HB1181 HD2

Measure Title:	RELATING TO WORKERS' COMPENSATION PRESCRIPTION DRUG REIMBURSEMENT.
Report Title:	Workers' Compensation; Prescription Drugs; Reimbursement; Limitation
Description:	Decrease the reimbursement rate for prescription drugs in the workers' compensation system based on a percentage of the average wholesale price. Restricts the provision of physician-dispensed prescription drugs to a specified time following injury. (HB1181 HD2)
Companion:	
Package:	None
Current Referral:	CPH, JDL/WAM
Introducer(s):	JOHANSON, HOLT, QUINLAN, SAIKI

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SHAN S. TSUTSUI
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March 17, 2017

To: The Honorable Rosalyn H. Baker, Chair;
The Honorable Clarence K. Nishihara, Vice Chair; and
Members of the Senate Committee on Commerce, Consumer Protection, and Health

Date: Friday, March 17, 2017
Time: 9:30 a.m.
Place: Conference Room 229, State Capitol

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

Re: H.B. No. 1181 HD2 Relating to Workers' Compensation

Prescription Drug Reimbursement

I. OVERVIEW OF PROPOSED LEGISLATION

HB1181 HD2 proposes to amend section 386-21.7, Hawaii Revised Statutes (HRS), to establish a reimbursement rate for prescription drugs and to limit physician dispensed prescription drugs in the following manner:

- Any prescription drug including repackaged & relabeled drugs, and compound prescription drugs shall be reimbursed at an unspecified per cent of the average wholesale price.
- Physician dispensed prescription drugs for an injured worker shall be limited to an unspecified time following an injury.

The Department supports the intent of the measure and offers comments and amendments below.

II. CURRENT LAW

Currently, section 386-21.7, HRS, allows prescription and compound drugs to be reimbursed at up to one hundred forty per cent of the average wholesale price. The law does not include a time limit for physician dispensed prescriptions.

III. COMMENTS ON THE HOUSE BILL

The Department supports the intent of the measure to bring Hawaii closer to the rest of the nation in terms of its dispensing policies and reimbursements rates for prescription drugs and compounds in the workers' compensation system. DLIR is concerned with the steady increase in prescriptions 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 exorbitant cost for compound drugs. DLIR believes this proposal helps to identify the problem and will help control costs.

Hawaii has the highest pharmacy reimbursement rates in the country for both brand and generic rates in workers' compensation (Pharmacy Resource Guide August 2016 report –see attached chart). Currently, Hawaii's workers' compensation prescription reimbursement rate is average wholesale price plus up to forty percent. The national average reimbursement rate is ninety-seven percent of the average wholesale price.[1]

In 2016, DLIR assembled the Workers' Compensation Working Group (Working Group) as directed by H.C.R. 168 HD2 SD1 (SLH, 2015) to assess workers' compensation issues. The Working Group considered the escalating medical costs as the primary driver of the recent trend of rising costs for Workers' Compensation insurance coverage after a long period of relative stability. The National Council on Compensation Insurance (NCCI) 2016 Medical Data Reports indicates that Hawaii prescription drug costs increased in 2015 to 15% (from 14% in 2014) in comparison to the Region at 10%, and Countrywide at 11%. The NCCI data supports the Group's conclusion and identifies the prescription drug costs as one of the major reasons for increases in Workers' Compensation premiums in Hawaii.

In coordination with the Working Group, DLIR analyzed different rate options and the use of a formulary. We analyzed formularies created by Hawaii's prevalent insurance plans and found that the reimbursement rates change frequently and even daily, which is problematic. Furthermore, formularies are created by the insurers, which creates a proprietary concern.

DLIR analyzed the Consumer Price Index (CPI-U) from 2011 to 2016 as Hawaii has a higher cost of living index than most of the other states.

	ALL OTHER STATES		HAWAII	
	All Items		Medical Care	
Year	Annual CPI-U	Annual CPI-U% Change	Annual CPI-U	Annual CPI-U% Change
2011	243.622	3.70%	324.18	1.30%
2012	249.474	2.40%	334.441	3.20%
2013	253.924	1.80%	345.184	3.20%
2014	257.589	1.40%	351.763	1.90%
2015	260.165	1.00%	378.876	7.70%
2016	265.283	2.00%	400.408	5.70%

We found that Hawaii's average CPI-U for the six years is four percent greater than the average of the other states. DLIR finds that a fair and proper standard reimbursement rate would be based on the national average (97%) with consideration to the CPI (4%) average trend over the last six years thereby equal to 101%. Therefore, DLIR proposes amending section 386-21.7(b) and (c) prescription drug reimbursement rate to one hundred and one percent (101%) of the average wholesale price, including repackaged and relabeled drugs.

The Working Group also reviewed compound drugs, the act of combining, mixing and altering drug ingredients. Historically, patients who have difficulty swallowing oral medications that are not available in liquid dosage forms or who have allergies to ingredients in marketed products have traditionally received compound drugs. In recent years however some compounding pharmacies have begun marketing new uses for existing medications. The most common compounds in workers' compensation are "topicals" – creams, gels or ointments that are applied to the skin and are intended to manage pain. Despite their prevalence, there is limited evidence to support the use of these preparations, including safety and efficacy of the drugs they contain.[2]

According to the CompPharma 2014 report, compounding is confounding workers' compensation. The Report states, "Workers' compensation has seen a steady increase in prescriptions for topical compounded preparations, and prescriptions for sterile compounded drugs are appearing as well. In fact, the use of compounded drugs in workers' compensation has increased nearly five-fold in the past five years. Along with increased use, the prices charged for compounds have risen dramatically."[3]

The CompPharma 2016 report notes, “It appears that the 'morphing' of compounds into compound kits and other variations seemingly intended to circumvent existing control mechanisms is the primary concern. Experienced payers know only too well that profiteers are adept indeed at figuring out where the chinks in the protective 'armor' are and quickly learning how to exploit those chinks.”[4]

Hawaii's Workers’ Compensation Prescription Drugs law, section 386-21.7, HRS, was enacted in 2014. All pharmaceutical claims are based on the National Drug Code (NDC) of the original manufacturer. However, with compounding, a different NDC is created and in many cases, with an exorbitant price tag. As this practice is not unique to Hawaii, DLIR researched what other states are doing to address this concern. We found eighteen (18)[5] states that limit the reimbursement/use of compound drugs with Michigan, Ohio, and Rhode Island capping reimbursements. In addition, Rhode Island only reimburses topicals that are FDA approved while Washington State does not reimburse topicals.[6]

DLIR is concerned with the expanded use of compound drugs, as well as patient safety, efficacy, and medical necessity. To address these concerns, DLIR proposes to revise the language to sections 386-21.7(c) and (d) as follows:

(c) Payment for compounded prescription drugs shall be the sum of one hundred [~~forty~~] and one per cent of the average wholesale price by gram weight of each underlying prescription drug contained in the compounded prescription drug. For compounded prescription drugs, the average wholesale price shall be that set by the original manufacturer of the underlying prescription drug as identified by its National Drug Code and as published in the Red Book: Pharmacy's Fundamental Reference as of the date of compounding, except where the employer or carrier, or any entity acting on behalf of the employer or carrier, directly contracts with the provider or provider's assignee for a lower amount. 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. All compounded medications shall be billed on a single bill and shall be billed at the ingredient level with a separate line item for each ingredient and the corresponding gram weight and cost per ingredient. Any ingredient used in a compound shall be billed with the National Drug Code set by the original manufacturer of the underlying prescription drug as identified by its National Drug Code and as published in the Red Book: Pharmacy's Fundamental Reference of the original

drug. Any ingredient in a topical compound shall be Food and Drug Administration approved for topical use in order to be reimbursable.

(d) All pharmaceutical claims submitted for repackaged, relabeled, or compounded prescription drugs shall include the National Drug Code of the original manufacturer. [~~If the original manufacturer of the underlying drug product used in repackaged, relabeled, or compounded prescription drugs is not provided or is unknown, then reimbursement shall be one hundred forty per cent of the average wholesale price for 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.~~]

FOOTNOTES

[1] http://helioscomp.com/docs/default-source/White-Paper/2016-optum-dtr-pharmacy-resource-guide.pdf

[2] http://comppharma.com/wp-content/uploads/2016/09/CompoundDrugResearch.pdf

[3] http://comppharma.com/wp-content/uploads/2016/09/CompPharmaPayerSurvey2014Public.pdf

[4] http://helioscomp.com/docs/default-source/White-Paper/2016-optum-dtr-pharmacy-resource-guide.pdf

[5] Arkansas, Arizona, California, Delaware, Georgia, Idaho, Michigan, Mississippi, North Dakota, New Mexico, Nevada, Ohio, Rhode Island, South Carolina, Tennessee, Texas, Washington, and Wyoming

[6] http://comppharma.com/wp-content/uploads/2016/09/CompPharmaPayerSurvey2014Public.pdf

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March 14, 2017

TESTIMONY TO THE
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

For Hearing on Friday, March 17, 2017
9:30 a.m., Conference Room 229

BY

JAMES K. NISHIMOTO
DIRECTOR

House Bill No. 1181, H.D. 2
Relating to Workers' Compensation Prescription Drug Reimbursement

(WRITTEN TESTIMONY ONLY)

TO CHAIRPERSON BAKER, VICE CHAIR NISHIHARA, AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide **comments** on H.B. 1181, H.D. 2.

The purposes of H.B. 1181, H.D. 2, are to decrease the reimbursement rate for prescription drugs in the workers' compensation system based on a percentage of the average wholesale price and restrict the provision of physician-dispensed prescription drugs to a specified time following injury.

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 the proposals introduced this session which help to bring Hawaii more in line with the rest of the nation on its reimbursement rate and reduce medical costs for workers' compensation claims. In that regard, we recommend consideration be given to reinstating the lower rate of -10% set forth in the original version of this bill, H.B. 706, and S.B. 338. 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."

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March 17, 2017

The Honorable Rosalyn H. Baker, Chair
The Honorable Clarence K. Nishihara, Vice Chair
and Members of the Committee
on Commerce, Consumer Protection, and Health
The Senate
State Capitol, Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Baker, Vice-Chair Nishihara, and Members of the Committee:

SUBJECT: House Bill No. 1181, HD2
Relating to Workers' Compensation Prescription Drug Reimbursement

H.B. 1181, HD2 seeks to reduce the reimbursement rate for prescription drugs in workers' compensation to an unspecified percentage of the average wholesale price ("AWP") as published in the Red Book: Pharmacy's Fundamental Reference. The bill would also restrict physician dispensed drugs to an unspecified time from the date of injury. The City and County of Honolulu strongly supports the measure with the following two amendments.

First, the City would ask that the measure be amended so the reimbursement rate for prescription drugs in workers' compensation be 90% of the AWP as published in the Red Book: Pharmacy's Fundamental Reference. Reducing the reimbursement rate for prescription drugs to minus ten percent of AWP would bring Hawaii's reimbursement rate in line with other states. As H.B. 1181, HD2 indicates, Hawaii's current reimbursement rate is not only currently the highest in the nation, it is substantially higher than all other states. There is no valid reason for the gross disparity in cost and the provisions provided for in the bill would save taxpayers' money by eliminating the unfounded variation.

The City also supports the portion of the measure restricting physician dispensed drugs to a certain number of days following the injury. The provision will enable patients

to obtain medication from their physicians for a period of time following the injury while lessening the potential for abuse and possible addiction should the dispensing continue for the life of the claim. In that regard, the City would request that the committee specify that physician dispensing may only occur for ninety (90) days following the date of injury.

Thank you for the opportunity to testify.

Sincerely,

Carolee C. Kubo

Carolee C. Kubo
Director

The Twenty-Ninth Legislature
Regular Session of 2017

THE STATE SENATE
Committee on Commerce, Consumer Protection, and Health
Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice Chair
State Capitol, Conference Room 229
Friday, March 17, 2017; 9:30 a.m.

STATEMENT OF THE ILWU LOCAL 142 ON H.B. 1181 HD 2
RELATING TO WORKERS' COMPENSATION
PRESCRIPTION DRUG REIMBURSEMENT

The ILWU Local 142 would like to offer comments regarding H.B. 1181 HD 2, which amends the reimbursement rate for prescription drugs in the workers' compensation system to an undetermined per cent of the wholesale price. The bill further restricts the provision of physician-dispensed prescription drugs to a blank number of days following injury.

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 would have grave concerns if the passage of H.B. 1181 HD 2 was to undermine or impair the injured worker's ability to gain immediate access to medical care, including medications, that would be warranted by the nature of the injury.

It appears that going from one hundred forty per cent of the average wholesale price set by the original manufacturer of the dispensed prescription drug, to minus ten per cent of the same average wholesale price (language in the original bill) can appear to be arbitrary and capricious. Imposing a 90 day time limitation for physician-dispensed prescription drugs (also language from the original bill) from the date of injury could also seem arbitrary. However, the primary concern would be with the doctors who currently provide treatment for injured workers and what their response would be to the changes made.

Thank you for the opportunity to share these comments, as well as our views on this matter.

HAWAII INSURERS COUNCIL
A trade association of property and casualty insurance companies

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Alison H. Ueoka
President

TESTIMONY OF ALISON UEOKA

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice Chair

Friday, March 17, 2017
9:30 a.m.

HB 1181, HD2

Chair Baker, Vice Chair Nishihara, and members of the Committee on Commerce, Consumer Protection, and Health, 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.

Hawaii Insurers Council strongly **supports** this bill. Hawaii's reimbursement rate for prescription drugs is by far the highest in the nation and an outlier, at the Average Wholesale Price (AWP) plus 40%.

