

HB 1117

**RELATING TO WORKERS'
COMPENSATION PRESCRIPTION DRUGS
LAB, FIN**

HB1117



Submit Testimony

Measure Title: RELATING TO WORKERS' COMPENSATION PRESCRIPTION DRUGS.
Report Title: Workers' Compensation; Prescription Drugs
Description: Limits reimbursements for compounded prescription drugs to \$1,000 in a thirty-day period. Limits reimbursements for any schedule II drug under chapter 329, Uniform Controlled Substances Act, Hawaii Revised Statutes, dispensed by a physician to a one-time thirty-day supply upon the first visit.
Companion: [SB983](#)
Package: Governor
Current Referral: LAB, FIN
Introducer(s): SOUKI (Introduced by request of another party)

Sort by Date		Status Text
1/23/2017	H	Pending introduction.
1/25/2017	H	Pass First Reading
1/27/2017	H	Referred to LAB, FIN, referral sheet 5
2/3/2017	H	Bill scheduled to be heard by LAB on Tuesday, 02-07-17 9:00AM in House conference room 309.

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment
Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

H.B. NO. 117

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION PRESCRIPTION DRUGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 386-21.7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]~~ §386-21.7 ~~[+]~~ Prescription drugs; pharmaceuticals. (a)
4 Notwithstanding any other provision to the contrary, immediately
5 after a work injury is sustained by an employee and so long as
6 reasonably needed, the employer shall furnish to the employee
7 all prescription drugs as the nature of the injury
8 requires. The liability for the prescription drugs shall be
9 subject to the deductible under section 386-100.

10 b) Payment for all forms of prescription drugs including
11 repackaged and relabeled drugs shall be one hundred forty per
12 cent of the average wholesale price set by the original
13 manufacturer of the dispensed prescription drug as identified by
14 its National Drug Code and as published in the Red Book:
15 Pharmacy's Fundamental Reference as of the date of dispensing,
16 except where the employer or carrier, or any entity acting on

1 behalf of the employer or carrier, directly contracts with the
2 provider or the provider's assignee for a lower amount.

3 (c) Payment for compounded prescription drugs shall be the
4 sum of one hundred forty per cent of the average wholesale price
5 by gram weight of each underlying prescription drug contained in
6 the compounded prescription drug. For compounded prescription
7 drugs, the average wholesale price shall be that set by the
8 original manufacturer of the underlying prescription drug as
9 identified by its National Drug Code and as published in the Red
10 Book: Pharmacy's Fundamental Reference as of the date of
11 compounding, except where the employer or carrier, or any entity
12 acting on behalf of the employer or carrier, directly contracts
13 with the provider or provider's assignee for a lower amount. In
14 no instance shall the prescription supply be for more than
15 thirty days and payment shall not exceed \$1,000 in a thirty day
16 period.

17 (d) All pharmaceutical claims submitted for repackaged,
18 relabeled, or compounded prescription drugs shall include the
19 National Drug Code of the original manufacturer. If the
20 original manufacturer of the underlying drug product used in

1 repackaged, relabeled, or compounded prescription drugs is not
2 provided or is unknown, then reimbursement shall be one hundred
3 forty per cent of the average wholesale price for the original
4 manufacturer's National Drug Code number as listed in the Red
5 Book: Pharmacy's Fundamental Reference of the prescription drug
6 that is most closely related to the underlying drug product.

7 (e) Reimbursement for any drug under schedule II of
8 chapter 329, Uniform Controlled Substances Act, which is
9 dispensed directly by a physician to an injured employee shall
10 be limited to an initial thirty-day supply, commencing upon the
11 first visit with that physician.

12 [~~e~~] (f) Notwithstanding any other provision in this
13 section to the contrary, equivalent generic drug products shall
14 be substituted for brand name pharmaceuticals unless the
15 prescribing physician certifies that no substitution shall be
16 prescribed because the injured employee's condition does not
17 tolerate an equivalent generic drug product.

18 [~~f~~] (g) For purposes of this section, "equivalent
19 generic drug product" has the same meaning as provided in
20 section 328-91."

