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TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Thursday, February 23, 2017
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1444, H.D. 1 – RELATING TO PHARMACY
BENEFIT MANAGERS**

TO THE HONORABLE ANGUS L.K. McKELVEY, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department submits the following comments.

The purpose of this bill is to regulate the conduct of pharmacy benefit managers (“PBMs”) by establishing registration requirements for PBMs.

Section 26H-6, HRS, requires that new regulatory measures being considered for enactment be referred to the Auditor for a sunrise analysis. The statute requires the referral to be made by a concurrent resolution that identifies a specific legislative bill to be analyzed. The statute further requires that the analysis set forth the probable effects of regulation and assess whether its enactment is consistent with the legislative policies of the Hawaii Regulatory Licensing Reform Act, and assess alternative forms of regulation.

Therefore, this bill should be deferred until a sunrise analysis on this measure is conducted by the Auditor.

We thank the Committee for the opportunity to present testimony on this matter.



Eric P. Douglas
Senior Director, Government Affairs

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Representative Angus McKelvey, Chair
Representative Linda Ichiyama, Vice Chair
House Committee on Consumer Protection & Commerce

Thursday, February 23, 2017
Conference Room 329; 2:00 PM

RE: HB 1444 HD1 – Relating to Pharmacy Benefit Managers - Comments

Aloha Chair McKelvey, Vice Chair Ichiyama and members of the Committee:

CVS Health appreciates the opportunity to offer comments on HB 1444 HD1 which requires pharmacy benefit managers to register with the insurance commissioner.

We take no issue with pharmacy benefit manager (“PBM”) registration / entity registration with the state. However, we offer the following comments for your consideration:

- While registration and a fee to establish nexus for certain out of state entities is appropriate, we ask that the Committee consider reducing or waiving the annual fee for a PBM when nexus and established business relationships are already long established by the company on the whole. For example, CVS Health already holds multiple registrations under DCCA’s Business Registration Division, so perhaps additional registration or at least registration fees may be unnecessary.
- Where business/entity registration is required, only the following elements are typically requested: (1) identity of the pharmacy benefits manager; (2) the name and business address of the contact person for the pharmacy benefits manager; and (3) where applicable, the federal employer identification number for the pharmacy benefits manager. We ask that the Committee consider clarifying these elements.
- Having PBM registration housed within the same department that houses the Board of Pharmacy raises some concern. As PBMs and Pharmacies have a financial relationship, we would respectfully submit that oversight of any sort by the Board of Pharmacy would be inappropriate. We request that the Committee entertain clarifying language to ensure no ambiguity as to the Board of Pharmacy’s authority under this bill.
- While we have no objection registering with the Insurance Commissioner, in other states we typically register with the Business Registration Division.

We thank you for your consideration of our comments.

Respectfully,

Eric P. Douglas

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 18, 2017 10:18 AM
To: CPCtestimony
Cc: Cynthia_Laubacher@express-scripts.com
Subject: *Submitted testimony for HB1444 on Feb 23, 2017 14:00PM*

HB1444

Submitted on: 2/18/2017

Testimony for CPC on Feb 23, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Cindy Laubacher	Express Scripts	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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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 9:49 AM
To: CPCtestimony
Cc: hawaiiopharm@gmail.com
Subject: Submitted testimony for HB1444 on Feb 23, 2017 14:00PM

HB1444

Submitted on: 2/21/2017

Testimony for CPC on Feb 23, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Hiromi Saito	Individual	Support	No

