate-controlled pharmacy open six days per week. We also offer free delivery to customers who are home-bound and cannot travel to the local post office.

We also maintain a strict temperature maintenance program and our medicines are never stored above the temperature allowed. This is especially the case with our fragile medicines such as insulin for our diabetic population.

Over the past year, mandatory mail delivery has been a challenge on Molokai with cuts in post office hours. From Honolulu, prescription mail order takes 1-2 days; from the mainland 2-7 days. This does not take into account holidays and weekends where there is no delivery. If there is a package mailed from Honolulu on Friday, chances are high that the receiving party will receive this prescription on Monday.

On Molokai, we have 2,796 post office box holders; mail is picked up at a local post office, where there is no air-conditioning on the weekend. There are 225 clients who live on the East end of Molokai and they are the only customers on island who have home delivery.

As of next Monday, February 11, 2013, our island will see additional cuts to operating hours at our four post offices. The hours of operation will be as follows:

Hoolehua (424 boxes): 830am-400pm, Monday through Friday  
Kaunakakai (1,808 boxes): 900am-330pm Monday through Friday, 900am-1100am Saturday  
Kualapuu (282 boxes): 1200pm-400pm Monday through Friday  
Maunaloa (282 boxes): 930am-130pm, Monday through Friday

Instead of being forced to utilize an out-of-state mail order pharmacy, this bill allows our residents the freedom of choice. They can still choose mail-order if they feel that is best.

This legislation will allow our 7,000 residents to gain the benefit of face-to-face interaction with David Mikami, RPh, Jon Mikami, RPh, and Kelly Go, RPh--our three trusted community pharmacists on Molokai.

Finally, this bill prevents Molokai residents from being charged higher co-pays for prescriptions not obtained through a mail order pharmacy or being otherwise penalized for utilizing the services of their local community pharmacy, such as Molokai Drugs.

We kindly request that you accept the current wording of H.B. 65. Please feel free to contact me at 808-553-5790 if you have additional questions.

Sincerely,  
Kimberly Mikami Svetin  
President  
MOLOKAI DRUGS, INC.  
*Established in 1935*  
P.O. Box 558  
Kaunakakai, HI 96748  
Phone 808-553-5790

**LATE**

Rm 314

To whom it may concern

I am a former mail order pharmacist living and working here in Hawaii. I work for a local pharmacy chain Foodland. My former mail order company— Caremark/CVS. I would like to start by explaining what a local pharmacy/retail pharmacist does.

- We counsel patients on proper use of their medicines
- We build face to face relationships patient to pharmacist
- We build relationships pharmacist to doctor.
- This builds triage--patient--doctor--pharmacist
- This allows us to individualize the correct and most beneficial therapy rather than based on a formulary from an insurance company.
- We are easily accessible, our advice is free.
- We are members of our community(create jobs locally, including jobs that support our industry)
- We are immunizers--flu shots, tetanus, shingles
- We are health care screeners--blood pressure, osteoporosis, medication reviews
- We organize and are part of health fairs--women's health, falls prevention program.
- We are there for routine over-the-counter questions. "My baby has a fever", "I have a cold", "I don't understand the label on this medicine."
- **We are the last line of defense between potential medication errors--some that could be fatal!**
- We are CPR certified--"nice to have in every community" We help MD's get insurance companies to pay for medications not on formulary--also known as Prior Authorization.
- **We are the most trusted face of health care.**

**If mail order and exclusive contracts are forced on to our patients all the above is gone. Local pharmacies, even chain pharmacies cannot survive on acute (emergency) meds. All those services, all those convenient locations are lost to the community forever. Including jobs lost, wages lost, tax revenues lost.**

It has come to my attention that Longs/CVS/Caremark has forced state employees to mandatory mail order. Furthermore HMSA has made a special deal with Longs/CVS/Caremark for both its mail order and retail settings. Having worked for Longs/CVS/Caremark I am concerned about the following patient safety issues.

**Temperature control**—how long do items sit in a P.O. Box or mail room. Can mail order guarantee these temperatures follow Hawaii guidelines for storage such as controlled room temperature? On that subject how about refrigerated items such as xalatan, insulin, and other temperature sensitive meds. How long are these sitting in a mailbox, store room, etc. Do the patients have the knowledge to know not to use these if they are not stored properly? Do we depend on UPS, DHL, and the Post Office to safely monitor this?

**Diversion**---mail order typically allows the patient 21 days or more to refill meds. This includes controls. This means excess narcotics, sedatives, and amphetamines are being stockpiled in patient's homes and possibly hitting the streets. How are we identifying who is actually receiving these meds. DPS requires we check ID on all controls. Do we again depend on UPS, DHL, and the Post office to check ID's? Will Longs/CVS/Caremark send a pharmacist to each and every home to check ID? Is this not a violation of Hawaii control laws? How do we know that they are even coming from a Hawaii licensed prescriber. Last testimony on this matter a naturopathic doctor indicated that mail order was the only way to prescribe controls for his patients. This is a problem natural paths are not allowed to prescribe controls in our state.