21 SECTION 2. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

H.B. NO. 1117

1 SECTION 3. This Act, upon its approval, shall take effect on
2 July 1, 2017.

3
4
5

INTRODUCED BY: _____



BY REQUEST

JAN 23 2017

H.B. NO. 1117

Report Title:

Workers' Compensation; Prescription Drugs

Description:

Limits reimbursements for compounded prescription drugs to \$1,000 in a thirty-day period. Limits reimbursements for any schedule II drug under chapter 329, Uniform Controlled Substances Act, Hawaii Revised Statutes, dispensed by a physician to a one-time thirty-day supply upon the first visit.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION PRESCRIPTION DRUGS.

PURPOSE: Establish a reimbursement and supply amount for compounded prescription drugs. Limit reimbursement for compounded prescription drugs to \$1,000 per thirty-day period. Limit physician dispensing of drugs identified in schedule II of chapter 329, Uniform Controlled Substances Act, Hawaii Revised Statutes, to an initial thirty-day supply commencing upon the first visit. This proposal helps to ensure that compounded and schedule II drugs are prescribed based upon medical necessity and are justifiably reasonable and necessary. All prescribed drugs including schedule II drugs have a high potential for abuse which may lead to severe psychological or physical dependence.

MEANS: Amend section 386-21.7, HRS.

JUSTIFICATION: This proposal intends to address the challenge in the workers' compensation system with the use of high-priced, compounded prescription drugs by limiting the reimbursement and supply for compounded prescription drugs. DLIR believes that limiting the size of initial schedule II prescriptions by dispensing doctors will reduce abuse of addictive painkillers while still providing injured employees with the convenient and immediate relief needed.

Impact on the public: DLIR believes that the proposal, if enacted, will reduce requests for billing disputes. This will allow the department to resolve other workers' compensation matters and the ability to carry out the purposes of the workers' compensation law, which is to

provide wage loss compensation and medical care to those employees who suffer a work-related injury while also protecting the employers' economic interests.

Impact on the department and other agencies:
The human resource agencies of the Executive Branch, the University of Hawaii, the Legislature and its agencies, the Department of Education, the Office of Hawaiian Affairs and the Counties may benefit by reducing their costs for medical care, services, supplies and prescription drugs. .

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LBR-183.

OTHER AFFECTED
AGENCIES: Department of Human Resources
Department of Education
Department of Hawaiian Home Lands
Office of Hawaiian Affairs
The University of Hawaii System
Hawaii State Judiciary
Hawaii State Legislature
Hawaii County
Kauai County
Maui County
Honolulu County

EFFECTIVE DATE: July 1, 2017.

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.labor.hawaii.gov
Phone: (808) 586-8844 / Fax: (808) 586-9099
Email: dilir.director@hawaii.gov

February 7, 2017

To: The Honorable Aaron Ling Johanson, Chair,
The Honorable Daniel Holt, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: Tuesday, February 7, 2017
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 1117 Relating to Workers' Compensation Prescription Drugs

I. OVERVIEW OF PROPOSED LEGISLATION

HB 1117 proposes to amend Section 386-21.7, Hawaii Revised Statutes (HRS), to establish a reimbursement and supply amount for compounded medication and limit any substance II drugs dispensed by a physician to a one-time thirty-day supply on the first visit:

- A compound prescription drug supply shall not be for more than thirty-days and not exceed \$1,000;
- Any drug listed under schedule II of chapter 329, HRS, of the Uniform Controlled Substances Act, dispensed by a physician to an injured worker, shall be limited to an initial thirty-day supply upon the first visit.

The Department strongly supports this measure to help ensure that compound medication and schedule II drugs that have a high potential for abuse are prescribed based upon medical necessity and are justifiably reasonable and necessary.

II. CURRENT LAW

Currently, Section 386-21.7, HRS, specifies how prescription and compound drugs are reimbursed. The law does not specify limits on supply and costs for compound

drugs and does not preclude the physician from dispensing any drug including schedule II drugs beyond thirty days.

