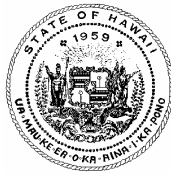


NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
DIRECTOR

LEILA A. KAGAWA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

February 4, 2013

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
AND COMMITTEE ON HEALTH

For Hearing on Wednesday, February 6, 2013
8:45 a.m., Conference Room 329

BY

BARBARA A. KRIEG
DIRECTOR

House Bill No. 891
Relating to Workers' Compensation Drugs

TO CHAIRPERSON MARK NAKASHIMA, CHAIRPERSON DELLA AU BELATTI,
AND MEMBERS OF THE COMMITTEES:

The purpose of H.B. 891 is to establish price caps for the Hawaii workers' compensation insurance system for drugs and authorize reimbursement of a dispensing fee to physicians who dispense prescription medications directly to patients.

The Department of Human Resources Development (DHRD) has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds.

DHRD strongly supports this bill.

The State of Hawaii Workers' Compensation Medical Fee Schedule (WCMFS), Section 12-15-55(c), HAR, allows pharmaceuticals to be charged to insurance carriers at up to 140% of the average wholesale price (AWP) listed in the American Druggist Red Book. The AWP is pegged to the manufacturer's national drug code (NDC). Our research indicates that this is the highest rate in the nation for either brand or generic drugs. By comparison, the states with the second highest rates on brand name drugs

are Alaska and Rhode Island at 120% of the AWP while California is the lowest at 83%. On generic drugs, Louisiana also allows a 140% rate while Alaska and Texas are at 125%, with Washington state allowing the lowest rate, at only 50% of AWP.

The attraction of Hawaii's high reimbursement rate has led to a practice where third-party companies buy drugs in bulk and repackage or compound the medications so that they can attach their own NDC codes to the drugs, with a higher AWP. These drugs are distributed to workers' compensation claimants by physicians at their offices. The repackaging companies then bill the workers' compensation insurance carriers at 140% of the AWP they have set, resulting in charges that are much higher than what would be otherwise be billed using the original NDC and AWP.

With respect to DHRD's administration of the State's self-insured workers' compensation program, we unilaterally pay to third-party companies exactly what this bill proposes. Examples of amounts that have been billed to the State by repackagers and what we paid based on 140% of the AWP using the original NDC code include:

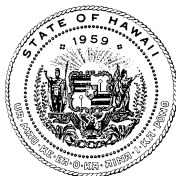
Name	Indication	Quantity	Billed	Paid
Diazepam (Valium)	Anti-anxiety	5 mg, 30 ct.	\$164.32	\$1.41
Methadone HCl	Pain relief	10 mg, 120 ct.	\$451.20	\$24.76
Tranzgel	Topical pain relief cream	50 ml, 4 tubes	\$1,110.31	\$10.07
Soma	Muscle relaxant	350 mg, 120 ct.	\$1,116.84	\$11.17

This bill would amend Section 386-21, HRS, to cap repackaged drug markups at 140% of the AWP per unit as set by the original manufacturer. Compound drugs would also be subject to the same cap, applied to their component medications. Unlike H.B. 1240, which is also before your committees today, this measure does not distinguish between brand and generic medications. In H.B. 1240, the proposed rate for repackaged generics would be 160% of the AWP, further distancing Hawaii's rate from other states.

We believe passage of this bill will have several benefits, including reducing the State's costs for medical care, services, and supplies; reducing the number of billing disputes brought before the Department of Labor and Industrial Relations, which we understand currently stands at 2,000; and removing potential financial incentives to over-prescribe medications to claimants.

We are cognizant of physicians' previously stated concerns regarding their injured worker patients' access to medications and the physicians' ability to accept workers' compensation patients due to the administrative burdens and the payment limits under the law. This bill attempts to address those concerns by not barring physician dispensing and by authorizing a fee to those who dispense medications directly to their patients.

Thank you for the opportunity to testify in strong support of this measure.



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

February 06, 2013

To: The Honorable Mark Nakashima, Chair,
The Honorable Mark Hashem, Vice Chair, and
Members of the House Committee on Labor & Public Employment

The Honorable Della Au Belatti, Chair,
The Honorable Dee Morikawa, Vice Chair, and
Members of the House Committee on Health

Date: Wednesday, February 06, 2013
Time: 8:45 A.M.
Place: Conference Room 329, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 891 Relating to Workers' Compensation Drugs

I. OVERVIEW OF PROPOSED LEGISLATION

HB 891 proposes to amend Section 386-21, Hawaii Revised Statutes, by:

- placing a price cap on prescription drugs of up to forty percent (40%) above the average wholesale price as listed in the Red Book or of a lower amount for which the carrier contracts;
- allowing a physician who dispenses prescription medication to charge a dispensing fee per prescription dispensed;
- allowing a repackaged or relabeled drug price to be calculated by multiplying the number of units dispensed by the average wholesale price set by the original manufacturer, plus no more than forty percent, and adding an unspecified percentage for repackaging premium; and
- determining reimbursements for compound medication.