According to NCCI, Prescription drug prices increased 11% in 2014, which is much greater than the ten-year average of 4%. A recent pricing of the original HB 1181 by NCCI shows that prescription drugs account for 14.6% of total medical costs. Furthermore, physician-dispensed drug costs in Hawaii are 20.2% of total prescription drug costs. NCCI lists only 7 states as high-cost physician-dispensed drug states of which Hawaii is included: Connecticut, Delaware, Florida, Georgia, Illinois, Maryland, and Hawaii. High-cost states mean physician-dispensed drugs are 16.2% or greater as a percentage of total drug costs.

In its pricing, NCCI states the reduction in AWP from plus 40% to 90% of AWP would result in a ***savings of $1.6 million.*** Although NCCI is unable to price the impact of placing a 90-day cap on physician dispensing, they show that ***74.5% of physician-dispensing***

occurs after 90 days from the date of the injury. (see attached NCCI pricing.) These savings would not detract from an injured workers' benefits nor ability to return to work, but instead create a more equitable reimbursement between physician-dispensed drugs and pharmacy dispensed drugs.

Thirty-seven states use a percentage of AWP to reimburse prescription drugs. Hawaii is the highest at AWP plus 40%. Seventeen states reimburse at a negative percentage and includes 8 states who reimburse at minus 10% of AWP. (see attached chart)

We continue to see an issue with high physician-dispensed drug costs compared to pharmacy costs because of the drug manufacturer's ability to change a dosage and thereby create a new National Drug Code (NDC) and set a new price. This bill blanks out the percentage of AWP to reimburse prescription drugs and we *support 90% of AWP* which would bring Hawaii in line with the rest of the nation.

We believe setting an appropriate timeframe in which a physician can dispense drugs will assist in controlling the inordinately high cost of drugs while still providing timely and appropriate care for the injured worker. We believe that timeframe is *at most 90 days* from the date of injury after which time the injured worker will have been stabilized and the physician will have diagnosed the injury or injuries. The injured worker would then be able to obtain whatever necessary drugs from a pharmacy at a much lower cost. Many pharmacies today mail prescriptions to your home, thereby eliminating the need for the injured worker to even go to the pharmacy to pick up their medication.

We, however, acknowledge that there are situations where new medication is required and we propose the following language to allow physician-dispensed medications in these instances:

Section 386-21.7(a) is amended to read as follows:

"(a) Notwithstanding any other provision to the contrary, immediately after a work injury is sustained by an employee and so long as reasonably needed, the employer shall furnish to the employee all prescription drugs as the nature of the injury

requires [.]; except that physician-dispensed prescription drugs shall only be provided during the first days from the date of injury. However, in the event a physician dispenses a medication that has not been prescribed to the injured worker previously, the supply of that medication shall not exceed a one-time thirty (30) day supply. The liability for the prescription drugs shall be subject to the deductible under section 386-100."

While we continue to actively participate in the Workers' Compensation Working Group including discussion on other measures to control drug costs, we believe this interim step will reduce costs by at least $1.6 million in this area.

Thank you for the opportunity to testify.

ANALYSIS OF PROPOSED CHANGES
TO THE HAWAII MEDICAL FEE SCHEDULE
AS CONTAINED IN HOUSE BILLS 705, 706, 1181
AND SENATE BILLS 330 AND 338

NCCI estimates that the proposed changes to the Hawaii Pharmaceutical Fee Schedule, if enacted in its current form with an assumed effective date of January 1, 2018, would result in an estimated overall impact on Hawaii workers compensation (WC) system costs of -0.6% ($-1.6M[1]).

Summary of Proposed Changes

House Bills (HB) and Senate Bills (SB): HB 705, HB 706, HB 1181, SB 330, and SB 338 include the following proposed changes:

- Reimbursement for all prescription drugs, including repackaged and compound medications, would be subject to a maximum of 90% (or minus 10%) of the average wholesale price (AWP) per unit of the original manufacturers' National Drug Code (NDC). Currently reimbursement for these prescription drugs is subject to a maximum of 140% of the AWP.
- Physician dispensing would not be allowed for more than 90 days after the date of injury.

In this analysis, NCCI relies primarily on two data sources:

- Detailed medical data underlying the calculations in this analysis are based on NCCI's Medical Data Call for Hawaii for Service Year 2015.
- The share of benefit costs attributed to medical benefits is based on NCCI's Financial Call data for Hawaii from the latest 3 policy years projected to the assumed effective date of the benefit changes.