III. COMMENTS ON THE HOUSE BILL

1. This proposal intends to address the challenge in the workers' compensation system with the use of high-priced, compounded prescription drugs by limiting the reimbursement and supply for compounded prescription drugs.
2. There are many reasons why an individual may need a compound drug. Difficulty swallowing oral medications like pills/tablets, diluted and formulated solutions for pediatric uses, and allergies are some of the most common. A compound drug is usually prescribed for those who need a medication that is not commercially available and for which no other medication is appropriate. However, the Department is concerned with the steady increase in prescriptions for compound preparations and medications in the treatment of injured workers. This increase in use has led to a steady rise in costs, and in some cases, an exorbitantly high cost for compound drugs. The prescriber should have a clear and verifiable rationale for use of compounded drugs. The Department believes this proposal will help to control costs and limit abuse.
3. The abuse of addictive painkillers has become a nation-wide problem. In 2014, 47,055 drug overdose deaths occurred in the U.S., more than any other year in history. Many injured workers are prescribed opioid drugs to help with pain following a serious injury. If an injured worker becomes addicted to his or her "pain meds," it greatly affects their ability to get back to work, may increase their disability which will lead to higher medical costs, and sadly can have a disabling effect on the injured worker's family relationships and finances. This proposal limits the initial physician dispensing of any schedule II drugs to a 30-day supply while providing the injured employee with the needed immediate relief. This measure will ensure proper medical supervision and lessen the likelihood of drug addiction and abuse.

DAVID Y. IGE
GOVERNOR



JAMES K. NISHIMOTO
DIRECTOR

RYKER WADA
DEPUTY DIRECTOR

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

February 6, 2017

**TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT**

For Hearing on Tuesday, February 7, 2017
9:00 a.m., Conference Room 309

BY

JAMES K. NISHIMOTO
DIRECTOR

House Bill No. 1117
Relating to Workers' Compensation Prescription Drugs

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON JOHANSON, VICE CHAIR HOLT, AND MEMBERS OF THE
COMMITTEE:

Thank you for the opportunity to testify in **strong support** of H.B. 1117.

The purposes of H.B. 1117, are to limit reimbursements for compounded prescription drugs to \$1,000 in a thirty-day period; and to limit reimbursements for any schedule II drug under chapter 329, Uniform Controlled Substances Act, Hawaii Revised Statutes, dispensed by a physician to a one-time thirty-day supply upon the first visit.

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 supports this proposal as it will help to reduce medical costs for workers' compensation claims. According to the Department of Labor and Industrial Relations Workers' Compensation Data Books for 2011 and 2015, total medical costs for all Hawaii employers increased 21% from \$103.5M in 2011 to \$125.6M in 2015. Total

workers' compensation costs over that same period also increased 21%, from \$246.7M to \$298.2M, showing how much medical costs drive the overall costs for workers' compensation claims. Without measures such as this bill, we expect medical costs to continue to increase in light of the 2015 Hawaii Supreme Court decision, Pulawa v. Oahu Construction Co., Ltd., and Seabright Insurance Company, SCWC-11-0001019 (Hawai'i November 4, 2015) which liberalized the standard for medical treatment from "reasonable and necessary" to "reasonably needed" and allows claimants to "receive[] the opportunity for the greatest possible medical rehabilitation."

Hawaii State Legislature
House Committee on Labor and Public Employment
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 5, 2017

Filed via electronic testimony submission system

RE: HB 1117, WC Prescription Drugs Dispensing Cost Cap - NAMIC's Written Testimony in SUPPORT

Dear Representative Aaron Ling Johanson, Chair; Representative Daniel Holt, Vice-Chair; and honorable committee members:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 7, 2017, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation. NAMIC's written comments need not be read into the record, so long as they are referenced as a formal submission and are provided to the committee for consideration.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 84 members who write property/casualty/workers' compensation in the State of Hawaii, which represents 28% of the insurance marketplace.

The proposed legislation states:

Section 1 (c), In no instance shall the prescription supply be for more than thirty days and payment shall not exceed \$1,000 in a thirty day period.

Section 1 (e), Reimbursement for any drug under schedule II of 8 chapter 329, Uniform Controlled Substances Act, which is dispensed directly by a physician to an injured employee shall be limited to an initial thirty-day supply, commencing upon the first visit with that physician.

NAMIC is pleased to submit written testimony in support of this worker's compensation prescription drug prescribing and dispensing injured worker safety legislation. Misuse and abuse of prescription drug use is at an epidemic level in the nation, and thoughtful legislative action like what is being proposed in this bill is important to the health and welfare of the citizens of the State of Hawaii.

In addition to the laudable pro-public safety objective of the bill, NAMIC also fully supports HB 1117, because it is a reasonable workers' compensation cost-containment measure that will help prevent over-pricing and over-prescribing of medication to injured workers, that adversely impacts the cost of workers' compensation insurance.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC's written testimony.

Respectfully,

A handwritten signature in cursive script, appearing to read "Christian John Rataj".

Christian John Rataj, Esq.
NAMIC Senior Director – State Affairs, Western Region



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376
www.hawaiimedicalassociation.org

FROM:
HAWAII MEDICAL ASSOCIATION
Dr. Chris Flanders, Executive Director
Lauren Zirbel, Community and Government Relations

TO: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Rep. Aaron Ling Johanson, Chair
Rep. Daniel Holt, Vice Chair

DATE: Tues., February 7, 2017
TIME: 9:00am
PLACE: Conference Room 309
State Capitol

Position: Oppose

Regarding: HB 1117

On behalf of the physician and medical student members of the Hawaii Medical Association, we are writing regarding our ongoing commitment to improving Hawaii's health care system.

Overview:

- HB 1117 provides in relevant part that reimbursement for any schedule II drug which is dispensed directly by a physician to an injured employee shall be limited to an initial thirty day supply, commencing upon the first visit with that physician.

Problems with This Legislation:

- Limiting physicians' ability to dispensed schedule II drugs – while allowing pharmacies to without limitation – is fundamentally flawed and misguided & there is no policy justification for such legislation.
- Setting such an arbitrary time limit on physician dispensing of narcotics does nothing except punish injured workers who have difficulty obtaining medications from a pharmacy, and there is no basis to believe that a one-time thirty day supply limit is the medically appropriate window for point-of-care treatment.
- Pharmacies and insurance companies are incentivized to limit physician dispensing because it will increase business to their own retail pharmacies and mail order pharmacies.
- The proposal poses a major access to care issue for thousands of injured Hawaiian workers, by denying them the ability to receive necessary medications directly from their physician for more than a one-time thirty day supply. Setting such an arbitrary time limit does nothing except punish injured workers, and there is no basis to believe that this is the medically appropriate window for

HMA OFFICERS

President – Bernard Robinson, MD President-Elect – William Wong, Jr., MD Secretary – Thomas Kosasa, MD
Immediate Past President – Scott McCaffrey, MD Treasurer – Michael Champion, MD
Executive Director – Christopher Flanders, DO



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point-of-care treatment.

The Potential for Drug Abuse and Diversion is Actually Less When Physicians Dispense:

- Industry data shows that physicians tend to dispense fewer pills throughout the duration of the claim versus when the patient has the medication filled through a pharmacy.
- When prescriptions are filled through a physician, the physician can more closely monitor the patient's recovery and discontinue medication therapy when it is no longer needed.
- These built in safeguards against abuse and diversion do not exist when prescriptions are filled/auto-refilled at a pharmacy and are especially important when narcotic medications are involved. Doctors maintain a close relationship with the patient and can engage in activities such as urine screens to help ensure that patients are adhering to medication treatment plans, not diverting or abusing prescribed medication. Per Drug Enforcement Administration regulations, Schedule III medications (like Vicodin) can be refilled five times or for 6 months. This includes through mail order pharmacies, which promote 90-day fills and refills of medications. Mail order pharmacies may often be located halfway across the county. Physicians are in a much better position to evaluate a patient's needs (either in terms of dosage, days' supply, or whether the patient is diverting/abusing the medication).
- Doctor has greater monitoring over determining what medications are actually medically necessary and thus the ability to avoid unnecessary refills (vs. sending patients to the pharmacy which fill/auto-refill prescriptions for various dosage amounts (i.e. 60, 90 day supply) regardless of medical need).
- When physicians are able to dispense medication to patients throughout the treatment process, it allows for greater physician oversight and involvement in the patient's recovery and facilitates a quicker return to work, which is vital to the injured worker and the Hawaiian workforce.
- Restricting physicians' ability to dispense is tantamount to restricting physicians' ability to provide appropriate medical care. When physicians are able to provide all treatment options to injured workers – including dispensing medication– they maintain much more effective control over patient care.
- The days' limitation is nothing more than unnecessary interference in the doctor-patient relationship, creates additional obstacles for injured workers seeking access to quality care and is medically inappropriate.

Please to do not aggravate our shortage of healthcare providers by passing this type of legislation.

Mahalo for the opportunity to testify.

HMA OFFICERS

President – Bernard Robinson, MD President-Elect – William Wong, Jr., MD Secretary – Thomas Kosasa, MD

Immediate Past President – Scott McCaffrey, MD Treasurer – Michael Champion, MD

Executive Director – Christopher Flanders, DO

TESTIMONY OF ALISON UEOKA

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair

Tuesday, February 7, 2017
9:00 a.m.

HB 1117

Chair Johanson, Vice Chair Holt, and members of the Committee on Labor & Public Employment, my name is Alison Ueoka, President of the Hawaii Insurers Council. The 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 forty percent of all property and casualty insurance premiums in the state.

As a member of the Working Group on Workers' Compensation led by Director Linda Chu Takayama this interim, one of the many areas discussed was the high cost of prescription drugs and compounds in workers' compensation. In fact, there was broad support for some kind of limit on compounds within the working group which included treating physicians, plaintiff attorneys, health insurers, workers' compensation insurers and others.

Hawaii Insurers Council **supports** this administrative bill that seeks to reduce costs for compounds in workers' compensation by capping the reimbursement to \$1,000 in a 30-day period. As noted in our prior testimony on HB 1181, costs for prescription drugs and compounds continue to rise and Hawaii is one of only seven states that are flagged by NCCI as having the highest costs in this area. We in fact would support a lower aggregate amount of \$500 as being appropriate for compounds.

The bill also restricts reimbursement for any schedule II drug which is dispensed by a physician to a 30-day supply. Although this provision may already exist outside the

workers' compensation statute, we understand that schedule II drugs are being prescribed for more than a 30-day supply and therefore support this provision.

We support HB 1117 and urge its passage, while we ask that this committee consider a lower aggregate reimbursement amount for compounds.

Thank you for the opportunity to testify.

**KAUAI COMMUNITY HEALTH ALLIANCE
HALE LEA MEDICINE**

2460 Oka Street
Kilauea, Kauai, HI 96754
808.828.2885 phone
808.828.0119 fax
www.kauai-medical.org
winkler@kauai-medical.org (email)

February 3, 2017

Re: **OPPOSE** HB1117

Hale Lea Medicine has been serving Kauai's residents for over 25 years, and is one of the few remaining clinics still accepting Workers Compensation insurance ("WC") on the island of Kauai.

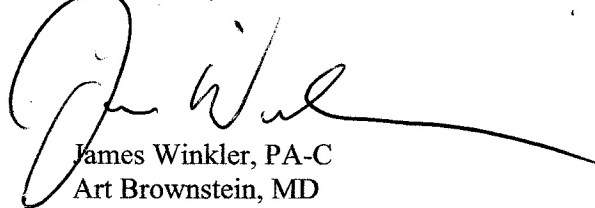
We see no reason for limits being placed upon compounded medications if the physician believes these to be appropriate for the patient.

An example of compounded medications that our medical facility prescribes (and is filled by an independent pharmacy with whom we have no financial ties) are pain creams that can be applied topically without the normal risk of adverse reactions from orally administered medicines, and with superior concentrations being achieved in tissues that generate pain and inflammation.

Why should any limit be placed on medicines the treating physician feels are in the best interest of the patient?

The same holds true for CII pain medications. This should be up to the discretion of the medical provider who has a lifetime of study and experience in making these determinations.

