

Honolulu, Hawaii

MAR 22 2017

RE: H.B. No. 1181
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred H.B. No. 1181, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION
PRESCRIPTION DRUG REIMBURSEMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Restrict the provision of physician-dispensed prescription drugs to an unspecified period of time following injury; and
- (2) Decrease the reimbursement rate for prescription drugs in the workers' compensation system based on an unspecified percentage of the average wholesale price.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations; City and County of Honolulu, Department of Human Resources; Hawaii Insurers Council; Property Casualty Insurers Association of America; Chamber of Commerce Hawaii; National Association of Mutual Insurance Companies; and Solera Integrated Medical Solutions. Your Committee received testimony in opposition to this measure from Automated HealthCare Solutions, Work Injury Medical Association of Hawaii, three individuals, and a petition signed by



one hundred forty-one individuals. Your Committee received comments on this measure from the Department of Human Resources Development and International Longshore & Warehouse Union, Local 142.

Your Committee finds that there has been a steady increase in prescriptions for compound preparations and medications in the treatment of injured workers. According to testimony received by your Committee, this increase in use has led to a twenty-one percent increase in total medical costs for all Hawaii employers between 2011 and 2015. In some cases, the increase in use has also led to an exorbitantly high cost for compound drugs. Your Committee further finds that Hawaii has the highest workers' compensation pharmacy reimbursement rates in the country, at an average wholesale price plus up to forty percent, compared to the national average reimbursement rate of ninety-seven percent of the average wholesale price. This measure therefore attempts to control costs by imposing a limit on reimbursements for prescription drugs in the workers' compensation system.

Your Committee notes that the Department of Labor and Industrial Relations (Department) assembled the Workers' Compensation Working Group (Working Group) in 2016 to assess workers' compensation issues. The Working Group considered escalating medical costs as the primary driver of the recent trend of rising costs for workers' compensation insurance coverage. Data from the National Council on Compensation Insurance has also identified prescription drug costs as one of the major reasons for increases in workers' compensation premiums in Hawaii. The Department also coordinated with the Working Group to analyze different rate options and the use of a formulary. The Department analyzed the Consumer Price Index and took into consideration the fact that Hawaii's average Consumer Price Index for All Urban Consumers is four percent greater than the average of most other states. According to the Department, a fair and proper standard reimbursement rate for Hawaii would be based on the national average of ninety-seven percent, with consideration to the Consumer Price Index four percent average trend over the last six years, which would equal one hundred one percent. Amendments to this measure are therefore needed to incorporate this suggestion and other associated changes recommended by the Department.



Your Committee additionally finds that a nationwide drug epidemic associated with prescription pain relieving drugs is causing alarming rates of addiction, overdose, and death. Your Committee believes that it is important to address the opioid epidemic in the workers' compensation arena in a similar manner as opioid use has been addressed in other areas. Amendments to this measure are therefore needed to require an informed consent process and limit prescription of schedule II drugs to a seven-day initial supply.

Your Committee has amended this measure by:

- (1) Requiring an opioid therapy informed consent process agreement to be executed between an injured employee and any prescriber of opioids within the State under certain conditions;
- (2) Requiring the Harm Reduction Services Branch of the Department of Health to develop and make available a template of an opioid therapy informed consent process agreement between injured employees and prescribers for use in the State and advise the Department on the contents of the agreement;
- (3) Specifying that the reimbursement rate for repackaged and relabeled drugs shall be one hundred one percent of the average wholesale price;
- (4) Clarifying the reimbursement requirements for compounded prescription drugs, including:
 - (A) Specifying that payment shall be the sum of one hundred one percent of the average wholesale price; and
 - (B) Specifying the limitations on supply and payment, billing requirements, and reimbursement requirements for any ingredient in a topical compound;
- (5) Clarifying that all pharmaceutical claims for repackaged, relabeled, or compounded prescription drugs shall include the National Drug Code of the original



manufacturer, and removing language that would have permitted an unspecified reimbursement rate if the original manufacturer of the underlying drug product used in a repackaged, relabeled, or compounded prescription drug was not provided or was unknown;

- (6) Specifying that reimbursement for any schedule II drug under chapter 329, Uniform Controlled Substances Act, Hawaii Revised Statutes, prescribed by a physician shall be limited to reimbursement for an initial seven-day supply;
- (7) Updating the purpose section; and
- (8) 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, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1181, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1181, H.D. 2, S.D. 1, and be referred to your Committees on Judiciary and Labor and Ways and Means.

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



ROSALYN H. BAKER, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:		
HB1181, HD2	CPH, JDL/WAM	3/17/17		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
NISHIHARA, Clarence K. (VC)	/			
CHANG, Stanley				/
ESPERO, Will	/			
IHARA, Jr., Les				/
KIDANI, Michelle N.				/
RUDERMAN, Russell E.	/			
TOTAL	4			3
Recommendation:				
<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:				
<i>Clarence K. Nishihara</i>				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes