

To: Committee on Health  
From: Patrick Adams  
Re: HB 65 testimony

2/6/2013

In Support:

HB 65 will eliminate mandatory mail in Hawaii. Mail Order pharmacies eliminate the personal contact between patients and pharmacist. Patients benefit from contact with pharmacist for interactions with over the counter, nutritional and food interactions with medications. Mail order pharmacies do not know the over the counter and food habits of patients. These patient-pharmacist relationships keep people healthier and sometimes keep patients from going to the ER or be admitted to the hospital. There are many mail order complaints in RICO. Many of these complaints involve adulteration from shipping. Many times medications are automatically sent to patients that are no longer on a medication. Sometimes a patient is deceased. These instances should result in loss but many times these medications are sent back to mail order pharmacies. Mail Order pharmacies eliminate jobs and diverts funds to other states. It will close many pharmacies and leave our new pharmacy school graduates without job opportunities in the state.

Sincerely,

Patrick Adams



**EXPRESS SCRIPTS®**

Cynthia M. Laubacher  
Senior Director, State Affairs  
(916) 771-3328  
Cynthia\_Laubacher@express-scripts.com

February 7, 2013

To: Representative Della Au Belatti , Chair  
Members of the House Health Committee

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

Re: House Bill 65  
Hearing: February 8, 2013 8:00am

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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.

**Molokai Drugs, Inc.****Established in 1935**

P.O. Box 558

Kaunakakai, HI 96748

Phone 808-553-5790

**RE: Support of H.B. 65 (via fax 1-808-586-6281)**

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

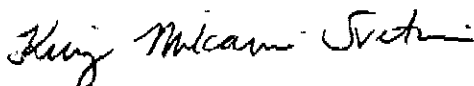
Instead of being forced to utilize an out-of-state mail order pharmacy, this bill allows our residents the freedom of choice. They can still choose mail-order if they feel that is best.

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



Representative Della Au Belatti, Chair  
Representative Dee Morikawa, Vice Chair  
House Committee on Health

Friday, February 8, 2013, 8:00am  
State Capitol; Conference Room 329

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

Chair Belatti, Vice Chair Morikawa, and Members of the Committee:

My name is Todd Inafuku, testifying on behalf of CVS Caremark Corporation (“CVS Caremark”) in opposition to HB 65, Relating to Prescription Drugs. It is 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) that determine the pharmacy benefit plan for their beneficiaries and employees.

PBMs’ plan sponsors are sophisticated purchasers of health care. Based on a plan sponsor’s Request for Proposals (RFPs), a PBM may offer the plan sponsor multiple variations of models from the more basic plan to the most comprehensive plan relying on multi-tiered co-payments, formularies developed with physicians and pharmacists, pharmacy networks, mail-service pharmacy, and other similar tools that make drugs more affordable and accessible. 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**

- 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.
- 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.<sup>1</sup>

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. For this reason CVS Caremark respectfully requests this bill be held. Thank you for the opportunity to testify on this matter.

Todd K. Inafuku  
Cell (808) 620-2288

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<sup>1</sup> “How Mail-Service Pharmacies will Save \$46.6 Billion Over the Next Decade,” Visante, February, 2012.



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

DATE: Feb 8, 2013    TIME: 8:00 AM    PLACE: CR 329

TO: COMMITTEE ON HEALTH

Representative Della Au Belatti, Chair  
Representative Daynette "Dee" Morikawa, 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.

Dear Chair Belatti, Vice Chair Morikawa and members of the committees:

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.



## HAWAII MEDICAL ASSOCIATION

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

**Friday, February 8, 2013**  
**8:00 a.m.**  
**Conference Room 329**

To: COMMITTEE ON HEALTH  
Rep. Della Au Bellati, Chair  
Rep. Dee Morikawa, Vice Chair

From: Hawaii Medical Association  
Dr. Steven 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 RELATING TO PRESCRIPTION DRUGS

Position: Support

Dear Chair Bellati and Vice Chair Morikawa and the House Committee on Health Members:

The Hawaii Medical Association is submitting testimony in support of HB 65.

Thank you for the opportunity to provide testimony in support of HB 65. The Hawaii Medical Association fully supports the intent of this bill, which will allow our patients the choice to purchase prescription medications either from a mail-order pharmacy or from a local retail pharmacy. The requirement to use only mail-order pharmacies can cause an inconvenience for a patient who needs to purchase prescription medications, and may even present a danger to the patient from inhibiting promptly obtaining urgently needed prescription medications, by requiring the person to wait for mail-order delivery.

Mahalo for the opportunity to submit testimony on this important issue.

### OFFICERS

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**SECRETARY - THOMAS KOSASA, MD** **IMMEDIATE PAST PRESIDENT - ROGER KIMURA, MD**  
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# HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 8, 2013

The Honorable Della Au Belatti, Chair  
The Honorable Dee Morikawa, Vice Chair

House Committee on Health

**Re: HB 65 – Relating to Prescription Drugs**

Dear Chair Belatti, Vice Chair Morikawa, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 65 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



To whom it may concern

I would like to start by explaining what a local pharmacy/retail pharmacist does.

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

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

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 Senator Marty Golden(R, C, I-Brooklyn)

<http://www.nysenate.gov/senator/martin-j-golden/contact>

Senator Marty Golden

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