Respectfully,



James Winkler, PA-C

Art Brownstein, MD

Steve Rogoff, MD

**KAUAI COMMUNITY HEALTH ALLIANCE
HALE LEA MEDICINE**



**To: Rep. Aaron Ling Johanson, Chair
Rep. Daniel Holt, Vice-Chair
Members of the Committee on Labor & Public Employment**

Date: Tuesday, February 7, 2017

Time: 9:00 a.m.

**Place: Conference Room 309
State Capitol
415 South Beretania Street**

OPPOSITION TO HB 1117

Automated HealthCare Solutions (AHCS) opposes the provision of HB 1117 which provides that reimbursement for any Schedule II controlled substance dispensed directly by a physician to an injured employee shall be limited to an initial thirty day supply, commencing upon the first visit with that physician.

While AHCS supports the intent of HB 1117 to reduce the abuse of addictive painkillers in Hawaii's workers' compensation system, limiting physicians' ability to dispense Schedule II medications – while allowing pharmacies to continue to dispense these same medications – is fundamentally flawed.

HB 1117 fails to limit or reduce the amount of Schedule II medications actually dispensed; it just drives the patient from one dispensing point (the physician) to another (the pharmacy). If a patient needs a Schedule II medication beyond a thirty day supply, HB 1117 still allows a patient to receive the same Schedule II medication from any retail or mail order pharmacy. HB 1117 does little to curb the abuse of Schedule II medications and thus begs the question, what is the true intent of HB 1117?

HB 1117 poses a major access to care issue for injured workers in Hawaii, by denying them the ability to receive necessary medications directly from their physician after an initial thirty day supply. Setting such an arbitrary time limit on physician dispensed Schedule II medications does nothing except punish injured workers who may lack reliable transportation to get to a pharmacy for future prescription fills, and there is no basis to believe that limiting physician dispensing of these medications to an initial thirty day supply is a medically appropriate window for point-of-care treatment.

When prescriptions are filled through a physician, the physician can more closely monitor the patient's recovery and discontinue medication therapy when it is no longer needed. These built in

safeguards against abuse and diversion do not exist when prescriptions are filled at a pharmacy and are especially important when Schedule II medications are involved. When physicians are able to dispense medication to patients throughout the treatment process, it allows for greater physician oversight and involvement in the patient's recovery and facilitates a quicker return to work, which is vital to the injured worker and the Hawaiian workforce.

Thank you for your consideration.

Jennifer Maurer, Esq.
Vice President of Government Affairs
Automated HealthCare Solutions, LLC

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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LATE

LINDA CHU TAKAYAMA
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

LATE

LATE

February 7, 2017

To: The Honorable Aaron Ling Johanson, Chair,
The Honorable Daniel Holt, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: Tuesday, February 7, 2017
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 1117 Relating to Workers' Compensation Prescription Drugs

I. OVERVIEW OF PROPOSED LEGISLATION

HB 1117 proposes to amend Section 386-21.7, Hawaii Revised Statutes (HRS), to establish a reimbursement and supply amount for compounded medication and limit any substance II drugs dispensed by a physician to a one-time thirty-day supply on the first visit:

- A compound prescription drug supply shall not be for more than thirty-days and not exceed \$1,000;
- Any drug listed under schedule II of chapter 329, HRS, of the Uniform Controlled Substances Act, dispensed by a physician to an injured worker, shall be limited to an initial thirty-day supply upon the first visit.

The Department strongly supports this measure to help ensure that compound medication and schedule II drugs that have a high potential for abuse are prescribed based upon medical necessity and are justifiably reasonable and necessary.

II. CURRENT LAW

Currently, Section 386-21.7, HRS, specifies how prescription and compound drugs are reimbursed. The law does not specify limits on supply and costs for compound

drugs and does not preclude the physician from dispensing any drug including schedule II drugs beyond thirty days.