The Department strongly supports this Administration measure that seeks to control rising prescription costs, provided that it does not adversely impact injured workers' access to prescription medications.

II. CURRENT LAW

Workers' Compensation Medical Fee Schedule (WCMFS) Administrative Rule, Section 12-15-55 Drugs, supplies and materials, allows for prescription drugs to be reimbursed at the average wholesale price as listed in the Red Book plus forty percent when sold by a physician, hospital, pharmacy, or provider of service other than a physician. All billings for prescriptive drugs must include the national drug code listed in Red Book followed by the average wholesale price listed at time of purchase by the provider of service.

The current statute and rules do not address dispensing fees or the reimbursement of repackaged or relabeled and compound medication.

III. COMMENTS ON THE HOUSE BILL

This measure supports the department's position of working towards insuring that Hawaii's injured workers receive continual quality medical care, services and supplies, and easy access to filling prescription medications, while insuring the providers of service who care for injured workers are fairly reimbursed.

The Department is hopeful that this bill will result in fairer reimbursement of prescription medications and lower medical costs in Hawaii's workers' compensation system, while not affecting injured workers' access to prescription medication.

This measure will clarify the reimbursement rates for repackaged drugs and compound medications, which are currently not addressed in the workers' compensation law or regulations. This may ultimately reduce the amount of billing disputes involving the correct payments for prescription drugs, repackaged drugs, and compound medications.

The department notes that the number of disputes involving repackaged drugs and compound medications has exploded and currently over 2,000 such disputes exist and must be addressed. The Disability Compensation Division, which administers the Workers' Compensation laws, has been severely impacted by recent budget decisions including a \$400,000 reduction in the current biennium.

TESTIMONY OF JANICE FUKUDA

HOUSE COMMITTEE ON LABOR AND UNEMPLOYMENT
Representative Mark M. Nakashima, Chair
Representative Mark J. Hashem, Vice Chair

HOUSE COMMITTEE ON HEALTH
Representative Della Au Belatti, Chair
Representative Dee Morikawa, Vice Chair

Wednesday, February 06, 2013
8:45 a.m.

HB 891

Chair Nakashima, Chair Au Belatti, Vice Chair Hashem, Vice Chair Morikawa and members of the Committees, my name is Janice Fukuda, Assistant Vice President, Workers' Compensation Claims at First Insurance, testifying on behalf of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **supports** this bill. Prescription drug costs have more than doubled since 2006. This bill will clarify the law and help control the rising costs of prescription drug reimbursements by allowing a lower contracted amount to be reimbursed if the carrier has so contracted. In addition, it allows a flat fee [blank amounts] to be added to each prescription dispensed to physicians separated by Oahu and neighbor islands. This will help those physicians on neighbor islands who do not have the same type of volume as Oahu and therefore may warrant a higher dispensing fee. We support a moderate dispensing fee. Thank you for the opportunity to testify.

**HOUSE COMMITTEE ON
LABOR AND PUBLIC EMPLOYMENT**

and

**HOUSE COMMITTEE ON
HEALTH**

February 6, 2013

House Bill 891 Relating to Workers' Compensation Drugs

Chair Nakashima, Chair Belatti, members of the House Committee on Labor and Public Employment, and members of the House Committee on Health, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm).

State Farm is opposed to House Bill 891 Relating to Workers' Compensation Drugs. This bill does not address concerns found in the current statute regarding the dispensing of medication by physicians. While we recognize it is beneficial for physicians to dispense medication to patients directly, especially to those located on the neighbor islands and in rural Hawaii, the current statute allows for repackaging companies to artificially inflate the cost of those medications throughout the islands, to the detriment of the policyholder. The proposed bill continues to provide the loophole found in the current law, by providing an opportunity for the repackager to add a percentage repackaging premium.

The main concern with the current statute as written is the repackagers are overstating the Average Wholesale Price (AWP) listed in the Pharmacy's Fundamental Reference Red Book. Currently there are no guidelines or regulations that govern how the AWP is established or supported by the repackagers. As such, there are no deterring factors in place to ensure the pricing is accurate and that the repackagers are forthright in their reporting of the AWP.

House Bill 891 on the surface looks to address this issue by limiting the AWP to the original manufacturer's price, and limit the mark up percentage to 40%. However, the repackaging premium and the dispensing fee is a concern. The 40% markup should cover the cost of dispensing, as all pharmacies include the dispensing of the medication as part of their cost of doing business. As for the additional repackaging premium, we see this as another way for the repackagers to inflate the cost of the medication for their own benefit, and not for the consumer.

House Bill 891, should not be passed, as it is misleading in its attempt to correct the current statute as it allows the repackager to inflate the cost of the medication by adding a repacking percentage premium. We anticipate the end result will be similar to what is occurring today with the consumer at times using a greater percentage of their benefits to pay for medications rather than actual medical treatment while allowing repackagers to increase their profits.

Thank you for the opportunity to present this testimony.



Property Casualty Insurers
Association of America

Advocacy. Leadership. Results.