Analysis of Proposed Changes to Prescription Drug Fee Schedule

In Hawaii, payments for prescription drugs represent 14.6% of total medical payments. To calculate the percentage change in reimbursements for prescription drugs we rely on results from NCCI research "Do Drug Fee Schedules Based on AWP Have an Effect on

[1] Overall system costs are based on NAIC Annual Statement data. The estimated dollar impact is the percentage impact(s) displayed multiplied by 2015 written premium of $262M from NAIC Annual Statement data for Hawaii. This figure does not include self-insurance, the policyholder retained portion of deductible policies, or adjustments for subsequent changes in premium levels. The use of premium as the basis for the dollar impact assumes that expenses and other premium adjustments will be affected proportionally to the change in benefit costs. The dollar impact on overall system costs inclusive of self-insurance is estimated to be $-2M, where data on self-insurance is approximated using the National Academy of Social Insurance's October 2016 publication "Workers' Compensation: Benefits, Coverages, and Costs, 2014."

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Prices Paid for Drugs in Workers Compensation?"[2]. Key findings from this research indicate that drug fee schedules based on AWP do have an effect on drug prices paid in workers compensation. However, the differences in average drug prices paid are smaller than the nominal differences in fee schedule maximums. For example, a 20% nominal decrease in the fee schedule maximum would likely translate to a nominal decrease in average drug costs of less than 20%. This research further indicates that states changing from a relatively high-fee-schedule[3] to a low-fee-schedule[4] would realize a reduction in prescription drug costs by an estimated 9%.

The estimated impact of -9% on total prescription drugs is then multiplied by the percentage of medical costs attributed to prescription drug payments in Hawaii (14.6%) to arrive at the estimated impact on medical costs of -1.3%. The resulting impact on medical costs is then multiplied by the percentage of benefit costs attributed to medical benefits in Hawaii (49.0%) to arrive at the estimated impact on overall workers compensation system costs in Hawaii of -0.6% (-$1.6M).

Analysis of Proposed Changes to Physician Dispensing

NCCI is not able to price the impact on the proposal limiting physician dispensing to the first 90 days after the date of injury. If enacted, it is unclear what level of substitution would occur from physician dispensing to pharmacy dispensing beyond the 90-day timeframe, or to what degree these physician dispensed prescriptions would be eliminated.

To provide some context as to the percentage of costs that may be impacted by this provision, NCCI has provided the share of payments that may be impacted. Specifically, Hawaii's WC prescription drug payments represent 14.6% of total WC medical payments of which 20.2% is attributable to physician dispensing. In addition, payments for physician dispensed drugs occurring after ninety days from the date of injury represent 74.5% of total physician dispensed drug costs. Hence, physician dispensed drugs occurring after 90 days from the date of injury represent 2.2% (=14.6% x 20.2% x 74.5%) of total WC medical payments in Hawaii and 1.1% (= 2.2% x 49.0%) of total WC benefits in Hawaii (see table below).

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[2] Henry, Robertson, and Chadarevian:, Do Drug Fee Schedules Based on AWP Have an Effect on Prices Paid for Drugs in Workers Compensation?, National Council on Compensation Insurance, Inc, January 2017
[3] A relatively high fee-schedule is defined as a fee schedule where the multiplier of AWP is greater than 100%
[4] A low-fee-schedule is defined as a fee schedule where the multiplier of AWP is less than 100%

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ANALYSIS OF PROPOSED CHANGES
TO THE HAWAII MEDICAL FEE SCHEDULE
AS CONTAINED IN HOUSE BILLS 705, 706, 1181
AND SENATE BILLS 330 AND 338

(1)	Physician dispensed drugs as a percent of WC prescription drug payments in Hawaii	20.2%
(2)	Prescription drugs share of medical costs	14.6%
(3)	Share of physician dispensing occurring after ninety days from the date of injury	74.5%
(4)	**Physician dispensing occurring after ninety days from the date of injury as a percent of medical costs in Hawaii = (1) x (2) x (3)**	**2.2%**
(5)	Medical costs as a percent of overall WC benefit costs in Hawaii	49.0%
(6)	**Physician dispensing occurring after ninety days from the date of injury as a percent of overall WC benefit costs in Hawaii = (4) x (5)**	**1.1%**

Summary of Estimated Impacts

The estimated impacts on Hawaii's workers compensation system due to the proposed prescription drug fee schedule changes, assumed effective January 1, 2018, are summarized in the table below:

	(A) Estimated Impact on Type of Service	(B) Share of Medical Costs	(C) Estimated Impact On Medical Costs (A) x (B)	(D) Medical Costs as a Percentage of Overall Workers Compensation Benefit Costs	(E) Estimated Impact on Overall Costs (C) × (D)
Drugs	-9.0%	14.6%	-1.3%	49.0%	-0.6%

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SOURCE: Optum "Pharmacy Resource Guide" August 2016
12/9/2016
37 states have AWP for drug reimb.
14 states do not
Yellow - Large state
Orange - Highest reimbursement
Green - Lowest reimbursment on Brand, then Gen, then fees

