

STAND. COM. REP. NO.

1324

Honolulu, Hawaii

MAR 15 , 2019

RE: S.B. No. 1521

S.D. 1

H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Health, to which was referred S.B. No. 1521, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PHARMACY BENEFIT MANAGERS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Establish requirements for pharmacy benefit managers relating to maximum allowable cost reimbursements to pharmacies, including requirements for contracts, disclosure, currentness, appeals process, reimbursements, and information protection;
- (2) Consolidate regulatory authority over pharmacy benefit managers within the Department of Commerce and Consumer Affairs; and
- (3) Make violation of maximum allowable cost requirements chargeable as an Unfair or Deceptive Act or Practice in the conduct of Trade or Commerce.

The Hawaii Pharmacist Association, Weinstein Pharmacy, and an individual supported this measure. The Hawaii Medical Service Association opposed this measure. The Department of Commerce and

SB1521 HD1 HSCR HLT HMS 2019-3001



Consumer Affairs, Hawaii Employer-Union Health Benefits Trust Fund, Department of the Attorney General, CVS Health, and Cigna provided comments.

Your Committee has amended this measure by:

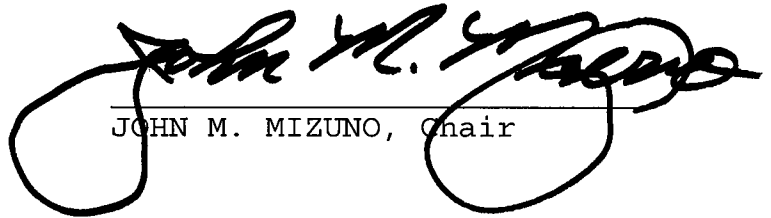
- (1) Limiting its application to contracts between pharmacy benefit managers and small, independent, isolated pharmacies;
- (2) Amending the required format and content of reports on maximum allowable cost price for drugs that must be provided to contracting pharmacies;
- (3) Deleting the requirement that a pharmacy benefit manager notify a contracting pharmacy of increases of ten percent or more in wholesale drug acquisition costs;
- (4) Deleting requirements that a pharmacy benefit manager notify a contracted pharmacy of where to purchase lower cost equivalent drugs;
- (5) Deleting language making the refusal to reimburse a pharmacy at the maximum allowable cost an unfair or deceptive act or practice in the conduct of trade or commerce subject to civil and criminal penalties;
- (6) Deleting authorization for disclosure by a contracting pharmacy of proprietary maximum allowable cost and related information to the Insurance Commissioner or an elected official;
- (7) Deleting authorization for the Insurance Commissioner to adopt rules for a binding external review process for complaints against a pharmacy benefit manager; and
- (8) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee notes the concerns raised by the Department of the Attorney General regarding possible preemption due to a prohibited connection with or reference to an Employee Retirement Income Security Act plan.



As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1521, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1521, S.D. 1, H.D. 1, and be referred to your Committees on Consumer Protection & Commerce and Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Health,



JOHN M. MIZUNO, Chair



Record of Votes of the Committee on Health

Bill/Resolution No.: SB 1521, SD1	Committee Referral: HLT, CR/SUD, FIN	Date: 3-12-19		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HLT Members	Ayes	Ayes (WR)	Nays	Excused
1. MIZUNO, John M. (C)	/			
2. KOBAYASHI, Bertrand (VC)	/			
3. BELATTI, Della Au	/			
4. NAKAMURA, Nadine K.	/			
5. SAN BUENAVENTURA, Joy A.	/			
6. SAY, Calvin K.Y.		/		
7. TOKIOKA, James Kunane	/			
8. WARD, Gene	/			
TOTAL (8)	7	1		
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____ <i>B. Keri</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				