

SB3072

Measure Title:	RELATING TO PHARMACY BENEFIT MANAGERS.
Report Title:	Prescription Drugs; Pharmacy Benefit Managers; Maximum Allowable Costs; Department of Health; Insurance Commissioner
Description:	<p>Requires pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs by the National Drug Code fifteen days prior to the change. Requires pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost appeal is upheld on appeal. Requires pharmacy benefit managers to: allow contracting pharmacies to reverse and rebill claims if the pharmacy benefit manager establishes a maximum allowable cost that is denied on appeal; and pay the difference to the contracting pharmacies. Permits contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost. Permits the insurance commissioner to suspend a pharmacy benefit manager's certification if the manager does not comply with state law. Requires the Department of Health to annually report to the legislature and any other state agency on appeals and disposition.</p>
Companion:	
Package:	None
Current Referral:	CPH, WAM
Introducer(s):	KIM, DELA CRUZ, GALUTERIA, K. KAHELE, KIDANI, RUDERMAN, S. Chang, Espero, Gabbard, Harimoto, Nishihara, Shimabukuro, Taniguchi

SB-3072

Submitted on: 2/1/2018 2:15:23 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Miri	Weinstein Pharmacy	Support	No

Comments:

SB-3072

Submitted on: 2/5/2018 10:25:33 AM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David Mikami	Molokai Drugs, Inc.	Support	No

Comments:

February 5, 2018

To: Senator Rosalyn Baker, Chair
Senator Jill Tokuda, Vice Chair
Senate Committee on Commerce, Consumer Protection and Health

Fr: Cynthia Laubacher, Senior Director – State Affairs
Express Scripts Holding Company

Re: SB 3072: Pharmacy Benefit Managers
Hearing Date: Tuesday, February 6, 2018 at 9am

Thank you for the opportunity to provide testimony regarding Senate Bill 3072. Express Scripts is a pharmacy benefit management company (“PBM”) whose clients include health plans, labor health trusts, and large employers including several located in the State of Hawaii. We have the following concerns with the proposal as introduced.

Page 4, lines 12-15 require a PBM to provide contracting pharmacy with fifteen days prior notice of a change to the MAC list. Existing law requires these lists be updated every seven days. This was a provision that was a priority for Hawaii’s community pharmacies when this law was enacted in 2015. There is no way for a PBM to comply with the required updates and provide 15-days notice of a change. The market for generic drugs can be volatile – and change up and down within that 15-day period. Both pharmacies and payers could be faced with higher costs as a result of this language.

Page 7, lines 3-14: Section 328-106, first and foremost, would negatively impact patients, as they would be turned away at their local pharmacy, left without potentially life-saving medications. Patients would be left guessing which pharmacies in their network would be willing to fill their mediations and which would not. The pharmacy could also arbitrarily exercise the ability to turn away patients – dispensing the drug one day and declining to do so the next day, causing further patient confusion. This places patients in the middle of a private commercial, contract matter. The pharmacies voluntarily contract with ESI and they agree to the terms and conditions, including reimbursement. To give them the ability not to dispense whenever they dislike their reimbursement undermines basic contracting principles, namely that the parties abide by the contractual bargain they struck. Further, pharmacies could basically hold patient care hostage until PBMs concede to their reimbursement demands. This will increase costs to health plans and, ultimately, to members because PBMs would lose their ability to incentivize pharmacies to purchase drugs at the lowest possible cost.

Page 7, lines 15-17: This provision gives the Commissioner the right to “immediately” revoke a PBM’s registration. This is a violation of legal due process. There is no “MAC pricing/appeal” injury that justifies taking action first and then granting an opportunity to be heard. PBMs should be given an opportunity to be heard and to appeal prior to a revocation. Moreover, there is no materiality or knowledge requirement (i.e., immediately revoke if the PBM “knowingly” or “materially” violates this section). If the commissioner were to exercise this authority, even if the revocation is later rescinded, patients will see an immediate impact as they will suddenly find themselves without access to their prescription drug benefit and forced to pay cash for their medications.

For these reasons, we respectfully request that SB 3072 be held in committee. Thank you for your consideration of our concerns.

SB-3072

Submitted on: 2/5/2018 3:46:13 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
sheree latif	northshore pharmacy	Support	No

Comments:

As an independent pharmacy in the state of Hawaii on the north shore of Kauai, we have been in business in our location in Kilauea for 30years. We are seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for the patients we serve in our communities.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

-Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs

by the national drug code fifteen days prior to the change;

-Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

-Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

-Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

-Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

February 6, 2018

Senator Rosalyn Baker, Chair
Senator Jill Tokuda, Vice Chair
Committee on Commerce, Consumer Protection and Health
State Capitol, Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

RE: Senate Bill 3072– Relating to Pharmacy Benefit Managers

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

CVS Health is writing to express our concerns with Senate Bill 3072 (“SB 3072”), relating to pharmacy benefit managers (PBMs). CVS Health is a pharmacy innovation company helping people on their path to better health. Our unique integrated model increases access to quality care, delivers better health outcomes and lowers overall health care costs. In Hawaii, CVS Health has over 3,000 employees with 71 Longs Drugs stores that filled more than 6.9 million prescriptions in 2017. Additionally, through its CVS Caremark pharmacy services, the pharmacy benefit management, mail order and specialty pharmacy divisions of CVS Health, more than 9.9 million claims were processed in 2017. CVS Health enables people, businesses and communities to manage health in more affordable and effective ways.

SB 3072 seeks to amend the existing law relating to “maximum allowable cost” (MAC). MAC is one of the most common methodologies used in paying pharmacies for dispensing generic drugs. A MAC list is a common cost management tool that is developed from a survey of various sources, including wholesale prices existing in the marketplace, taking into account market share, existing inventory, expected inventories, reasonable profits margins and other factors. Each PBM develops and maintains its own confidential MAC list derived from its specific proprietary methodologies. The MAC list helps to ensure that the PBM, on behalf of their clients (employers and health plans), are paying a fair price for widely available generic drugs.

While the law was carefully negotiated and agreed to by all stakeholders in 2015, this legislation goes far beyond what was contemplated by the law and is proposing amendments that would actually conflict with existing law.

For example, Section 2(f) proposes a 15-day notification requirement for changes to MAC reimbursements prior to initiating the change. Such a requirement completely conflicts with the law and would likely be harmful to consumers, payers, and the pharmacies themselves. The law already requires the MAC list to be updated once every seven days and for the PBM to immediately implement those changes. If a PBM has to immediately implement the changes, a PBM would be unable to then provide 15 days’ notice. It would also be operationally impossible for a PBM to adjust a MAC price upon a successful MAC appeal by a pharmacy within one

calendar day of the date of the decision as is required by law if the PBM must give 15 days' notice first.

Additionally, PBMs cannot foresee market events or predict with certainty whether the purchase price of a drug will increase or decrease over a given period of time. MAC reimbursement rates are largely dictated by marketplace dynamics, so requiring PBMs to provide 15 days' notice for any changes, effectively means that all MAC reimbursement rates will be based on information from two weeks prior, no longer reflecting the actual market price of a drug product when it goes into effect. If a change in a MAC rate is not permitted to be implemented until 15 days after notice is given and the market price of a drug quickly increases during that 15 day period (e.g., a drug shortage, manufacturer drastically increases its price), pharmacies would be under-reimbursed for that drug because the PBM would not be able to adjust the reimbursement rate for another 15 days without advanced notice. If a MAC rate is locked in to go into effect in 15 days and the market price of a drug decreases during that time, consumers do not get the benefit of the savings. Pharmacies will be able to buy the drug in the marketplace at a cheaper price but PBMs will be forced to reimburse pharmacies (and bill the health plan) at the older, higher price. Ultimately, if PBMs were to comply with the section, PBMs would be violating multiple other sections of the existing law and prescription drug costs for Hawaiian consumers and employers could increase.

Section 2(g)(5), which would require a PBM to "pay the appealing contracting pharmacy the difference between the maximum allowable cost set by the national drug code on the day of the claim and the maximum allowable cost being appealed" upon a pharmacy's successful appeal, is confusing and unclear. The MAC rate that was in place on the day the claim was submitted would be the very same MAC rate the pharmacy would appeal. We do not understand the intent of this new language.

Section 2(i) would allow a pharmacy to turn away a customer and refuse to fill a prescription if they will not make money on the particular drug they are being requested to fill. This would lead to patients going without important medications and endangering their health and safety. It would also interfere with medication adherence and the treatment of serious illnesses. Not only does this provision put pharmacy profits ahead of patients, it fails to recognize that overall pharmacy profits on the dispensing of drugs are measured on the dispensing of all drugs, brand and generic, and not on a particular drug.

It is important to understand that MAC pricing methodology is used to encourage good competitive business practices so that consumer and employers get the benefit of lower costs for their prescription drugs. Although MAC motivates pharmacies to obtain the lowest possible prices, it does not guarantee that pharmacies are fully reimbursed for *every* prescription drug they acquire. Like most businesses, some products are profitable and others are not. The risk that a pharmacy may be reimbursed at something less than the price paid for the drug places an incentive on the pharmacy to manage inventories efficiently and leverage buying power to result in the lowest possible net acquisition cost. These low costs are passed on to employers, plan sponsors and ultimately consumers. We are very concerned that Section 2(i) could impact patient

health and safety and increase costs for consumers and encourages the wrong incentives within the health care industry.

Section 2(j) would allow the insurance commissioner to immediately revoke a PBM's registration if the PBM violates the law. The requirements in this law relate to private business contracts and in no way put patient safety in jeopardy. However, granting the insurance commissioner the authority to immediately revoke a PBM's registration would have a direct impact to patient access to their critical medications. More than a million people would suddenly not have access to their pharmacy benefits that are managed by the PBM – which would create major patient safety concerns and mass confusion for Hawaiian citizens. Additionally, it would deprive the PBM of its due process rights under the law.

Lastly, Section 2(k), would require a public report to the legislature regarding appeal information. Information related to MAC appeals is confidential and proprietary competitive information. Disclosure of such information could lead to lower competition and increased prescription drug prices. We have concerns with such a report being required, and the report's purpose is unclear..

As noted in the above examples, we have serious concerns with this legislation from a compliance perspective and its potential impact on prescription drug costs and patient safety. On behalf of CVS Health, I thank you for your consideration of our comments regarding SB 3072.

Respectfully,

A handwritten signature in cursive script that reads "Melissa Schulman".

Melissa Schulman
Senior Vice President, Government and Public Affairs
CVS Health

SB-3072

Submitted on: 2/5/2018 12:00:15 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
greg harmon	kAMEHAMEHA pHARMACY	Support	No

Comments:

My opinion states that current PBM practice in Hawaii is in violation allowed to continue

under third party contracts with large health insurance companies. The member or patient

is a victim from this unsustainable business model. This unfair business practice for pharmacy

providers is not legal and violates several state statutes including elimination or close of my rural pharmacy business. I strongly support this legislation to protect member/patient access to

medications to promote a positive healthy outcome.

Greg Harmon, Pharm Kamehameha Pharmacy, North Kohala Big Island

SB-3072

Submitted on: 2/5/2018 12:45:36 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard S. Mejia	Times Supermarket Pharmacy	Support	No

Comments:

As a small-chain Community Pharmacy in the State of Hawaii, we are seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for the patients we serve in our communities.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

-Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs by the national drug code fifteen days prior to the change;

-Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

-Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

-Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

-Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

Richard S. Mejia RPh.

SB-3072

Submitted on: 2/5/2018 1:14:54 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Allan Matsukado	Shiigi Drug Co., Inc.	Support	No

Comments:

Toward the end of 2017 from approximately September to December, we began to see a drastic reduction in reimbursement from Pharmacy Benefit Managers (PBMs), particularly Caremark. Caremark has even acknowledged that the reduction in reimbursement was "intentional to see how the market reacts". There were countless prescriptions daily that would yield no profit or we would lose money by filling. On some prescriptions, the amount lost would be more than \$50 and into the \$100s.

Our approach to this situation and the results would be somewhat like the following:

- When contacting the PBM directly to dispute the reimbursement or ask for clarification, no assistance was provided.
- The PBM would not consider reviewing and/or reversing the reimbursement amount, nor would they communicate why the reimbursement amount had dropped by such a large amount.
- The PBM would not state where we could obtain the drug from (cheaper vendor), which would help offset the decrease in reimbursement.
- We would be left with the task of trying to source a cheaper drug at that moment, which of course utilizes more time, energy and resources. And a cheaper drug was rarely found to the point where it would have flipped the profit margin on the prescription.

Another problem we encountered was that while attempting to report a PBM for non-compliance, we ran into a wall. No one within the different government agencies seemed to know who had oversight of the PBMs. We tried Department of Health, Commerce and Consumer Affairs and the Insurance Commission, but no one could assist and hold the PBM accountable.

To date, the money lost while the PBMs intentionally dropped their reimbursement rates has not been recouped, nor have the PBMs given any indication that they intend to repay or even reconsider the claims that were "underwater". The implementation of SB3072 would help to deter PBMs from taking such unfair, unethical and drastic actions in the future.

SB-3072

Submitted on: 2/5/2018 3:24:02 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
magdi latif	bb inc	Support	No

Comments:

As an independent pharmacy in the state of Hawaii on the north shore of Kauai. we have been in business in our location in Kilauea for 30years., we are seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for the patients we serve in our communities.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

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by the national drug code fifteen days prior to the change;

-Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

-Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

-Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

-Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

SB-3072

Submitted on: 2/5/2018 3:05:20 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ryan P Wilkin	Times Supermarket RX	Support	No

Comments:

Testimony presented before the

Senate Committee on

February 5th, 2018

By

Ryan Wilkin

Times Pharmacy #24 Honokowai, Maui

SB 3072 – RELATED TO PHARMACY BENEFIT MANAGERS

As a Community Pharmacy in the State of Hawaii, we are seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for the patients we serve in our communities.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

(1) Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs

by the national drug code fifteen days prior to the change;

(2) Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

(3) Require pharmacy benefit managers to allow contracting pharmacies to reverse and rebill claims if the pharmacy benefit manager establishes a maximum allowable cost that is denied on appeal and pay the difference to the contracting pharmacies

(4) Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

(5) Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

(6) Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

SB-3072

Submitted on: 2/5/2018 1:15:27 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael	Times Pharmacy	Support	No

Comments:

As a small-chain Community Pharmacy in the State of Hawaii, we are seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for the patients we serve in our communities.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

-Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs

by the national drug code fifteen days prior to the change;

-Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

-Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

-Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

-Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

Michael Hisaka

SB-3072

Submitted on: 2/5/2018 8:36:18 AM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Catalina Cross	Times Pharmacy	Support	Yes

Comments:

Testimony presented before the

Senate Committee on Commerce, Consumer Protection, and Health

February 6, 2018

By

Catalina Cross, PhD

Director of Pharmacy

Times Pharmacy

SB 3072 – RELATED TO PHARMACY BENEFIT MANAGERS

As a small-chain Community Pharmacy in the State of Hawaii, we are seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for the patients we serve in our communities on Oahu & Maui.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

(1) Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs

by the national drug code fifteen days prior to the change;

(2) Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

(3) Require pharmacy benefit managers to allow contracting pharmacies to reverse and rebill claims if the pharmacy benefit manager establishes a maximum allowable cost that is denied on appeal and pay the difference to the contracting pharmacies

(4) Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

(5) Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

(6) Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.



February 6, 2018

The Honorable Rosalyn Baker
Chair, Senate Commerce, Consumer Protection and Health Committee
415 S. Beretania St,
Honolulu, Oahu, HI, 96813-2425

Sent VIA Email

Re: Opposed to S.B. 3072, a bill relating to pharmacy benefit managers

Dear Senator Baker:

On behalf of the Pharmaceutical Care Management Association (PCMA) we are respectfully opposed to S.B. 3072, a bill relating to pharmacy benefit managers and generic reimbursement using maximum allowable cost (MAC). Provisions in this bill will result in delays in patients receiving their medications and make compliance by a PBM impossible. Also, the ability for the immediate revocation of a PBM registration by the Commissioner is overly punitive and could create massive disruption in the delivery of prescription drug benefits.

PCMA is the national trade association for America's Pharmacy Benefit Managers (PBMs), which administer prescription drug plans for more than 266 million Americans with health coverage through independent businesses, health insurers, labor unions, and federal and state-sponsored health programs.

Specific Concerns

15 day Notification Requirements – Page 4, lines 12-15

Compliance with this provision would be impossible and conflicts with other sections of the bill.

- A PBM is not able to both review and adjust a MAC list once every seven days and immediately implement those adjustments (as required by sub-section (e)); and, also give 15 days-notice of MAC changes (as required by proposed sub-section (f)).
- This requirement will also make it operationally impossible for a PBM to immediately adjust the MAC price on a successful MAC appeal (as required by sub-section (g)(5)).
- PBMs cannot foresee market events or predict with certainty whether the purchase price of a drug will increase or decrease over a given period of time. MAC prices are largely dictated by marketplace dynamics, so requiring PBMs to provide 15 days-notice for any changes effectively means that all MAC Prices will be stale and will no longer reflect the actual market price of a drug product. This may result in pharmacies being under reimbursed should the price of a drug increases, or a patient paying more if the price decreases.

Reimbursement Requirements on Approved MAC Appeals - Page 6, lines 10-16



It is unclear what the intent of this provision is or how it strengthens the existing provision on reversing and rebilling the claim when an appeal is upheld.

Pharmacy Right to Refuse Service if Paid Less than Acquisition Cost – Page 7, lines 3 - 14

This could lead to patients going without important medications and not adhering to the drug therapy regimens for serious illnesses. This provision puts pharmacy profits before patients. Overall pharmacy profits are measured on the dispensing of all drugs, brand and generic. There are already statutory protections in place that give a pharmacy the ability to appeal for a higher reimbursement on generic drugs on a MAC list.

Immediate revocation of PBM registration - Page 7, lines 15-17

This provision is overly punitive and likely in violation of due process rights under the Hawaii Administrative Procedures Act. The result of an immediate revocation of a PBM registration could leave millions of Hawaiians without access to important prescription drug coverage and would be disruptive to the entire healthcare delivery system in Hawaii.

Report to the legislature – Page 7, lines 20-21 and Page 8 lines 1-3)

The market information included in the appeals is proprietary, competitive information that could lead to collusion and price increases. As the Federal Trade Commission stated in its letter to Representative Mark Formby in Mississippi on legislation that allowed disclosure of a PBM's proprietary information, "These provisions could result in sharing competitively sensitive cost information among competing pharmacies and pharmaceutical manufacturers. In particular, such information sharing could undermine competition between pharmacies to be included in PBM networks and between pharmaceutical manufacturers to offer discounts to PBMs. Both outcomes could raise prescription drug prices for consumers."¹

For the reasons stated in this letter, we oppose S.B. 3072 and request it not pass. We appreciate your consideration of our comments.

Sincerely,

Lauren Rowley
VP, State Affairs

cc: Senate Commerce, Consumer Protection and Health Committee Members

¹ FTC Staff letter to Rep. Mark Formby (MS) March 2011; <https://www.ftc.gov/policy/advocacy/advocacy-filings/2011/03/ftc-staff-letter-honorable-mark-formby-mississippi-house>



February 5, 2018

The Honorable Rosalyn H. Baker
Hawaii Senate Committee on Commerce, Consumer Protection, and Health
415 South Beretania Street, Conference Room 229
Honolulu, HI 96813

RE: NATIONAL COMMUNITY PHARMACISTS ASSOCIATION SUPPORT OF S.B. 3072

Dear Chair Baker,

I am writing to you today on behalf of the National Community Pharmacists Association (NCPA) in support of S.B. 3072. This bill would continue the Hawaii Legislature's efforts to establish a fair degree of transparency into how pharmacy benefit managers (PBMs) report drug pricing to pharmacies for multiple source generic drugs.

NCPA represents the interest of America's community pharmacists, including the owners of more than 22,000 independent community pharmacies across the United States and 74 independent community pharmacies in Hawaii. These Hawaii pharmacies filled over 4.4 million prescriptions last year, impacting the lives of thousands of patients in your state.

PBMs typically establish a list, often referred to as a maximum allowable cost (MAC) list, for multi-source generic drugs that determines the amount a PBM will pay for certain drug products. The process PBMs use to determine the drugs and the prices of the drugs included on the list often lacks any degree of transparency. This process is further complicated by the fact that PBMs frequently maintain multiple lists. There is no standardization in the industry for the criteria or methodology used to determine inclusion or pricing of a drug on one of these lists. In most cases, these lists remain entirely confidential to both the PBM's client – the health plan sponsor – and the pharmacy; therefore, there is no way of knowing how or why a health plan sponsor or pharmacy is paying or being paid the PBM-set price for a drug. This gives PBMs the ability to gain significant revenues through questionable business practices.

In 2015, realizing the need for transparency, Hawaii's legislature enacted H.B. 252, which requires PBMs to provide clarity with regard to how MAC pricing is determined and updated and establishes a defined appeals process in which a pharmacist can contest a listed MAC price. Since the enactment of that legislation, it has become clear that there are some gaps in Hawaii's MAC-transparency laws, and S.B. 3072 would help to fill some of those gaps. By requiring PBMs to disclose where a drug can be acquired at or below the applicable MAC price and to apply an adjusted MAC price retroactively to a claim pursuant to an appeal, S.B. 3072 would help to ensure that MAC lists accurately reflect the current pharmaceutical marketplace figures.

S.B. 3072 would also help pharmacists ensure they can continue maintaining their businesses and providing services to their patients by permitting a pharmacist to decline to dispense a drug if the reimbursement is less than the acquisition cost. Under the MAC reimbursement methodology, pharmacies are not guaranteed to make a profit and are often left underwater when providing necessary medications to their patients. As an example, in a January 2018 NCPA survey of independent pharmacy owners, 88 percent of respondents said that in the past 60 days they have experienced multiple incidences of reimbursements for Tamiflu or oseltamivir at rates below the pharmacy's acquisition cost for the medication. Some respondents are citing losses in excess of \$60, even \$70 per prescription. Many PBM contracts require pharmacists to dispense a medication to a patient, regardless of whether it will be dispensed at a loss. As a result, many community pharmacies are having to eat the loss in order to see that their patients are cared for during one of the worst flu seasons in years. Pharmacists' primary concern is the health of their patients, but they cannot stay in business and continue to provide services to their patients with such drastic under-reimbursements. S.B. 3072 would help to ensure that pharmacists can continue serving patients without the concern that they will be run out of business due to PBM under-reimbursements.

Much like H.B. 252 in 2015, S.B. 3072 is not requiring anything that would result in a negative fiscal impact to the healthcare system or to any state agency or plan. Of the thirty-three states with similar MAC-transparency legislation, not a single state has reported a negative fiscal impact.

NCPA urges your support of S.B. 3072 so that community pharmacists can better serve their patients without PBMs imposing unfair and burdensome requirements.

If you have any questions about the information contained in this letter or wish to discuss the issue in greater detail, please do not hesitate to contact me at matthew.magner@ncpanet.org or (703) 600-1186.

Sincerely,



Matthew Magner
Director, State Government Affairs

SB-3072

Submitted on: 2/2/2018 5:54:52 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

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

Comments:

SB-3072

Submitted on: 2/2/2018 6:29:22 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Glick		Support	No

Comments:

I have been a pharmacist in Hawaii since 1982 and have a passion for helping patients. SB3072 is important to assure that future generations of pharmacists are able to provide the care the community needs. Currently pharmacy benefit managers are able to pick winners and losers in the profession of pharmacy. This bill serves to assure that the pricing for medications is fair and not subject to the self interests of the megacorporations that the PBM's are. Please support this bill in its passage through the legislature.

SB-3072

Submitted on: 2/3/2018 10:40:14 AM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Carter		Support	No

Comments:

SUPPORT SB3072

PBM's have acted in bad faith over the past few years and have ignored legislation that they themselves helped to pass. The uncomfortable reality is that, their bottom line is what matters. If there are no consequences to an action, be it legal or not, and the PBM's gain a financial advantage then they will take it. Publicly traded companies are required by the FTC to put the interest of investors FIRST, the generation of profit supercedes providing for patients needs. If the penalty is less than the profit generated then the company will pay the penalty.

Patients are losing Providers and access to medication because of the lack of proper and timely payment to providers. This legislation only ensures that the PBM's follow the laws that have already been passed by causing a REAL penalty that will supercede the profit generated by unfair business practices and will help to ensure a robust healthcare network for patients.

Aloha,

Brian Carter RPh

SB-3072

Submitted on: 2/5/2018 11:34:24 AM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Elissa-Marie Brown		Support	No

Comments:

I support SB 3072

February 1, 2018
Support for SB3072

Dear Members of the Committee,

My name is Joo Kim and I am a Business Director and active member of the community here in Honolulu. I am testifying my support for SB3072. Pharmacy Benefit Managers currently affect every aspect of a pharmacy's business operations. They work with both pharmacies and insurance providers in determining reimbursements for drugs that are dispensed. Pharmacy Benefits Managers set the amount that pharmacies are reimbursed for drugs.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

(1) Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs by the national drug code fifteen days prior to the change;

(2) Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

(3) Require pharmacy benefit managers to allow contracting pharmacies to reverse and rebill claims if the pharmacy benefit manager establishes a maximum allowable cost that is denied on appeal and pay the difference to the contracting pharmacies

(4) Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

(5) Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

(6) Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

Sincerely,

Joo Kim

SB-3072

Submitted on: 2/5/2018 12:39:12 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Annie Brown		Support	No

Comments:

I strongly support it.

February 1, 2018
Support for SB3072

Dear Members of the Committee,

My name is Keri Oyadomari and I am a community pharmacist here in Honolulu. I am testifying my support for SB3072. Pharmacy Benefit Managers currently affect every aspect of a pharmacy's business operations. They work with both pharmacies and insurance providers in determining reimbursements for drugs that are dispensed. Pharmacy Benefits Managers set the amount that pharmacies are reimbursed for drugs.

According to previous legislation passed, the pharmacy has the right to appeal this reimbursement if it is below cost, within a designated time period. However, almost all of our appeals result in no success. Many independent pharmacies nationwide have been bought out or been forced to shut down because of this issue. As a pharmacist at an independent pharmacy, we are able to provide many beneficial and free services to our patients that larger corporations cannot. With the pattern of below cost reimbursements, it will be difficult to continue to provide free services, and furthermore stay in business.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

(1) Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs

by the national drug code fifteen days prior to the change;

(2) Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

(3)Require pharmacy benefit managers to allow contracting pharmacies to reverse and rebill claims if the pharmacy benefit manager establishes a maximum allowable cost that is denied on appeal and pay the difference to the contracting pharmacies

(4)Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

(5)Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

(6)Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

Sincerely,

Keri Oyadomari, Pharm.D.

February 1, 2018
Support for SB3072

Dear Members of the Committee,

My name is Derek Tengan and I am a pharmacist and pharmacy owner of an independent pharmacy with four locations here on the island of Oahu. I am writing to testify my support for SB3072 relating to Pharmacy Benefit Mangers (PBMs).

Pharmacy Benefit Managers determine how much a pharmacy is reimbursed for a drug. If a PBM were to reimburse a pharmacy below the pharmacy's purchasing cost, the pharmacy had the right to appeal and receive a decision within 14 days. We have been denied 90% of our appeals. I am the owner of an independent pharmacy with four locations. In the year 2016, we measured a total of 26,258 prescriptions that we dispensed in which we made less than zero dollars, or a negative profit. This means for 26,258 instances, we were reimbursed less than the amount we purchased the drug for. This negative profit does not take into account labor hours, utilities, and other expenses that any pharmacy will face.

The amendments in SB3072 will help protect independent pharmacies statewide to stay open, and furthermore continue to provide valuable personalized services to their communities. We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

- (1) Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs
by the national drug code fifteen days prior to the change;

(2) Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

(3) Require pharmacy benefit managers to allow contracting pharmacies to reverse and rebill claims if the pharmacy benefit manager establishes a maximum allowable cost that is denied on appeal and pay the difference to the contracting pharmacies

(4) Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

(5) Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

(6) Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

Sincerely,

Derek Tengan, Pharm.D.

February 5, 2018
Support for SB3072

Dear Members of the Committee,

My name is Lauri Madanay and I am a clinical nurse specialist for 5 Minute Pharmacy here in Honolulu. I am testifying my support for SB3072. Pharmacy Benefit Managers currently affect every aspect of a pharmacy's business operations. They work with both pharmacies and insurance providers in determining reimbursements for drugs that are dispensed. Pharmacy Benefits Managers set the amount that pharmacies are reimbursed for drugs.

As the nurse for an independent pharmacy, I am able to provide many beneficial and free services to our patients that larger corporations cannot. I currently have over 70 patients that I provide a free service of long acting psych-injection administration to at their home or place or residence. I previously worked for a different independent pharmacy who was purchased last year by CVS. Unfortunately they were not able to maintain my services after the purchase, so I found another independent pharmacy able to allow me to provide my services to my patients. With the pattern of below cost reimbursements, it will be difficult to continue to provide these free services to my patients.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

- (1) Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs by the national drug code fifteen days prior to the change;
- (2) Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

(3)Require pharmacy benefit managers to allow contracting pharmacies to reverse and rebill claims if the pharmacy benefit manager establishes a maximum allowable cost that is denied on appeal and pay the difference to the contracting pharmacies

(4)Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

(5)Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

(6)Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

Sincerely,

Lauri Madanay, RN

SB-3072

Submitted on: 2/5/2018 12:38:39 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Elena Brown		Support	No

Comments:

I strongly support this bill.



You're Someone Special

Testimony presented before the
Senate Committee on Commerce, Consumer Protection, and Health
February 5, 2018
by
Kerri Okamura, R.Ph., Director of Pharmacy Operations
KTA Super Stores Pharmacies

SB 3072 - RELATING TO PHARMACY BENEFIT MANAGERS

KTA Super Stores operates four pharmacies on the Island of Hawaii. Our pharmacies are located in Hilo, Waimea, Waikoloa and Kona. We are seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for the patients we serve in our communities.

We believe strengthening § 328-106 (related to pharmacy benefit managers; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

- (1) Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs by the national drug code fifteen days prior to the change;
- (2) Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;
- (3) Require pharmacy benefit managers to allow contracting pharmacies to reverse and rebill claims if the pharmacy benefit manager establishes a maximum allowable cost that is denied on appeal and pay the difference to the contracting pharmacies
- (4) Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;
- (5) Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and
- (6) Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

PHONE: (808) 959-4575
50 EAST PUAINAKO STREET, HILO, HAWAI'I 96720

WWW.KTASUPERSTORES.COM



SB-3072

Submitted on: 2/5/2018 3:46:42 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sherry Baysa	NORTHSHORE PHARMACY	Support	No

Comments:

As an independent pharmacy in the state of Hawaii on the north shore of Kauai. we have been in business in our location in Kilauea for 30years., we are seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for the patients we serve in our communities.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

-Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs

by the national drug code fifteen days prior to the change;

-Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

-Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

-Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

-Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

SB-3072

Submitted on: 2/5/2018 1:16:43 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ashok		Support	No

Comments:

As a small-chain Community Pharmacy in the State of Hawaii, we are seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for the patients we serve in our communities.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

-Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs

by the national drug code fifteen days prior to the change;

-Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

-Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

-Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

-Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

There had been lot of consolidation in PBM business leaving very few large players. It is important to have a strong oversight in this monopolized environment. This legislation is important to protect Pharmacy profession and small community Pharmacy businesses

Thank you for the opportunity to submit testimony.

SB-3072

Submitted on: 2/5/2018 10:01:51 AM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dayna Wong-Otis		Support	No

Comments:

SB-3072

Submitted on: 2/5/2018 12:30:55 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Brown		Support	No

Comments:

I strongly support this measure.

SB-3072

Submitted on: 2/5/2018 4:08:36 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Hilary Viernes	NORTHSHORE PHARMACY	Support	No

Comments:

As an independent pharmacy in the state of Hawaii on the north shore of Kauai. we have been in business in our location in Kilauea for 30years., we are seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for the patients we serve in our communities.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

-Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs

by the national drug code fifteen days prior to the change;

-Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

-Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less that the acquisition cost;

-Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

-Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

SB-3072

Submitted on: 2/5/2018 4:27:38 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
terry	Northshore pharmacy	Support	No

Comments:

MOLOKAI DRUGS, INC.
P.O. Box 558
Kaunakakai, HI 96748-0558
Phone 808-553-5790

February 5, 2018

Re: Testimony in Support of SB3072

Dear Members of the Senate Commerce, Consumer Protection, and Health Committee:

For 83 years, Molokai Drugs has served the 7,400 residents of the rural island of Molokai. We currently provide pharmacy services six days a week and our pharmacists will also come in on Sundays and holidays for medical emergencies. Our main owner as well as our two pharmacists (who are also both owners) all maintain listed phone numbers in the phone book so our customers have access.

When a customer does not have money for his/her prescription co-pay, our pharmacy staff will do one of the following: pay for the co-pay out of a "kitty jar;" put the co-pay on an emergency charge account; or pay the co-pay out of an employee's pocket. We do this because Molokai Drugs is a small town pharmacy where our staff knows the names, faces, and familial connections of our customers.

However, so much of our existence as a community pharmacy is based on our contracts with pharmacy benefits management (PBM) companies with headquarters away from Hawaii. Our contracts mandate that we fill a prescription—even if we are reimbursed in "the red" or under cost—to any member coming into our store with our prescription. We cannot deny any prescription, even if we lose money.

Earlier today, Molokai Drugs filled a prescription at a loss of -\$7.31.

We filled the prescription and dispensed it. Without the medicine, the patient could have gotten sick, gone to the emergency room, or something even worse.

In the past, we have filled single prescriptions at a loss of over -\$100.00. We fill these prescriptions not knowing what we will be paid because the "Maximum Allowable Cost" (MAC) pricing can change at any time with no warning. MAC prices are the top limits that a PBM or prescription drug benefit plan will pay Molokai Drugs for generic brands and brand name drugs that have generic drugs available (multi-source brands).

We see only a few prescriptions per day at a loss. Many Hawaii community pharmacies fill 15 or more prescriptions per day at a loss. Every, single day.

As a rural pharmacy, we are asking for your support to help us manage the cost and access to prescription drugs for our Molokai patients. We always try to buy smart in all of our purchases. We are told by the PBMs what we should be able to find a drug priced at. We are not told where to buy the drug. We only maintain a 10-14 day inventory. The pricing and reimbursement of a drug can change at any time.

We believe SB3072 will help Hawaii residents by allowing community pharmacies to dispense medicine safely and at the right price (consumer protection); provide patients with access to their medicines since community pharmacies will be able to maintain appropriate inventories at a transparent price (commerce and health); and help Hawaii's 74 community pharmacies provide employment to over 700 employees (commerce).

Mahalo for allowing me to submit testimony on behalf of the 7,400 residents of Molokai.

Sincerely,



Kimberly Mikami Svetin
President
Molokai Drugs, Inc.

SB-3072

Submitted on: 2/5/2018 5:55:16 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Patrick Uyemoto		Support	Yes

Comments:

The Hawaii Pharmacists Association Strongly Supports SB3072

Aloha Senator Baker, Senator Tokuda, and Members of the Committee,

A number of local independent pharmacies have closed down or sold to a large mainland corporation. The few local independent pharmacies that are still here are struggling to survive. Pharmacies are being reimbursed below the cost of acquiring certain medications sometimes losing up to hundreds of dollars per prescription. PBMs determine how much a pharmacy is reimbursed through their Maximum Allow Cost formula and claim that pharmacies are being reimbursed at a fair price and yet they are not willing to share how they arrived at their number. The only option a pharmacy has is to submit a MAC appeal to the PBM to request a higher reimbursement or for them to simply tell us where we can purchase the medication so we can actually make a profit. All MAC appeals have been denied, hundreds have been submitted and I have not heard of one being approved. In addition, PBMs have not been able to tell us where we can purchase the medication at the price they intended. Working with the PBMs has been hopeless but even so I know that local independent pharmacies are doing everything they can to do the right thing for their patients, even dispensing medications at a loss. If the current pharmacy reimbursement model remains the same and PBMs are not held accountable, it will only be a matter of time until all local independent pharmacies are forced to close or sell.

Thank you for the opportunity to provide testimony on SB3072

SB-3072

Submitted on: 2/5/2018 7:52:09 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Aaron Brown		Support	No

Comments:

I support.

SB-3072

Submitted on: 2/5/2018 8:28:16 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Chun		Support	No

Comments:

February 5, 2018

Jennifer L Chun

45-1031B Waialele Rd

Kaneohe, HI 96744

(808) 634-9112

Dear Senator Baker, and the members of the Senate Committee on Commerce, Consumer Protection, and Health:

I am writing to express my SUPPORT for Senate Bill 3072 related to Pharmacy Benefit Managers.

As a mother of five children three of whom are affected with a severe Bleeding disorder (Hemophilia B - Factor 9 deficiency), I am seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for not only my children but all patients here in Hawaii.

Our family uses a small local Community Pharmacy in Hanapepe, HI. In 2016 our health insurance payer refused to pay our pharmacy correctly. Resulting in an underpayment of \$2.60 per unit used. My children use 2500 units each week. So in

one month they will get a shipment of 10,000 units this results in an underpayment of \$26,000 each month. It took us almost nine months to get this resolved.

I believe that strengthening the bill will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State.

Mahalo for allowing me this time to submit my testimony.

SB-3072

Submitted on: 2/6/2018 7:16:52 AM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ashley Lelepali	Times Pharmacy	Support	No

Comments:

Testimony presented before the

Senate Committee on Commerce, Consumer Protection, and Health

February 6, 2018

by

ASHLEY LELEPALI

Times Pharmacy

SB 3072 – RELATED TO PHARMACY BENEFIT MANAGERS

As a small-chain Community Pharmacy in the State of Hawaii, we are seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for the patients we serve in our communities.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

-Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs

by the national drug code fifteen days prior to the change;

-Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

-Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

-Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

-Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

SB-3072

Submitted on: 2/5/2018 11:30:22 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sue-Ann Yasuoka	Public Citizen	Support	Yes

Comments:

As a retail pharmacist on the front line, formerly in management and involved in the State Pharmacy Association, **our products and services have always been about the patient first.** The introduction of Pharmacy Benefit Managers (PBMs) has created an entity between an insurance company and the contracted pharmacies. They are either integrated or contracted by the insurance company to manage the prescriptions being filled by our pharmacies. Any regulations that have been imposed on them, like that of Hawaii Revised Statutes Chapter 328-106 passed into law in July of 2015, have done nothing but erode the practice of pharmacy into a commodity. Pharmacists, who truly care about their patients have been forced to close or sell to larger chain pharmacies due to the inability to compete and the lack of transparency in the methodology of reimbursement. **Patient's have been unable to obtain the medications they need, have been forced to turn to mail-order, have been forced to go to a pharmacy not of their choosing, all due the PBMs practice of elusive MAC lists, untimely responses to appeals, and lack of response when asked for sources of medications at the costs they feel is adequate.**

I wish to thank you for the introduction of this Bill. I thank you for the opportunity to submit testimony. **I SUPPORT SB 3072 and ask you to SUPPORT it too.**

Sincerely,

Sue-Ann Yasuoka, Pharmacist

SB-3072

Submitted on: 2/5/2018 8:44:20 PM

Testimony for CPH on 2/6/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Wheelock		Support	No

Comments:

SB 3072 RELATED TO PHARMACY BENEFIT MANAGERS

As a small-chain Community Pharmacy in the State of Hawaii, we are seeking legislative support to increase transparency and regulation to manage the cost and access to prescription drugs for the patients we serve in our communities.

We believe strengthening SB 328-106 (related to pharmacy benefit manager; maximum allowable cost) in the following way will promote better transparency of prescription drug pricing for patients, healthcare providers and legislators in our State:

-Require pharmacy benefit managers to notify contracting pharmacies of changes to maximum allowable costs

by the national drug code fifteen days prior to the change;

-Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost, when a maximum allowable cost is upheld on appeal;

-Permit contracting pharmacies to decline to dispense a drug if the reimbursement is less than the acquisition cost;

-Permit the insurance commissioner to suspend a pharmacy benefit managers certification if the manager does not comply with state law; and

-Require the department of health to annually report to the legislature and any other state agency on appeals and disposition.

Thank you for the opportunity to submit testimony.

Sincerely,

Anne Wheelock