To: The Honorable Mark M. Nakashima, Chair
House Committee on Labor & Public Employment

The Honorable Della Au Belatti, Chair
House Committee on Health

From: Mark Sektnan, Vice President

Re: **HB 891 – Workers’ Compensation Drugs**
PCI Position: Support (Request for Amendments)

Date: Wednesday, February 6, 2013
8:45 a.m., Conference Room 329

Aloha Chairs Nakashima and Belatti and Members of the Committees:

The Property Casualty Insurers Association of America (PCI) supports HB 891 which addresses a major issue facing workers’ compensation insurers – the abusive pricing practices of some compounders. These abusive practices also confront automobile insurers who are required to provide motor vehicle personal injury protection benefits (PIP). The negative impact in PIP is even greater since the benefits are limited.

A significant workers compensation pharmacy cost-driver has been the over-prescribing of compound drugs, which are customized mixtures of multiple drugs and other remedies intended to better meet the unique needs of the patient. While the original intent of these drug combinations is to provide better medical care to patients, they have become a “loophole” that is being exploited by a small number of physicians to generate additional revenue streams. A short overview of the process is listed below:

- Physician writes prescription for customized mixture of ingredients, not available at strengths or combinations in existing retail market
- Pharmacy prepares mixture to specifications, using bulk drugs (usually generic), packages, labels and dispenses
- May involve partnership between prescribing physician and compounding pharmacy
- Large number of compounds are topical preparations, often involving drugs for which oral formulations exist (e.g., topical tricyclic anti-depressants)
- Usually no evidence that compound medication is superior, equivalent to retail, or even effective for condition being treated
- Concentration of costs with a few pharmacies which seem to specialize in compounding.

PCI believes that reimbursement for compounded drugs should be based on the NDC codes of the original manufacturer of each active ingredient with no additional reimbursement for

ingredients with no NDC code. There should be only one dispensing fee and not a dispensing fee for each active ingredient.

Drug costs, especially repackaged and compound drugs, have been one of the biggest cost drivers in workers' compensation systems across the country. Self-insured entities (including the State of Hawaii and Hawaii's counties, as well as private businesses such as Marriott and Safeway) also pay for the costs of abusive/inflated repackaged drug pricing.

In recent testimony before the Senate Ways and Means Committee and House Finance Committee, the State Department of Budget & Finance Director Kalbert Young said that the Administration will be asking for an additional \$3.5 million for each of the next two fiscal years to cover non-discretionary cost increases for risk management and workers compensation. A substantial portion of the cost increases the state is seeing are likely to have come from artificially inflated repackaged prescription drug/compound medication costs. The recent dispute between the City & County of Honolulu and Automated HealthCare Solutions ("AHCS"), a Florida-based "billing company" through which repackaged drugs and compound meds flow, is a good example of the problems caused for taxpayers and businesses by uncontrolled repackaged drug and compound medication costs.

We are looking forward to working with the sponsor on this important bill. While we are still reviewing the provisions of the bill and may seek additional amendments, we would like to request two amendments at this time. We would request that the provision for an "additional repackaging premium" be eliminated. Studies in other states have shown this additional payment is not necessary to ensure access to drugs. Studies conducted in California after the repackaging loophole was closed in 2007, saw little change in physician dispensing.

PCI would also request the bill be amended to make it clear the bill's provisions also apply to Motor Vehicle Personal Injury Protection benefits (PIP). Billing for medication at inflated prices leads to premature exhaustion of personal injury protection monies for those injured in motor vehicle accidents, yet provides no additional benefits for the injured party. Currently the Workers' Compensation Fee Schedule clearly applies to PIP benefits. It would be preferable for the Legislature to specifically clarify its intent that this measure applies to PIP.

By regulating markups of "re-packaged" prescription drugs and "compound medications" (practices that were also abused until regulated in states such as California, Arizona, and Mississippi), HB 891 will help to contain unreasonable prescription drug costs in Hawaii's workers' compensation insurance system as "re-packagers" expand into states – including Hawaii - where costs of "re-packaged" drugs and "compound medications" are not regulated.

PCI requests your consideration of these amendments and your 'Aye' vote on HB 891.



- Government Employees Insurance Company
- GEICO General Insurance Company
- GEICO Indemnity Company
- GEICO Casualty Company

TIMOTHY M. DAYTON, CPCU, GENERAL MANAGER

711 Kapiolani Blvd., Suite 300 ■ Honolulu, HI 96813-5238

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■ Cell: (808) 341-9252

House Committee on Labor & Public Employment
House Committee on Health
Conference Room 329 State Capitol
Wednesday, February 6, 2013, 8:45 a.m.
HB 891 – Relating to Workers Compensation Drugs

Chair Nakashima, Chair Au Belatti and Members of the Committees:

My name is Tim Dayton and I am General Manager for GEICO, Hawaii's largest insurer of motor vehicles. **GEICO supports HB891.** Although Bill 891 specifically references Workers Compensation Insurance, Motor Vehicle Insurance also uses the WC Fee Schedule to limit the amount billed under Personal Injury Protection benefits. Passage of legislation to address abuse of the work comp system by capping the prices of prescription drugs would seem to address the abuses in motor vehicle insurance but GEICO respectfully requests that the Legislature clarify its intent related to motor vehicle insurance.