**Accuracy**--- The average retail pharmacist verifies 150-200 prescriptions daily. Mail order pharmacists are required to check 1000's of prescriptions daily. . However mail order is not referred to as a pharmacy in industry speak. It is referred as production or production line. Their pay is based on numbers, numbers, and numbers. They are allowed so many Class I errors per 1000 prescriptions verified. A class I error is defined as **wrong drug, drug strength, patient, or directions**. Again if they verify more correctly than they mess up it is acceptable. ---**IS THIS SAFE???**

High doses are often allowed to be filled and shipped. Many with just a courtesy call to a medical receptionist to verify what was written in the chart. Other times no call at all; the pharmacist just uses "judgment". "Judgment is encouraged it

gets work/prescriptions out the door. Again not a pharmacy a production line... Do you think effexor 300mg/day does not need a call to MD? How about 600mg/day, 900mg/day? I have seen it, and yes this happens. No call to MD no contact to patient. Just judgment. **IS THIS SAFE???**

Red vs. Blue—No this is not a political statement. Caremark uses a computer program that uses several different colors for its verification process. **Pt name, drug, drug strength, directions in blue (class I errors).** All other info such as **refills, MD, date written in red (class II or III) errors.** There are Pharmacists who ignore the info in red. Why you ask? "You can't get fired for class II errors only class I errors. Again not a pharmacy a production line. It's simply Herd mentality. I have seen many of good pharmacist start out trying to do the right thing but in order to keep up with the high rates of production must join the herd in order to survive. Their pay, their job depends on their numbers. **IS THIS SAFE???**

Denying access to health care and access to choice is not good for anyone. Punishing patients with higher copays that use their local neighborhood pharmacies, and talk to their local pharmacist. With whom they have a pharmacist/patient relationship. We know their disease states, preferences, and needs this is built up over time and handwork.

This begs the question "is Hawaii becoming a one pharmacy state?" Currently 90% of the island uses HMSA. Add this to state and County and it's looking like one big CVS/Longs/Caremark production line. If CVS/Longs/Caremark is the Pharmacy benefits manager (insurance), mail order, and local pharmacy then Hawaiian's are being denied choice. If one operation has all the control is this not Socialized medicine?

**Additionally we are accessible where mail order is not. We have counseled many of CVS/Longs/Caremark's patients on proper use of their medications because they cannot reach anyone at mail order. They just sit on hold for hours being bounced around to different departments. This is a BARRIER to good health care!**

**This will probably anger you even more. Hawaii may not be the priority of mail order. You see companies like Caremark have several contracts. Many of those contracts are much bigger than this current contract. Those bigger contracts take priority over Hawaii. Sorry it's a money thing. Ask CALPERS (California teachers association). They became a back seat for customer**



**service when Caremark/CVS/Longs landed the FEP contract (Federal employees). Again not a pharmacy a production line.**

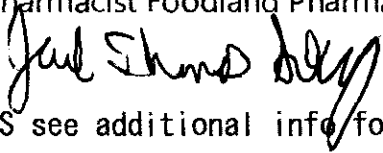
There is some precedence in reviewing and changing course. The state of New York passed S3510B/A5502 which prevents health insurances from mandating that customers purchase prescriptions from mail order pharmacies. It was the state of New York's opinion that mail order pharmacies present unreliable service, barriers to traditional health care, and the diversion of prescription drugs to the streets.

I implore you to sponsor legislation similar to that of New York bill S3510B/A5502 to stop mandatory mail order and exclusive behind the door contracts

I thank you for your time and consideration: feel free to contact me on this email or at 808-895-2201 cell phone or at work 808-885-2075

Aloha and Mahalo

Dr Jared Schmitz  
Pharmacist Foodland Pharmacy



PS see additional info for New York legislation on following page.

S3510B/A5502--bill

Nicole Malliotakis

New York State Assembly member Nicole Malliotakis 718-987-0197 or 518-455-5716 district 60  
<http://assembly.state.ny.us/mem/Nicole-Malliotakis/contact>

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also Sentator Marty Golden(R,C,I-Brooklyn)

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**LATE**

Testimony for HB65

## **I strongly support HB65**

There is a business here in Hawaii called a PBM that claims to be saving us money and at the same time providing the delicate care necessary to keep our population healthy. I say the cost is not being saved but instead redistributed into places like the Emergency rooms and the pockets of the PBM themselves.

The way a PBM works in Hawaii is to first contract with the large insurance companies (like HMSA) and establish a rate for their cost saving services (usually a bit less than they spent the year before). The way they "save" this money is by managing the formulary for medications (deciding which medications are covered and deciding which need "prior authorization" = not covered). These decisions are made by the PBM's clinical pharmacist who determines whether a medication is being used for a FDA approved indication. Unfortunately the FDA indications do not include off label uses as well the FDA has not approved MANY of the medications we use for patient care on a daily basis. (1) These CLINICAL decisions need to be regulated as such. PBM's are the only health care entity that is not regulated in our state. Doctors, Pharmacists, Hospitals, Insurance companies even Beauticians and Barbers have a professional license but not PBM's?