III. COMMENTS ON THE HOUSE BILL

1. This proposal intends to address the challenge in the workers' compensation system with the use of high-priced, compounded prescription drugs by limiting the reimbursement and supply for compounded prescription drugs.
2. There are many reasons why an individual may need a compound drug. Difficulty swallowing oral medications like pills/tablets, diluted and formulated solutions for pediatric uses, and allergies are some of the most common. A compound drug is usually prescribed for those who need a medication that is not commercially available and for which no other medication is appropriate. However, the Department is concerned with the steady increase in prescriptions for compound preparations and medications in the treatment of injured workers. This increase in use has led to a steady rise in costs, and in some cases, an exorbitantly high cost for compound drugs. The prescriber should have a clear and verifiable rationale for use of compounded drugs. The Department believes this proposal will help to control costs and limit abuse.
3. The abuse of addictive painkillers has become a nation-wide problem. In 2014, 47,055 drug overdose deaths occurred in the U.S., more than any other year in history. Many injured workers are prescribed opioid drugs to help with pain following a serious injury. If an injured worker becomes addicted to his or her "pain meds," it greatly affects their ability to get back to work, may increase their disability which will lead to higher medical costs, and sadly can have a disabling effect on the injured worker's family relationships and finances. This proposal limits the initial physician dispensing of any schedule II drugs to a 30-day supply while providing the injured employee with the needed immediate relief. This measure will ensure proper medical supervision and lessen the likelihood of drug addiction and abuse.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU
650 SOUTH KING STREET, 10TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONG
ASSISTANT DIRECTOR

February 7, 2017

The Honorable Aaron Ling Johanson, Chair
The Honorable Daniel Holt, Vice Chair
and Members of the Committee
on Labor & Public Employment
The House of Representatives
State Capitol, Room 309
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Johanson, Vice-Chair Holt and Members of the Committee:

**SUBJECT: House Bill No. 1117
Relating to Workers' Compensation Prescription Drugs**

H.B. 1117 would establish a reimbursement and supply limit for compounded medication prescribed under workers' compensation. The measure would also restrict a physician's ability to dispense Schedule II drugs to an initial thirty day supply, commencing with the first visit to the physician. The City and County of Honolulu fully supports the measure.

Establishing a limit for compounded medications is a good first step in addressing the problems created by the dispensing and use of high priced compounded prescription drugs. These medications, while useful in rare cases, are currently being overly prescribed to the detriment of employers and, in many cases, employees as well.

Limiting reimbursement for physicians who dispense Schedule II drugs would likewise benefit injured employees. The individuals would still be able to obtain pain medication from their physicians for the first thirty days when any acute pain from the work injury is likely at its worse. However, the potential for abuse and possible addiction to these serious narcotics would be significantly lessened by the limitations placed on dispensing by the bill. The City accordingly supports H.B. 1117 and asks that it be passed out of committee.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Carolee C. Kubo".

Carolee C. Kubo
Director

HB 1117

LATE TESTIMONY

The Twenty-Ninth Legislature
Regular Session of 2017

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HOUSE OF REPRESENTATIVES
Committee on Labor and Public Employment
Rep. Aaron Ling Johanson, Chair
Rep. Daniel Holt, Vice Chair
State Capitol, Room 309
Tuesday, February 7, 2017; 9:00 a.m.

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**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 1117
RELATING TO WORKERS' COMPENSATION
PRESCRIPTION DRUGs**

The ILWU Local 142 would like to offer comments regarding H.B. 1117, which limits reimbursements for compounded prescription drugs to \$1,000 in a thirty day period. The bill further limits reimbursements for any schedule II drug under chapter 329, Uniform Controlled Substances Act, Hawaii Revised Statutes, dispensed by a physician to a one-time thirty-day supply upon the first visit.

The ILWU Local 142's primary concern is that the injured employee promptly receives the medical treatment and benefits he or she is entitled to. Section 386-21(a) states in part "so long as reasonably needed the employer shall furnish to the employee all medical care, services, and supplies as the nature of the injury requires." In addition, Section 386-21(c) states in part "The rates or fees provided for in this section shall be adequate to ensure at all times the standard of services and care intended by this chapter to injured employees."

The framework established by these references, reinforces the original intent of the law, which was to ensure the injured worker that he or she would have prompt access to any medical treatment and care, including medications, that was warranted by the nature of the industrial injury. The ILWU's position with respect to applying the provisions of Chapter 386 HRS is that this intent should always be honored.

The ILWU would have grave concerns if the passage of H.B. 1117 was to undermine the injured worker's ability to promptly access the medical care, including medications, that would be warranted by the nature of the industrial injury.