Attached is one typical example of what can happen absent pricing caps. My example includes repackaging with the same drugs/dosage, different NBC code and a stick on label attached to the box. It's hard for me to understand the value (and cost) added. Thank you for the opportunity to submit this testimony.

Timothy M. Dayton, CPCU

The evolution of Speed Gel pricing

- Manufacturer announces product 12/09. **OTC** Homeopathic gel available @ **\$19.95** for **50 ml.**
see *below*
- Original manufacturer **Rx** pricing submitted to Redbook = **\$184.97** for **30 ml.** [N35781-0210-2]
10/11 *Page 3*
- Repackager pricing submitted to Redbook = **\$297.15** for **30 ml.** [box label 50436–9072-2]
6/12 *Page 4*
- Actual bill for = **\$832.60** for **60 ml.** {\$297.15 x 140% x 2tubes 30 ml.} 9/12 *Last page*

Note: The only active ingredient found in the Rx version that is not in the OTC version is Colchicinum.
This is one of several anti-inflammatory ingredients.

Speed Gel Hits the Market

Anti-Inflammatory Pain Relief Gel Aides Consumers

December 04, 2009 12:37 PM Eastern Daylight Time

INVERNESS, Fla.--(EON: [Enhanced Online News](#))--Gensco Laboratories, LLC today announced the availability of its new over-the-counter [pain relief gel](#), Speed Gel, to the public market. Speed Gel, the non-prescription version of TranzGel, is now available to consumers for the treatment of [muscle and joint pain](#), injuries and inflammation. Through its transdermal delivery system, Speed Gel delivers treatment deep into muscles and tissue to reduce pain and inflammation at the site of the injury.

"Speed Gel is a new topical treatment which will allow [anti-inflammatory](#) relief of your aches and pains," said Scott Snyder, co-founder of Gensco Laboratories, LLC. "We are proud to announce Speed Gel's availability to the public so that everyone can take advantage of its unique benefits."

Speed Gel can be purchased at www.speedgel.com. Speed Gel is being sold for \$19.95 per one 50 ml bottle. Shipping is free until January 2010. Customer [testimonials and reviews](#) are available on the e-commerce website as well.

"Speed Gel is a new topical treatment which will allow anti-inflammatory relief of your aches and pains"

Speed Gel is already taking the sports medicine world by storm because of its transdermal delivery system. Because Speed Gel provides treatment and relief through the skin utilizing its anti-inflammatory all-natural ingredients, the side effects caused by other oral pain relievers are avoided. Speed Gel is topical, treatment is localized and much more immediate than other anti-inflammatory products on the market.

Gensco Laboratories, LLC is a specialty pharmaceutical drug development company based out of Inverness, Florida. For more information, go to www.speedgel.com.

Contacts

for Gensco Laboratories
Georgia Godfrey, 202-957-4337
ggodfrey@yourifteam.com

RED BOOK Online® Product Details

Product Information

Product Name:	SPEEDGEL RX	Code:	NDC
Active Ingredient(s):	homeopathic GENSCO	Identifier:	35781- 0210-02
Manufacturer/Distributor:	LABORATORIES, INC.	Unit Dose:	N
Form:	GEL/JELLY	Single Source:	Y
Strength:	3 x-3 x-1 x-3 x-3 x-1 x-1 x-1 x-1 x-1 x-1 x-1 x-1 x-1 x	Repackager:	N
Size:	30 ml	Generic:	N
Route of Admin:	TOPICAL APPLICATION	Add'l	
Orange Book Code:	--	Description:	--
DEA Class:	RX		

Current Pricing Information:				AWP Unit Pricing History:			J-
	Package	Unit	Effective Date	Effective Date	Unit	% Change	Codes:
AWP	184.97	6.16567	10/01/2011	10/01/2011	6.16567	0.0	--
WAC	--	--	--	--	--	--	--
DIR	--	--	--	--	--	--	--
FUL	--	--	--	--	--	--	--
SRP	--	--	--	--	--	--	--

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RED BOOK Online® Product Details

Product Information

Product Name:	SPEEDGEL RX	Code:	NDC
Active Ingredient(s):	homeopathic	Identifier:	50436-9072- 01
Manufacturer/Distributor:	UNIT DOSE SERVICES, LLC	Unit Dose:	N
Form:	GEL/JELLY	Single Source:	Y
Strength:	3 x-3 x-1 x-3 x-3 x-1 x-1 x-1 x-1 x-1 x-1 x-1 x-1 x-1 x	Repackager:	Y
Size:	30 ml	Generic:	N
Route of Admin:	TOPICAL APPLICATION	Add'l Description:	(1X30ML)
Orange Book Code:	--		
DEA Class:	RX		

Current Pricing Information:				AWP Unit Pricing History:			J- Codes:
	Package	Unit	Effective Date	Effective Date	Unit	% Change	
AWP	297.15	9.90500	06/01/2012	06/01/2012	9.90500	2.7	--
WAC	--	--	--	10/12/2011	9.64333	0.0	--
DIR	--	--	--	--	--	--	--
FUL	--	--	--	--	--	--	--
SRP	--	--	--	--	--	--	--

