

STAND. COM. REP. NO. **2577**

Honolulu, Hawaii

FEB 28 2014

RE: S.B. No. 2365
S.D. 2

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

Madam:

Your Committee on Commerce and Consumer Protection, to which
was referred S.B. No. 2365, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to limit the
reimbursement payments of prescription medications, including
re-labeled or repackaged prescription medications, in workers'
compensation claims.

Your Committee received testimony in support of this measure
from the Department of Labor and Industrial Relations; Department
of Human Resources Development; City and County of Honolulu,
Department of Human Resources; The Chamber of Commerce of Hawaii;
Hawaii Medical Association; Hawaii Insurers Council; Hawaiian
Electric Company, Inc.; and Property Casualty Insurers Association
of America. Your Committee received comments on this measure from
Automated HealthCare Solutions and Work Injury Medical Association
of Hawaii.

Your Committee 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; repackaged, 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.

Your Committee further finds that this measure clarifies reimbursement rates for repackaged, relabeled, and compounded medications. Until recently, the Department of Labor and Industrial Relations was handling over two thousand billing disputes involving the correct payments for prescription repackaged, relabeled, and compounded medications. Clarifying these reimbursement rates will assist the Department in reducing the amount of these billing disputes.

Your Committee has amended this measure by moving the provisions limiting reimbursement payments of prescription medication from section 386-21, Hawaii Revised Statutes, to a new section in chapter 386, Hawaii Revised Statutes, and further amending this measure by:

- (1) Setting the payment for all forms of prescription drugs and compounded medications and the reimbursement for all pharmaceutical claims for repackaged or relabeled drugs or compound medications at an unspecified percentage of the average wholesale price, rather than at one hundred forty percent of the average wholesale price;
- (2) Specifying that payment for a prescription drug that is not available at a retail pharmacy within the State shall not be reimbursable;
- (3) Removing language that stated the Director of Labor and Industrial Relations may limit reimbursement of a specific prescription drug not available at a major retail pharmacy and deleting a definition of "major retail pharmacy";
- (4) Removing language that stated reimbursement for over the counter medications dispensed by a licensed practitioner shall be one hundred twenty percent of the average

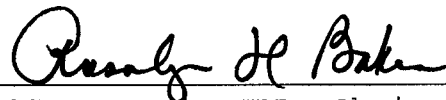


wholesale price set by the original manufacturer of the dispensed prescription drug;

- (5) Adding a definition of "equivalent generic drug product";
- (6) Inserting language to 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;
- (7) Updating the purpose section for clarity;
- (9) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (9) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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

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



ROSALYN H. BAKER, Chair



