

Honolulu, Hawaii

APR 25 2014

RE: S.B. No. 2365
S.D. 2
H.D. 2
C.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2365, S.D. 2, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE CLAIMS,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to:

- (1) Establish the requirements for the furnishing of all prescription drugs to an employee who sustains a work injury;
- (2) Establish a reimbursement ceiling that does not exceed one hundred forty percent of the average wholesale price set by the original manufacturer of the dispensed prescription drug as identified by its National Drug Code and published in the Red Book: Pharmacy's Fundamental Reference as of



the date of dispensing for all prescription drugs, including repackaged and relabeled drugs;

- (3) Require that any prescription drug that is not available at a major retail pharmacy within the State is not reimbursable;
- (4) Establish a reimbursement ceiling for compounded prescription drugs that does not exceed one hundred forty percent of the average wholesale price by gram weight of each underlying prescription drug, set by the original manufacturer of the underlying prescription drug as identified by its National Drug Code and published in the Red Book: Pharmacy's Fundamental Reference as of the date of compounding;
- (5) Require that all pharmaceutical claims submitted for repacked, relabeled, or compounded prescription drugs include the National Drug Code of the original manufacturer;
- (6) Establish a reimbursement ceiling that does not exceed one hundred forty percent of the average wholesale price set by the original manufacturer's National Drug Code number as listed in the Red Book: Pharmacy's Fundamental Reference of the prescription drug that is most closely related to the underlying drug product if the original manufacturer of an underlying drug product used in the repackaged, relabeled, or compounded prescription drugs is not provided or is unknown;
- (7) Require equivalent generic drug products to be substituted for brand name pharmaceuticals unless the prescribing physician certifies that a brand name pharmaceutical is necessary;
- (8) Add a definition of "equivalent generic drug product"; and
- (9) Clarify that the fees for injuries covered by personal injury protection benefits under section 431:10C-308.5, Hawaii Revised Statutes, shall not exceed the charges permissible under section 386-21, Hawaii Revised Statutes, or the new section in chapter 386, Hawaii Revised Statutes

Your Committee on Conference finds that Hawaii's existing reimbursement rates for pharmaceuticals in workers' compensation



claims are among the highest in the nation for brand and generic products. Existing administrative rules allow pharmaceuticals to be charged to insurance carriers at up to one hundred forty percent of the average wholesale price listed in the Red Book: Pharmacy's Fundamental Reference. However, existing statute and administrative rules do not address the reimbursement of repackaged, relabeled, or compound medications. As a result, third-party companies are able to buy prescription drugs in bulk; repackage, relabel, or compound the medications; and attach their own National Drug Code to the repackaged, relabeled, or compound medications with average wholesale prices that are higher than the average wholesale prices of the original manufacturers. Insurance carriers are then billed at one hundred forty percent of the higher average wholesale price, which results in higher charges. This measure clarifies reimbursement rates for repackaged, relabeled, and compounded medications and thereby assists the Department of Labor and Industrial Relations in reducing billing disputes involving the correct payments for prescription repackaged, relabeled, and compounded medications.

Your Committee on Conference has amended this measure by:

- (1) Clarifying in the purpose section that this measure does not restrict and is not intended to restrict the ability of any health provider other than a physician to dispense, bill for, and receive payment for prescription drugs that are reasonably needed as the nature of the injury requires;
- (2) Setting the reimbursement price for all forms of prescription drugs, including repackaged, relabeled, and compounded drugs, at exactly, rather than up to, one hundred forty percent of the average wholesale price set by the original manufacturer of the dispensed prescription drug;
- (3) Allowing the reimbursement price for repackaged, relabeled, and compound prescription drugs to be a lower amount if the employer or carrier, or any entity acting on behalf of the employer or carrier, directly contracts with the provider or the provider's assignee for the lower amount;
- (4) Deleting the language that would have prohibited reimbursement for any prescription drug not available at a major retail pharmacy;



- (5) Changing the effective date from July 1, 2050, to July 1, 2014; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2365, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2365, S.D. 2, H.D. 2, C.D. 1.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE



MARK M. NAKASHIMA, Co-Chair



CLAYTON HEE, Chair



ANGUS L.K. MCKELVEY, Co-Chair



ROSALYN H. BAKER, Co-Chair



KYLE T. YAMASHITA, Co-Chair



Hawaii State Legislature

CCR 106-14

Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: SB 2365, SD 2, HD 2	Date/Time: 4/25/14 4:25 pm
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The recommendation of the House and Senate managers is to pass with amendments (CD).

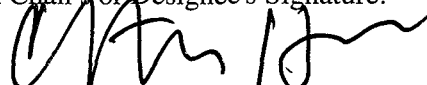
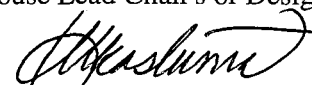
The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
HEE, Clayton, Chr.	/	/			NAKASHIMA, Mark M., Co-Chr.	/	/		
BAKER, Rosalyn H., Co-Chr.	/	/			MCKELVEY, Angus L.K., Co-Chr.	/	/		
SLOM, Sam				/	YAMASHITA, Kyle T., Co-Chr.	/	/		
					CREAGAN, Richard	/	/		
					JOHANSON, Aaron Ling	/	/		
TOTAL	2	9	1	1	TOTAL	5			

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature: 
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