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1500

GEICO
PO BOX 509119

7

HEALTH INSURANCE CLAIM FORM

SAN DIEGO, CA 92150

APPROVED BY NATIONAL UNIFORM CLAIM COMMITTEE 08/05

PICA										PICA		
1. MEDICARE MEDICAID TRICARE CHAMPVA GROUP FECA OTHER										1a. INSURED'S I.D. NUMBER		
1. MEDICARE (Medicare #) MEDICAID (Medicaid #) TRICARE CHAMPVA (Sponsor's SSN) CHAMPVA (Member ID#) GROUP HEALTH PLAN (SSN or ID) FECA (SSN) OTHER (ID)										1a. INSURED'S I.D. NUMBER		
2. PATIENT'S NAME (Last Name, First Name, Middle Initial)					3. PATIENT'S BIRTH DATE			SEX		1a. INSURED'S I.D. NUMBER		
[REDACTED]					[REDACTED]			F <input checked="" type="checkbox"/>		[REDACTED]		
5. PATIENT'S ADDRESS (No., Street)					6. PATIENT RELATIONSHIP TO INSURED			7. INSURED'S ADDRESS (No., Street)				
[REDACTED]					Self <input checked="" type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Other <input type="checkbox"/>			[REDACTED]				
STATE					8. PATIENT STATUS			CITY				
HI					Single <input type="checkbox"/> Married <input type="checkbox"/> Other <input checked="" type="checkbox"/>			STATE				
ZIP CODE		TELEPHONE (Include Area Code)			Employed <input checked="" type="checkbox"/> Full-Time Student <input type="checkbox"/> Part-Time Student <input type="checkbox"/>			ZIP CODE		TELEPHONE (Include Area Code)		
96797		(808) [REDACTED]										
9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)					10. IS PATIENT'S CONDITION RELATED TO:			11. INSURED'S POLICY GROUP OR FECA NUMBER				
a. OTHER INSURED'S POLICY OR GROUP NUMBER					a. EMPLOYMENT? (Current or Previous)			a. INSURED'S DATE OF BIRTH				
[REDACTED]					<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			MM DD YY M <input type="checkbox"/> F <input type="checkbox"/>				
b. OTHER INSURED'S DATE OF BIRTH					b. AUTO ACCIDENT?			b. EMPLOYER'S NAME OR SCHOOL NAME				
MM DD YY M <input type="checkbox"/> F <input type="checkbox"/>					<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO HI			[REDACTED]				
c. EMPLOYER'S NAME OR SCHOOL NAME					c. OTHER ACCIDENT?			c. INSURANCE PLAN NAME OR PROGRAM NAME				
[REDACTED]					<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			[REDACTED]				
d. INSURANCE PLAN NAME OR PROGRAM NAME					10d. RESERVED FOR LOCAL USE			d. IS THERE ANOTHER HEALTH BENEFIT PLAN?				
[REDACTED]								<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If yes, return to and complete item 9 a-d.				
12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE. I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below.										13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below.		
SIGNATURE ON FILE										SIGNATURE ON FILE		
14. DATE OF CURRENT: ILLNESS (First symptom) OR INJURY (Accident) OR PREGNANCY (LMP)										15. IF PATIENT HAS HAD SAME OR SIMILAR ILLNESS. GIVE FIRST DATE		
2 MM 17 2012										MM DD YY		
17. NAME OF REFERRING PROVIDER OR OTHER SOURCE					17a. [REDACTED]			18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES				
[REDACTED]					17b. NPI [REDACTED]			FROM MM DD YY TO MM DD YY				
19. RESERVED FOR LOCAL USE					20. OUTSIDE LAB?			20. AMOUNT PAID				
The electronic signature below constitutes certification that the charges submitted are in accordance with Hawaii Revised Statutes Chapter 431:10C and Hawaii Administrative Rules Chapter 16-23.					<input type="checkbox"/> YES <input type="checkbox"/> NO			\$ CHARGES				
21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY (Relate Items 1, 2, 3 or 4 to Item 24E by Line)					22. MEDICAID RESUBMISSION CODE			23. PRIOR AUTHORIZATION NUMBER				
1. 847 0					[REDACTED]			[REDACTED]				
2. [REDACTED]					[REDACTED]			[REDACTED]				
24. A. DATE(S) OF SERVICE					B. PLACE OF SERVICE			C. EMG			D. PROCEDURES, SERVICES, OR SUPPLIES (Explain Unusual Circumstances)	
From MM DD YY To MM DD YY					SERVICE			CPT/ICPCS			MODIFIER	
9 29 12 9 29 12 11					J8499			50436907201 (\$297.15)			E. DIAGNOSIS POINTER	
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25. FEDERAL TAX ID. NUMBER					26. PATIENT'S ACCOUNT NO.			27. ACCEPT ASSIGNMENT? (For govt. claims, see back)			28. TOTAL CHARGE	
[REDACTED]					[REDACTED]			<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			\$832	
31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the above is a true and correct copy of the original on the reverse side of this form.)					32. SERVICE FACILITY LOCATION INFORMATION			29. AMOUNT PAID			30. BALANCE DUE	
[REDACTED]					[REDACTED]			00			00 832 02	
SIGNED					a.			b.			33. BILLING PROVIDER INFO & PH #	
9/29/2012					[REDACTED]			[REDACTED]			(888) 788-4771	
DATE					a.			b.			[REDACTED]	
								1205973047			MD-10608	