They also manage the reimbursement structure for pharmacy providers in Hawaii which as of this year is one of the lowest in the nation. (in many cases pharmacies are not paid enough to cover the costs of the medication) There has been many cases where PBM's have been known to report to an insurance company that they reimbursed a pharmacy far differently than they actually have creating a profit for the PBM exceeding 10 and 20 dollars per prescription. This is while pharmacies are being paid at or below their costs. As a service provider assuming the risks and responsibilities of actually caring for patients I find it appalling that these PBM's are taking huge profits without a shred of concern or responsibility for the patient.

[http://www.policychoices.org/pharmacy\\_benefit\\_managers.shtml](http://www.policychoices.org/pharmacy_benefit_managers.shtml)

The dominate PBM here CVS/Caremark owns Longs drug stores. Patient information which is protected by the HIPAA laws (<http://www.hhs.gov/ocr/privacy/>) is collected by CVS/Caremark used illegally to identify patients who use pharmacies other than Longs (CVS). These patients are called at home and made to believe that they can save money by using a Longs pharmacy. This is not only illegal but not true in many cases.

Meanwhile, Longs exorbitant wait times create such a barrier to receiving pharmacy care that many patients give up trying to get their medications and go without. This situation may create a "savings" for the PBM but causes many unnecessary readmissions to hospitals and return visits to the doctor. This kind of scenario places the public in danger.

We desperately need to have some control over this irresponsible and out of control situation. Please pass HB 65 and give patients back control over the most important part of the health care system, their treatment.

Thank you for the opportunity to testify for this important piece of legislation.

Brian Carter RPh.



1. Medications not approved by the FDA (ex. ASPIRIN, Acetaminophen, Oxycodone, Codiene, Fluoride, Digoxin, Nitroglycerine, Thyroid tablets ..... a good list is at [http://www.ijpc.com/Patient\\_Info/Unapproved\\_Drugs.pdf](http://www.ijpc.com/Patient_Info/Unapproved_Drugs.pdf)) Many of other medications are approved by the FDA but not for certian indications. Gabapentin is approved as a seizure medication but is used for diabetic neuropathy. PBM Clinical Pharmacists or Physicians decide which of these medications should be covered or not for patients.

WILLIAM FARLANDER RPh  
Hawaii Pharmacist since 1972  
WESTSIDEPHARMACY@LIVE.COM  
808 645-0491

**LATE**

Testimony for HB 65

## **I strongly support HB65**

Patients should have the right to choose which pharmacy they want to go to.

The dominate PBM here CVS/Caremark owns Longs drug stores. Patient information which is protected by the HIPAA laws (<http://www.hhs.gov/ocr/privacy/>) is collected by CVS/Caremark used illegally to identify patients who use pharmacies other than Longs (CVS). These patients are called at home and made to believe that they can save money by using a Longs pharmacy. This is not only illegal but not true in many cases.

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WILLIAM FARLANDER RPh.

[http://www.policychoices.org/pharmacy\\_benefit\\_managers.shtml](http://www.policychoices.org/pharmacy_benefit_managers.shtml)



TESTIMONY BY SANDRA YAHIRO  
ACTING ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST  
FUND, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

ON

HOUSE BILL NO. 0065, HD1

February 27, 2013, 3:30 p.m.



RELATING TO PRESCRIPTION DRUGS

Chairperson McKelvey and Members of the Committee:

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees (Board) met on February 26, 2013, and discussed House Bill 65 HD1. **The Board opposes this bill.**

HB65 HD1 proposes three things. First, prescription drug plan enrollees must have the option to opt out of any 'mandatory' mail order program. Second, a pharmacy benefit manager (PBM) may not restrict a member's choice of pharmacy from which to receive prescription medications. And, third, a PBM may not offer lower co-pays to encourage participation in a mail-order program.

We would like to point out that it is not the PBM who dictates to EUTF whether or not to offer mandatory mail order, or whether or not to restrict the plan's network (participating) pharmacies, or whether or not to offer lower co-pays to encourage mail-order. Rather these are programs that are offered by the PBM which EUTF has chosen to use as part of our prescription drug plan.

Currently, over 30,000 EUTF members use some form of channel through mail order or through visiting a CVS Longs pharmacy to pick up their long-term

(maintenance) medications at lowered co-payments. EUTF members pay \$10 for a 90-day supply of generic maintenance medications through mail order. However, if this bill passes, EUTF members would pay \$15 for the same 90-day supply. This will result in a higher cost to members.

If this bill passes and, for example, only 20% of the current 30,000+ members opt-out of mail-order, it would cost the plan approximately \$2.2 million more per year. Of the \$2.2 million, approximately \$1 million would be the increased cost to members per year.

The EUTF Board believes that employers should be allowed to design prescription drug plans that benefit both the employees and employers by implementing cost-saving measures, such as lower co-pays with mail-order.

The EUTF Board respectfully requests that this bill be held.