Comments: TESTIMONY ON HOUSE BILL NO. 1444 HD1, RELATING TO PHARMACY BENEFIT MANAGERS TO THE HONORABLE ANGUS L.K. McKELVEY, CHAIR, AND MEMBERS OF THE CONSUMER PROTECTION & COMMERCE COMMITTEE My name is Hiromi Saito, RPh, President of the Hawaii Pharmacists Association (HPhA). HPhA strongly supports this bill that will require Pharmacy Benefit Managers (PBMs) to register with the insurance commissioner. Currently, there is very little oversight of PBM activity in Hawaii. PBMs have become a business conglomerate that delivers health care and pharmacy services throughout Hawaii and our nation. PBMs conducts claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to covered persons. Throughout the years, there has been a significant decline in reimbursement per prescriptions to the pharmacies resulting in many independent pharmacies either closing or selling their business to larger chain pharmacies. PBMs also provide rebate contracting for Hawaii's managed care organizations (MCOs) that participate in the Quest Integration program. However, PBMs are usually not transparent in divulging the cost savings or the rebate amount the MCOs will save stating these figures are "proprietary." These dollar figures should be transparent to the MCOs, to the insurance commissioner, and any necessary governmental entity for proper actuarial purposes. For the stated reasons above, HPhA asks that this legislation passes intact from this committee. Hiromi Saito, RPH, BCACP, CDE, AAHIVP President Hawaii Pharmacists Association PO Box 22954 Honolulu, HI 96823

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Feb. 22, 2017

LATE

Representative Angus L.K. McKelvey, Chair
Representative Linda Ichiyama, Vice Chair
Honorable Members
House Committee on Consumer Protection and Commerce
Hawaii State Capitol
Honolulu HI 96813

Re: Comments in Opposition to HB 1444, Pharmacy Benefit Manager Registration

Dear Chair McKelvey, Vice Chair Ichiyama, and Honorable Members:

On behalf of the Pharmaceutical Care Management Association (PCMA) we must respectfully oppose HB 1444, relating to Pharmacy Benefit Manager (PBM) registration. PCMA is the national trade association for America's PBMs, which administer prescription drug plans for more than 266 million Americans with health coverage through Fortune 500 companies, health insurers, labor unions, and federal and state-sponsored health programs.

HB 1444 requires PBMs to register in the state of Hawaii with the Department of Commerce and Consumer Affairs (DCCA) and submit extensive information to the DCCA by March 31st of each year. PCMA is concerned with this legislation because it is unnecessary and will increase costs.

PBM activities are already extensively regulated, directly and indirectly, at both the state and federal levels. PBMs provide great advantages to consumers: holding down the cost of prescriptions, helping pharmacists to monitor potential adverse drug events, and providing consumers with wide access to medications and pharmacies. Through contracts PBMs have with health plans and insurers, PBMs are required to comply with the consumer protection laws and regulations governing utilization review and prior approval, timely claims payment, and dispute resolution systems, among others. PBMs are consistently held accountable through their contracts by their multiple clients.

HB 1444 requires disclosure of comprehensive information for no explicit purpose, and thus it is unclear what the registration requirements in the bill are trying to achieve. Some states have simple registration requirements, but the requests for information are typically limited to the identity of the PBM, and where applicable, the PBM's federal employer identification number. Providing additional filings is costly and administratively burdensome and may raise the cost of delivering the pharmacy benefit to consumers. In short, this bill requires more information than is necessary for a simple registration function. Additionally, if any registration must occur, the most appropriate entity under DCCA would be the Business Registration Department, as it is more experienced accepting business entity filings for the State of Hawaii.



Thank you for the opportunity to submit our concerns about HB 1444. If you have any questions, please don't hesitate to call me at 202-756-5743. Thank you.

Sincerely,

A handwritten signature in black ink that reads "April C. Alexander". The signature is written in a cursive, flowing style.

April C. Alexander
Senior Director, State Affairs

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 17, 2017 12:35 PM
To: CPCtestimony
Cc: rkorph@gmail.com
Subject: Submitted testimony for HB1444 on Feb 23, 2017 14:00PM

HB1444

Submitted on: 2/17/2017

Testimony for CPC on Feb 23, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Ron Okamura	Individual	Support	No

Comments: Agree with HB1444, HD1. There should be local oversight by our Insurance Commission.