DENNIS W. S. CHANG

Attorney at Law, LLLC

WORKER'S RIGHTS - LABOR LAW
WORKER'S COMPENSATION
SOCIAL SECURITY DISABILITY
LABOR UNION REPRESENTATION
EMPLOYEES RETIREMENT SYSTEM
BODILY INJURIES

HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

February 5, 2013

VIA ELECTRONIC MAIL

TO: Rep. Mark M. Nakashima, Chair
Rep. Mark J. Hashem, Vice Chair
and Members of the Committee on Labor & Public Employment

Rep. Della Au Belatti, Chair
Rep. Dee Morikawa, Vice Chair
and Members of the Committee on Health

DATE: Wednesday, February 6, 2013
TIME: 8:45 a.m.
PLACE: Conference Room 329, State Capitol
415 South Beretania Street

FROM: Dennis W. S. Chang
Labor and Workers' Compensation Attorney

**Re: HB 891 & HB1240 Relating to Workers' Compensation Drugs
Strong Support**

The time is ripe for the Legislature to address and reduce what many have proven to be a cost driver that only benefits a select few in the workers' compensation (WC) process. In the overall scheme, the benefit is substantial for them but is hidden as a major cost driver because only limited medical providers utilize repackaging or relabeling of medications, which include large amounts of opioids that should have little or no place in the WC process except for the most devastating injuries. Why should injured workers be taking as much as 80 mg of morphine sulfate twice a day and six (6) oxycodones (generic name for Percocet) daily as well as other medications for chronic low back pain or shoulder injuries?

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Colleagues and professionals on both sides believe that some action is undeniably required to curb what has been coined as "legalized drug abuse" as a matter of public policy. Some, a very small amount, of injured workers clearly require such repackaged medications, but not for as prolonged treatment modalities, whether the injured workers are taking all of their medications which are regularly dispensed by their physicians in their offices as repackaged medications and become dependent on them. Or, they are, unfortunately, using this system to sell the medications on the streets to supplement their meager temporary total disability benefits (TTD) or what we lawyers in the WC field call wage replacement benefits.

For the foregoing reasons, I **fully and strongly support** the underlying intent of both repackaging bills. However our Legislature should be mindful that the two bills relating to repackaging are not identical. There are some minor substantive changes. Most important, to be fair, **HB 152** increasing the charges for medical providers across the board from 110% to 130%, which still falls short in correcting the inequities for most of the remaining group of medical providers in the WC process. It is more fair and more logical to serve as an incentive to retain medical providers and provide access to quality medical care for injured workers because HB 152 benefits all medical providers equally while the repackaging bills only benefit a select few. Catering to a select few in repackaging is absolutely wrong.

The question comes down to a simple one. Why do we allow a select few to make outrageous amounts of monies as pointed out in the administration's bill through repackaging or relabeling medications by dispensing them from their offices, at profits of 100% at a time? In one situation, there is a reference to profit margins of more than 1000% when compared to having the medications dispensed from your local pharmacy.

Repackaging is a scheme created for profit only. We also have another public policy consideration. Just as important, pharmacists, we can presume, are much more knowledgeable in the interaction of medications than doctors who are dispensing medications from their offices while other similarly dedicated medical providers continue with grave difficulty keeping their businesses going in serving injured workers. They remain in the WC process, carry out their Hippocratic oath and love what they practice despite the onerous administrative burdens and nonsense that they are required to face in the WC process. Session after session, they hope the legislature would provide relief in the form of a bill like HB 152. I would encourage you to review a few of the testimonies of individual doctors and other medical providers stressing the hardship they must confront in previous legislative sessions. I have also attached my previous testimony which was submitted on House Bill 152 for you to grasp the gravity of their situation. Understandably, a few doctors have adopted systems like repackaging even though they must be contained.

There is no doubt that repackaging or relabeling of medications does play a cogent role, in particular, for injured workers who initially visit their physicians immediately following an accident. As to what is a "fair amount," I submit that this

should have been left to the stakeholders in this complicated fight, the small group of physicians who rely on repackaging as an adjunct to supplement their income and the self-insured employers and insurance carriers, to hammer out what is a fair charge under these two bills. Since they have been unable to reach a resolution, you must act and make the determination on the fair amount to be charged for repackaging.

A common sense approach is required in addressing this provocative development that is increasing in our great State and, in fact, has already been published on the internet nationwide for others to see what we will be doing to address this highly profitable loophole.

DWSC:ty

Attachment: Testimony re HB 152

DENNIS W. S. CHANG
Attorney at Law, LLLC

WORKER'S RIGHTS - LABOR LAW
WORKER'S COMPENSATION
SOCIAL SECURITY DISABILITY
LABOR UNION REPRESENTATION
EMPLOYEES RETIREMENT SYSTEM
BODILY INJURIES

HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

January 28, 2013

VIA ELECTRONIC MAIL

TO: Honorable Mark M. Nakashima, Chair
Honorable Mark J. Hashem, Vice Chair
Members of House Committee on Labor & Public Employment

DATE: January 29, 2013
TIME: 9:00 a.m.
PLACE: Conference Room 309, State Capitol

FROM: Dennis W. S. Chang
Labor and Workers' Compensation Attorney

**Re: HB 152 Relating to Workers' Compensation
(Support for Passage of HB 152)**

The Legislature Should Correct the Crisis

Throughout the early years of my professional career there was an ongoing dialogue over whether medical providers were the "drivers" in the cost of doing business in the workers' compensation process. By the passage of Act 234, which became effective June 29, 1995, in one sweeping stroke, the Legislature amended Section 386-21 and reduced charges for vital medical services by 54% of previously authorized routine charges. Medical charges were capped at not more than 110% of the Medicare Resource Based Relative Value Scale system.

No credence was given to the concern that many medical providers would be unable to maintain their businesses to treat injured workers. Some involuntarily but drastically reduced the number of injured workers in their practices. Others were forced to stop treating injured workers altogether. The passage of Act 234 as the genesis of the lack of access to critical quality medical care for injured workers is undeniable. Emboldened, the administrative process was used to aggravate the crisis by imposing stringent rules on both medical providers and injured workers. Medical providers were

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also required to spend a disproportionate amount of their time completing undue administrative paperwork and bureaucratic delay before they could treat injured workers unlike patients without work injuries.

Today, medical providers are required to submit detailed treatment plans, send onerous medical reports and provide regular justification for disability. They are required to wait for approval before starting or resuming vital medical care. No compensation are allowed for all time spent performing these burdensome administrative tasks, which do not apply to non work related patients. Instead, they could be used as disincentives to the delivery of quality medical care to injured workers and to deny billings for such medical care. Moreover, they must be redone and resubmitted at the behest of employers and insurance carriers or their representatives. Time and time again these administrative burdens result in lost and billable charges. To comply, medical providers must carefully study and master the requirements contained in the Medical Fee Schedule.

As one physician recently informed me, it is absurd that his treatment plan was one day off for the proposed period of treatment and his plan was the denied. Under the Medical Fee Schedule a treatment plan is allowed for a period of 120 days. Unfortunately, he submitted a treatment plan for four months. This resulted in plan covering a period of treatment for 121 days. The treatment plan was denied for precisely this reason even though there was clear substantial compliance. He was forced to resubmit a treatment plan containing a period of treatment for exactly only 120 days. Worse, by starting treatment, the insurance carrier could also deny his charges for *bona fide* medical care because his medical care, however essential, occurred under a treatment plan which was not approved.

Similarly, charges of medical providers are routinely disputed. To collect, they are required to file a request for a fee dispute with the Department of Labor and Industrial Relations ("Department"). Then, they must attempt to negotiate an informal resolution. Failure to engage in negotiations could result in getting fined. During negotiations they are unlikely to be paid their full allowable charges. If negotiations fail, they must attend a hearing to address their disputed charges. Most medical providers must, as a practical matter, accept whatever is negotiated because proceeding to a hearing inevitably means more lost time than the charges for the delivery of true critical medical care.

These and other onerous administrative burdens imposed upon medical providers and associated delay in the workers' compensation process prevent injured workers from accessing quality medical care. When faced with the dilemma having to wait for approval or providing essential medical care, they oftentimes follow the Hippocratic oath. Later, they confront a myriad of insurmountable administrative burdens resulting in the loss of valuable time.

We need a game changer beginning with the passage of HB 152 by allowing a nominal increase in compensating current dedicated medical providers. At the

minimum, it will encourage their small group to continue in the workers' compensation process. Hopefully, others may decide to participate in our dysfunctional workers' compensation system. Without doubt, passage of HB 152 would also allow injured workers better access to quality medical care. A member of the committee merely needs to pick up the telephone book and to call a few medical providers to verify that most of them refuse to treat injured workers.

I respectfully submit that members of the legislature should fully endorse the passage of HB 152. There is ample justification. Consider the arbitrary slashing of 54% of routine charges by the passage of Act 234 in 1995. Consider the fact that approximately 67% of premiums were reduced in recent years as confirmed by the Director in his testimony during the 2012 Legislative session based on data assembled by his Department. Consider the fact that the Medicare based system has failed to keep pace with medical costs.

As I previously testified last session, there is the total disconnect in the current workers' compensation system. Medical providers and injured workers should not be shouldering the costs of doing business as eloquently articulated in a long line of unwavering cases issued by the Hawai'i Supreme Court. Consistent with the underlying humanitarian purpose of the workers' compensation statute, the Court stated that the "costs of doing business" are unequivocally and rightfully imposed on employers in our great State.

