

Honolulu, Hawaii

FEB 15 2019

RE: S.B. No. 493

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 493 entitled:

"A BILL FOR AN ACT RELATING TO HEALTH CARE INSURANCE,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit a health care insurer from requiring an insured diagnosed with stage two through stage five cancer to undergo step therapy prior to covering the insured for the drug prescribed by the insured's health care provider, under certain conditions.

Your Committee received testimony in support of this measure from the Hawaii Medical Association, Hawaii Society of Clinical Oncology and the American Society of Clinical Oncology, O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i, and one individual. Your Committee received testimony in opposition to this measure from the Hawaii Association of Health Plans and Hawaii Medical Service Association. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs.

Your Committee finds that step therapy, or "fail first" therapy, is a form of prior authorization that requires preferred drugs be prescribed first until proven ineffective before physicians can try other, potentially higher cost drugs or treatment. For cancer patients, selecting the proper personalized



treatment as quickly as possible can be critical to survival. Delays in getting patients the right treatments at the right time often leads to unnecessary complications in the physician-patient decision-making process. According to testimony received by your Committee, step therapy policies are generally inappropriate in oncology because of the individualized nature of modern cancer treatment and the general lack of interchangeable clinical options.

Your Committee further finds that step therapy places significant administrative burdens on physician practices, as physicians do not currently have ready, electronic access to patient benefit and formulary information. This lack of transparency makes it exceedingly difficult to determine what treatments are preferred by a particular payor at the point of care and places the practices at financial risk for the cost of administered drugs if claims are later denied for unmet, yet unknown, step therapy requirements.

Your Committee notes the concerns raised in testimony that this measure's reference to "investigational new drug", or a drug not approved by the Food and Drug Administration (FDA), may be misplaced. Non-FDA approved drugs cannot be prescribed by physicians unless they are part of a Phase III clinical trial, which are part of the FDA's approval process. Drugs given to patients as part of Phase III clinical trials are not billed to the patient or their health insurance, but are supplied by the pharmaceutical company as part of their research and development. Your Committee additionally notes that cancer is commonly referred to in stages of zero through four, rather than one through five. Amendments to this measure are therefore necessary.

Your Committee has amended this measure by:

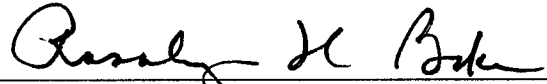
- (1) Clarifying the requirements for a prescription drug that must be covered for the treatment of stage two through stage four cancer, including requiring that the drug's use be consistent with best practices, listed in approved compendia, or recognized for off-label use for the treatment of cancer or its side effects;
- (2) Deleting the definition of "investigational new drug" and making associated conforming amendments; and



- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 493, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 493, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