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To: CPCtestimony
Cc: rontthi@gmail.com
Subject: *Submitted testimony for HB1444 on Feb 23, 2017 14:00PM*

HB1444

Submitted on: 2/17/2017

Testimony for CPC on Feb 23, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Ronald Taniguchi, Pharm.D.	Individual	Support	No

Comments:

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LATE

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 22, 2017 2:06 PM
To: CPCtestimony
Cc: kglick@wheelchair-kauai.com
Subject: Submitted testimony for HB1444 on Feb 23, 2017 14:00PM

HB1444

Submitted on: 2/22/2017

Testimony for CPC on Feb 23, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Glick	Individual	Support	Yes

Comments: Pharmacy Benefit Managers are the biggest least understood participant in the provision of pharmacy benefits in Hawaii and across the USA. The three top PBM's manage the drug spend for 95% of the Americans with drug coverage. They create and manage drug lists, set pricing and audit providers without any oversight by the state government. In previous sessions the Hawaii legislature has enacted laws regarding data mining, any willing provider and prohibition of mandatory mail order and maximum allowable cost, (MAC) legislation. This bill HB1444 seeks to bring PBM's under the supervision of the insurance division with the intent to ensure that they conduct their business in a fair and uniform manner.

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February 22, 2017
Support for HB1444

LATE

Dear Members of the Committee,

My name is Derek Tengan and I am a community pharmacist and business owner here in Honolulu. I would like to testify my support for HB1444 – Relating to Pharmacy Benefit Managers. By definition, a “Pharmacy Benefits Manager” means a *“person that Administers the prescription drug/device portion of health insurance plans on behalf of plan sponsors, such as self-insured employers, insurance companies, and health maintenance organizations, and that engages in or directs the Practice of Pharmacy.”* It is in the best protection of the public for these organizations to register with the department of commerce and consumer affairs, forging a step in the right direction toward having a regulatory body for these entities. Pharmacies must register with the DCCA so it is only appropriate that Pharmacy Benefit Managers do so as well.

Thank you for the opportunity to testify.

Sincerely,

Derek Tengan, PharmD

LATE

February 22, 2017
Support for HB1444

Dear Members of the Committee,

My name is Keri Oyadomari and I am a community pharmacist here in Honolulu. I would like to testify my support for HB1444 – Relating to Pharmacy Benefit Managers. It is in the best protection of the public for these organizations to register with the department of commerce and consumer affairs, and be regulated by an overseeing entity.

Thank you for the opportunity to testify.

Sincerely,

Keri Oyadomari, PharmD

LATE

To: Health Committee
From: Patrick Adams, Rph
Re: HB1444
In Support.

I am a pharmacist and Director of Pharmacy for a small chain in Hawaii. I have seen on a daily basis the actions of Pharmacy Benefits Managers. These actions often favor cost over health. Many of the actions of these Pharmacy Benefits Managers would not be allowed as insurers but because they are unregulated there has been very little a healthcare providers can do to help patients receive the care that is needed.

On November 8th, 2012 Carmen Catizone, Executive Director of the National Boards of Pharmacy introduced a resolution to the Model State Pharmacy Act that suggested state boards of pharmacy license Pharmacy Benefits Managers. Specifically, Section 105 (b5) and (c5)

“It is performance of activities that encompass the Practice of Pharmacy that distinguishes Pharmacy Benefits Managers from Pharmacy Benefits Processors. The activities that encompass the Practice of Pharmacy by Pharmacy Benefits Managers include, but are not limited to, the following:

- Disease state management
- Disease compliance management
- Drug adherence management
- Drug interaction management
- Drug utilization management
- Formulary management intervention
- Generic Alternative program management
- Medical and/or Drug data analysis
- Patient Drug Utilization Review (DUR) services
- Prior authorization services
- Provider profiling and outcomes assessment
- Refill reminder program management
- Therapy guidelines management
- Stop therapy protocol management
- Wellness management
- Maintenance of confidential patient information”

This bill is an important step in the regulation of companies that determine medication assess for most of the Hawaiian citizens. Pharmacy Benefits Managers are influencing the health and sickness of the public but they are un-tethered with regard licensing and regulations by Hawaii. This bill will help the state determine the affect the Pharmacy Benefits Managers are having on the health of it's citizens and set some guidelines to insure the best for the people of Hawaii.

Sincerely,
Patrick L Adams, Rph