We are also concerned about the over-prescription of any medications that may have a harmful rather than helpful impact on the injured worker. However, these decisions should be made within the framework of providing prompt access to medical care and supplies as the nature of the injury requires.

Thank you for the opportunity to share these comments, as well as our views on H.B. 1117.

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COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Aaron Ling Johanson, Chair

Rep. Daniel Holt, Vice Chair

HB 1117 has 2 specific components that are very different in meaning and intent. Addressing each separately is important. I will also address both of these with reference to my specific leadership positions.

As President of Work Injury Medical Association of Hawaii representing the Providers treating injured workers, I strongly support this bill.

First, compounding drugs are a common area of abuse across the country where loop holes are used to bill insurers and government payers for commonly used medications that are crushed/blended together in a topically applied cream or ointment. It is not unusual for prices to exceed \$10,000 for 2 containers smaller than toothpaste tubes. These products are not studied by any government entity to determine if the oral form is equivalent to the topically applied form. These medications are not studied to see if they absorb into the bloodstream.

This bill could be amended to recommend prior authorization for all compounded medication, requiring a specific medical reason why an oral equivalent medication cannot be used.

Second, as Chairman of the State Narcotic Policy Working Group (Ho'Ola Hawaii Opiate and Overdose Leadership Action Work Group), I feel this bill is not necessary since this is already existing statue in Hawaii.

§329-38 Prescriptions.

(2)

No schedule II narcotic controlled substance may be prescribed or dispensed for more than a thirty-day supply, except where such substances come in a single unit dose package that exceeds the thirty-day limit or where a terminally ill patient is certified by a physician to exceed the thirty-day limit

Furthermore, I would like the committee to refer to SB 504, which is supported *with amendments* by our committee:

§329-38Prescriptions

C) Initial prescriptions for opiates and benzodiazepines shall be no longer than seven consecutive days

This bill is much more appropriate if the intention is to limit the initial quantity of opiates prescribed for an ***acute injury***. Also SB 504 is now law in numerous other states attempting to address the opiate crisis.

Thank You,

Scott J Miscovich MD

President Work Injury Medical Association of Hawaii

Chairman Ho'Ola Hawaii Opiate and Overdose Leadership Action Working Group



Chamber of Commerce HAWAII
The Voice of Business

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**Testimony to the House Committee on Labor & Public Employment
Tuesday, February 7, 2017 at 9:00 A.M.
Conference Room 309, State Capitol**

**RE: HOUSE BILL 1117 RELATING TO WORKERS' COMPENSATION
PRESCRIPTION DRUGS**

Chair Johanson, Vice Chair Holt, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports the intent of** HB 1117, which limits reimbursements for compounded prescription drugs to \$1,000 in a thirty-day period; limits reimbursements for any schedule II drug under chapter 329, Uniform Controlled Substances Act, Hawaii Revised Statutes, dispensed by a physician to a one-time thirty-day supply upon the first visit.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ 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. Testimony submitted by the Hawaii Insurers Council in the 2011 legislative session detailed prescription drug markups of anywhere from thirteen percent, to several hundred percent or more, over the average wholesale price after the drugs were repackaged, re-labeled, and distributed by physicians. This practice is not sustainable. We believe that this bill helps to contain costs and provide stability in the system which will eventually help businesses. **However, we would like to note that the limit is quite high.**

Thank you for the opportunity to testify.

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LABtestimony

From: mailinglist@capitol.hawaii.gov
 Sent: Monday, February 6, 2017 7:39 PM
 To: LABtestimony
 Cc: cwilson@ahcs.com
 Subject: Submitted testimony for HB1117 on Feb 7, 2017 09:00AM

HB1117

Submitted on: 2/6/2017

Testimony for LAB on Feb 7, 2017 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
cathy wilson	Individual	Oppose	No

Comments: Compounded medications have nothing to do with physician dispensing and I don't understand why these two things are in the same bill, except to cause confusion. Limiting physician dispensing of C-II medications to a one time, 30 day supply is not relevant on preventing addiction. This is a poorly written bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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