Passage of HB 152 will not cure the woes of the remaining current medical providers and inequitable nightmares of injured workers who are in dire need of accessing quality medical care. Increasing charges a nominal amount from 110% to 130% is most proper, necessary and a small step in the right direction. I wholeheartedly respectfully request that all of you fully endorse the passage of HB 152 without any reservations.

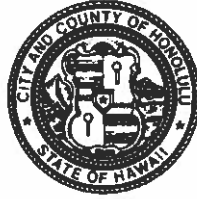
DWSC:ty

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

LATE TESTIMONY

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KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR DESIGNATE

NOEL T. ONO
ASSISTANT DIRECTOR

February 6, 2013

The Honorable Mark Nakashima, Chair
and Members of the Committee on Labor and Public Employment
The Honorable Della Au Belatti, Chair
and Members of the Committee on Health
The House of Representatives
Hawaii State Capitol
415 South King St.
Honolulu, Hawaii 96813

Dear Chair Nakashima, Chair Au Belatti and Members of the Committees:

Subject: House Bill No. 1240 Relating to Medications

The City and County of Honolulu supports the intent of House Bill No. 1240, which amends Section 386-21, Hawaii Revised Statutes (HRS), by restricting markups of repackaged prescription drugs and compound medications to what is currently authorized for retail pharmacies under State law. However, the City prefers House Bill No. 891 over House Bill 1240 for the reasons given below.

The City has testified in support of House Bill No. 891 which allows pharmaceuticals to be charged to insurance carriers at up to average wholesale price (AWP) as listed in the American Druggist Red Book plus 40%. Hawaii's AWP plus 40% rate is currently the highest in the nation and its closest comparison is Alaska at AWP plus 20%.

While House Bill No. 1240 would impose a similar AWP plus 40% cap on repackaged or compounded brand name medications, it also proposes AWP plus 60% rate for generic medication. This higher rate for generic medications would only widen the gap that exists between Hawaii and other states.

We urge your committee to hold House Bill No. 1240 in favor of House Bill No. 891. Thank you for the opportunity to present testimony.

Sincerely,

A handwritten signature in black ink that reads "Carolee C. Kubo". The signature is written in a cursive, flowing style.

Carolee C. Kubo
Director Designate

**Testimony to the House Committees on Labor and Public Employment and
Health**

**Wednesday, February 6, 2013 at 8:45 A.M.
Conference Room 329, State Capitol**

**RE: HOUSE BILL 891 RELATING TO WORKERS' COMPENSATION
DRUGS**

Chairs Nakashima and Belatti, Vice Chairs Hashem and Morikawa, and Members of the Committees:

The Chamber of Commerce of Hawaii ("The Chamber") **supports** HB 891 Relating to Workers' Compensation Drugs.

The Chamber is the largest business organization in Hawaii, representing over 1000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

This measure establishes price caps for the Hawaii workers' compensation insurance system for drugs. Due to the reimbursement rate for pharmaceuticals of up to forty percent (40%) above the average wholesale price, as listed in the American Druggist Red Book, Hawaii is among the highest in the nation. As a result of the forty percent reimbursement rate and the repackaging and compounding of drugs, workers' compensation employers and insurance carriers have seen exorbitant billings for repackaged or compounded medications that use a different national drug code than that listed in the American Druggist Red Book. Testimony submitted by the Hawaii Insurers Council in the 2011 legislative session detailed prescription drug markups of thirteen percent (13%) , to five hundred fifty-eight percent (558%), and up to one thousand six hundred twenty-seven percent (1,627%) over the average wholesale price after the drugs were repackaged, re-labeled, and distributed by physicians.

We urge you to pass this measure.

Thank you for the opportunity to testify.

WIMAH

LATE TESTIMONY

WORK INJURY MEDICAL ASSOCIATION OF HAWAII
91-2135 FORT WEAVER ROAD SUITE #170
EWA BEACH, HAWAII 96706

MAULI OLA
THE POWER OF HEALING

FEBRUARY 5, 2013

COMMITTEE ON LABOR AND PUBLIC EMPLOYEMENT
AND
COMMITTEE ON HEALTH

HOUSE BILL 891 RELATING TO WORKERS' COMPENSATION DRUGS

ESTABLISHES PRICE CAPS FOR THE HAWAII WORKERS' COMPENSATION INSURANCE SYSTEM FOR DRUGS. AUTHORIZES REIMBURSEMENT OF A DISPENSING FEE TO PHYSICIANS WHO DISPENSE PRESCRIPTION MEDICATIONS DIRECTLY TO PATIENTS.

WORK INJURY MEDICAL ASSOCIATION OF HAWAII SUPPORTS THE INTENT OF THIS BILL, AT THE SAME TIME WE HAVE CONCERNS ABOUT THE LANGUAGE OF REIMBURSEMENT FOR REPACKAGED MEDICATION. WE BELIEVE THIS PORTION IS VAGUE AND NOT WELL THOUGHT OUT. WE BELIEVE THE BILL AS WRITTEN WILL CAUSE MORE DISPUTES ON BILLING.

GEORGE M. WAIALEALE
EXECUTIVE DIRECTOR
WORK INJURY MEDICAL ASSOCIATION OF HAWAII