

STAND. COM. REP. NO.

844

Honolulu, Hawaii

March, 2013

RE: H.B. No. 62

H.D. 2

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 62, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PHARMACY BENEFITS MANAGERS,"

begs leave to report as follows:

The purpose of this measure is to prohibit pharmacy benefit management companies from acting in a manner that would restrict a patient's choice of pharmacies from which to receive prescription drug benefits.

The Hawaii Food Industry Association, Hawaii Community Pharmacists Association, Hoola Lahui Hawaii, and an individual provided testimony in support of this measure. Walgreen Co. provided testimony in support of the intent of this measure. CVS Caremark Corporation, Hawaii Medical Service Association, Express Scripts, and Ohana Health Plan provided testimony in opposition to this measure. The Department of Commerce and Consumer Affairs, Office of Consumer Protection provided comments on this measure.

Your Committee has amended this measure by changing its effective date to July 1, 2012, for the purpose of facilitating further discussion.

HB62 HD2 HSCR CPC HMS 2013-2470



Your Committee notes that there are concerns from the Department of Commerce and Consumer Affairs that:

- (1) Dissemination of protected health information without the consent of the patient may already be subject to the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- (2) Federal law may preempt state regulation of employee benefit plans and practices under the Employee Retirement Income Security Act of 1974 (ERISA); and
- (3) Further studies may be necessary to determine whether the practices are already prohibited by HIPAA and ERISA.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 62, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 62, H.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Consumer  
Protection & Commerce,



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ANGUS L.K. MCKELVEY, Chair