STATE	BRAND+%	GENERIC+%	BR Fee	GEN fee
DE	-18%	-26%	3.72	4.65
CA	-17%	-17%	7.25	7.25
OR	-16.50%	-16.50%	2	2
MA	-16%	-16%	3	3
NY	-12%	-20%	4	5
MN	-12%	-12%	3.65	3.65
WA	-10%	-50%	4.5	4.5
MT	-10%	-25%	3	3
KS	-10%	-15%	3	5
MI	-10%	-10%	3.5	5.5
NM	-10%	-10%	5	5
OK	-10%	-10%	5	5
WY	-10%	-10%	5	5
RI	-10%	-10%		
OH	-9%	-9%	3.5	3.50
AZ	-5%	-15%	7	7
NC	-5%	-5%		
WI	0%	0%	3	3
VT	0%	0%	3.15	3.15
CO	0%	0%	4	4
ND	0%	0%	4	5
FL	0%	0%	4.18	4.18
GA	0%	0%	4.31	6.45
KY	0%	0%	5	5
MS	0%	0%	5	5
SC	0%	0%	5	5
CT	0%	0%	5	8
ID	0%	0%	5	8
AK	0	0	5	10
TN	0%	0%	5.1	5.1
AR	0	0	5.13	5.13
NV	0%	0%	10.54	10.54
AL	5%	5%	8.92	11.58
TX	9%	25%	4	4
PA	10%	10%		
LA	10%	40%	10.51	10.51
HI	40%	40%		

TTLS:	-117%	-156%	159.96	182.69
Ave:	-3%	-4%	4.32	4.94

SUMMARY:

1. **Hawaii has the highest reimbursement rate in the country at AWP + 40%** for both BR and GR.
2. Next highest for BR is LA at AWP +10% + $10.51 DF.
3. **Ave National BR AWP -3%, $4.32 DF. GEN AWP -4%, $4.94 DF**
4. Ave Largest 4 states BR AWP -5%, $4.86 DF. GEN AWP -3%, $5.11 DF
5. Only 5 states have AWP greater than 0
6. 17 states reimburse BR AWP negative from -5 to -18%
GEN -5 to -50%, DF both, $2-$7.25
7. 15 states reimburse BR and GEN AWP + zero, DF on both $3-$10.54.
8. 8 states reimburse BR at AWP -10%.

PCI
Advocacy. Leadership. Results.

To: Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice Chair
Senate Committee on Commerce, Consumer Protection and Health

From: Mark Sektnan, Vice President

Re: **HB 1181 HD2 – Relating to Workers' Compensation Prescription Drug Reimbursement**
PCI Position: SUPPORT

Date: Friday, March 17, 2017
9:30 a.m., Conference Room 229

Aloha Chair Baker, Vice Chair Nishihara and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is pleased to **support HB 1181 HD2** which decreases the reimbursement rate for prescription drugs in the workers' compensation system based on a percentage of the average wholesale price (AWP). The bill also restricts the provision of physician-dispensed prescription drugs to a specified time following injury. In Hawaii, PCI member companies write approximately 42.3 percent of all property casualty insurance written in Hawaii. PCI member companies write 44.7 percent of all personal automobile insurance, 65.3 percent of all commercial automobile insurance and 76.5 percent of the workers' compensation insurance in Hawaii.

Hawaii has the highest pharmacy reimbursement rates in the country for both brand and generic. This bill will help bring Hawaii more in line with the rest of the nation on its reimbursement rate and reduce medical costs for workers' compensation claims. According to NCCI, prescription drug prices increased 11 percent in 2014, which is much greater than the ten-year average of four percent. Prescription drugs account for 17 percent of total medical costs. Furthermore, physician-dispensed drug costs in Hawaii are greater than 16.2 percent of the total prescription drug costs. NCCI lists only seven states as high-cost physician-dispensed drug states of which Hawaii is included: Connecticut, Delaware, Florida, Georgia, Illinois, Maryland, and Hawaii.

In the past decade, many states have enacted legislation or implemented regulations to reduce the cost of physician-dispensed repackaged drugs. The reforms attempted to address the much higher prices paid to physicians for drugs dispensed from their office as compared to prices paid to pharmacies for the same medication. These reforms have been price-focused and limit the maximum reimbursement amount to the AWP set by the original manufacturer of the underlying drug product.

However, there are now drug manufacturers that are manufacturing new drug strengths for generic drugs that are commonly prescribed to injured workers. These drug manufacturers are assigning an AWP to these newer drugs that are much higher than the AWP assigned to the more common dosages of the same drugs. Consequently, physicians can prescribe and dispense these new drug strengths and receive much higher reimbursement than would be received for dispensing the common dosage of the same drug.

Workers Compensation Research Institute (WCRI) first reported on this phenomenon in California and Illinois in 2015.[1] WCRI released another report in 2016 which found this phenomenon had expanded to several other states including Arizona, Florida, Kentucky, Louisiana, Pennsylvania and Tennessee.[2]

Examples of these physician-dispensed drug products that have new strengths or formulation include:

- 7.5-milligram cyclobenzaprine HCL (muscle relaxant)
- 150-milligram tramadol HCL extended release (pain reliever)
- 2.5-325-miligram hydrocodone-acetaminophen (pain reliever)
- Lidocaine-menthol patches (topical pain relief patches)

According to the WCRI studies, cyclobenzaprine HCL is a commonly prescribed muscle relaxant. Historically, this drug has been prescribed in 5 and 10 milligram strengths. In California, these common strengths were reimbursed at $0.35 to $0.70 per pill. However, the new 7.5 milligram dosage was assigned a much higher AWP by the manufacturer which results in the average price paid for the new strength to range from $2.90 to $3.45 per pill.
Many states already restrict physician dispensing. For example, Indiana and North Carolina restrict physician dispensing to an initial 5-day (NC) or 7-day (IN) supply commencing with the initial treatment following the injury.

Physician dispensing is not necessary in order to give injured workers timely access to appropriate medication. Massachusetts, Montana, New York, Texas, Utah and Wyoming do not permit physician dispensing. There is no access to care problems in those states for medication.

In addition, studies on physician dispensing in California and Illinois have found that patients who receive physician-dispensed drugs tend to take medication longer and have worse return-to-work and health outcomes than injured workers who receive their medication from pharmacies. In Florida, injured worker consumption of opioids decreased following the 2013 legislation that prohibited physician-dispensing of Schedule II and III narcotics.

PCI respectfully requests the committee to pass **HB 1181 HD2.**

[1] WCRI, "Are Physician Dispensing Reforms Sustainable?" (January 2015)
[2] WCRI, "Physician Dispensing of Higher-Priced New Drug Strengths and Formulation" (April 2016)

Chamber of Commerce HAWAII
The Voice of Business

Testimony to the Senate Committee on Commerce, Consumer Protection, and Health
Friday, March 17, 2017 at 9:30 A.M.
Conference Room 229, State Capitol

RE: HOUSE BILL 1181 HD2 RELATING TO WORKERS' COMPENSATION PRESCRIPTION DRUG REIMBURSEMENT

Chair Baker, Vice Chair Nishihara, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** HB 1181 HD2, which decreases the reimbursement rate for prescription drugs in the workers' compensation system based on a percentage of the average wholesale price; restricts the provision of physician-dispensed prescription drugs to a specified time following injury.

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.

Prescription drugs and especially repackaged drugs are a huge cost driver in the workers' compensation system. Since Act 231 was enacted, further analysis of other states shows that of the 37 states that reimburse prescription drugs on the basis of a percentage of average wholesale price, the reimbursement rates range widely. Notably, Hawaii has the highest reimbursement rate for brand name and generic drugs at 40 percent over average wholesale price.

The national average reimbursement rate is three per cent below average wholesale price plus a $4.32 dispensing fee for brand name drugs and four percent below average wholesale price plus a $4.94 dispensing fee for generic drugs. Hawaii is clearly hugely over the national average. This bill does not take away any employee rights or treatment but rather focuses on cost containment issues which is good for all concerned.

If the committee plans to address the day supply allowable to be prescribed we ask that it be ninety days or less.

Thank you for the opportunity to testify.

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Hawaii State Legislature March 14, 2017

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice Chair

Filed via electronic testimony submission system

RE: HB 1181, HD 2, WC Prescription Drug Reimbursement Rate - NAMIC's Written Testimony in SUPPORT

Dear Senator Baker, Chair; Senator Nishihara, 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 March 17, 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.

As aptly stated in Section 1, Legislative Intent, of the proposed legislation, HB 1181 is being introduced to address a current and continuing overpricing problem in the state in regard to prescription drug pricing for compound drugs, repackaged and relabeled drugs. NAMIC fully supports this pro-injured worker, pro-business, pro-sound public policy legislative project. The ever-increasing cost of prescription drug pricing is a concern for consumers throughout the nation, and the cost-driver implications of prescription drug pricing on workers' compensation insurance is significant.

NAMIC commends the Hawaii State Legislature for its prior legislative work in past sessions to start reigning-in the cost, misuse and abuse of compounding, repricing, and relabeling of prescription drugs as a way for unscrupulous medical and pharmaceutical professionals to mask unreasonable profits to the detriment of injured workers and their employers. We believe that price-controls for prescription drug reimbursement rates comparable to what are being utilized in other states across the nation would be fair and reasonable for all interested parties, and would promote the best interest of injured workers in the state.

NAMIC also supports the provision in the original bill that limited the length of time (90 days) for physician-dispensing of prescription drugs. NAMIC believes that this temporal limitation is measured and balanced in a way that afford the injured worker with prescription drug access convenience, without creating a dynamic where over-pricing and over-prescribing could take place.

In closing, NAMIC fully supports this continuation of fiscally responsible legislation to prevent price-gouging and misuse of prescription medicine.

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,

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

To: **Sen. Rosalyn Baker, Chair**
Sen. Clarence Nishihara, Vice-Chair
Members of the Committee on Commerce, Consumer Protection and Health

Date: Friday, March 17, 2017
Time: 9:30 a.m.
Place: Conference Room 229
State Capitol
415 South Beretania Street

OPPOSITION TO HB 1181 HD2

Automated HealthCare Solutions (AHCS) submits the following testimony in opposition to HB1181 HD2.

HB 1181 HD2 has two components: (1) restricts physicians' ability to dispense medications to injured workers to an unspecified time following a work injury; and (2) reduces reimbursement for prescription medications, including repackaged and relabeled medications, from 140% of the average wholesale price set by the original manufacturer of the dispensed medication to an unspecified percent of the average wholesale price set by the original manufacturer of the dispensed medication. Respectfully, both of these provisions are problematic.

1) Problems With Limiting Physician Dispensed Medication

HB 1181 HD2 arbitrarily and unfairly restricts physicians' ability to treat injured workers to an unspecified time following a work injury while imposing no restrictions on the pharmacies' ability to dispense. There is no policy justification for forcing injured workers in Hawaii to get their medication from the pharmacy instead of their physician after any time period. Limiting injured workers' ability to obtain medication directly from their physician interferes with the doctor-patient relationship and ignores the various benefits associated with physician dispensing.

When doctors dispense, patients can begin their medication treatment immediately. This greatly increases compliance with the prescribed treatment regimen because there is a 100% fill rate (compared to fill rates of only 70% to 80% at pharmacies, primarily due to insurance and transportation related hurdles). Increased compliance with the treatment plan can facilitate a quicker recovery/return to work and lower overall claim costs.

HB 1181 HD2 ignores the fact that workers' compensation is not like regular healthcare; filling a prescription at a pharmacy can be far more difficult. It is often overlooked that many injured workers lack reliable transportation or have difficulty getting to their physician's office, let alone making another trip to the pharmacy. If they can get to a pharmacy, many pharmacies will deny filling prescriptions altogether if the claim is denied pending investigation, forcing the injured worker to either pay out-of-pocket for the medication or simply go without the medication entirely. The end result is many injured workers failing to receive the prescription medications they need when they need them, which can result in aggravated injuries and longer delays before the employee returns to work.

Interfering with an injured worker's ability to fill a prescription through a physician can create significant additional hardships on the worker and does nothing to curtail costs. Section 386-21.7, Hawaii Revised Statutes, provides that "payment for all forms of prescription drugs including repackaged and relabeled drugs shall be one hundred forty percent of the average wholesale price set by the original manufacturer of the dispensed prescription drug . . . ." The reimbursement rates for pharmacy and physician dispensed medication are the same so restricting physician dispensing does not save costs. Arbitrarily restricting physicians from dispensing – while allowing pharmacies to dispense without limitation – is wholly unjustified, targets physician dispensers for no apparent reason and does nothing more than create additional obstacles for injured workers in the State by making it more difficult for them to obtain their medication.

2) Problems With Reducing the Reimbursement Rate

HB 1181 HD2 does not cite any Hawaii data that indicates medication costs are a true problem worth upheaving the entire pharmaceutical reimbursement schedule. In 2014, Act 231 changed the reimbursement rate for medications and created one fee schedule for "all forms of prescription drugs including repackaged and relabeled drugs." In doing so, the cost of physician dispensed medication was dramatically reduced. Since the passage of Act 231, the percentage of medical payments in Hawaii attributable to medications is less than 14% of all medical payments (with the National Council on Compensation Insurance projecting the national average for pharmacy payments at 17%). Simply put, there is no basis for making a statutory change to the reimbursements for pharmaceuticals in Hawaii's workers' compensation system.

Thank you for your consideration.

Jennifer Bean
Vice President of Government Affairs
Automated HealthCare Solutions, LLC

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 7:46 PM
To: CPH Testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB1181 on Mar 17, 2017 09:30AM*

HB1181
Submitted on: 3/13/2017
Testimony for CPH on Mar 17, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

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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