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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
House Committee on Finance**

**Thursday, March 28, 2019  
2:00 p.m.  
State Capitol, Conference Room 308**

**On the following measure:  
S.B. 1401, S.D. 2, H.D. 1, RELATING TO PHARMACY BENEFIT MANAGERS**

Chair Luke and Members of the Committee:

My name is Colin Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purposes of H.D. 1 are to: (1) provide that a pharmacy benefit manager may not prohibit a pharmacist or pharmacy from sharing with an insured the insured's cost share for a prescription drug and the clinical efficacy of an available and more affordable alternative drug; and (2) prevent penalization of a pharmacy or pharmacist for sharing such information.

Should the Committee pass this measure, it may wish to consider adding enforcement language to allow the Insurance Commissioner to address violations of this section. Thank you for the opportunity to testify on this bill.

March 28, 2019

Representative Sylvia Luke, Chair  
Representative Ty Cullen, Vice Chair  
House Committee on Finance  
415 South Beretania Street  
Honolulu, Hawaii 96813

RE: SB 1401 SD2 HD1 Relating to Pharmacy Benefit Managers  
March 28, 2019; 2:00 p.m., conference room 308; Agenda #1

Aloha Chair Luke, Vice Chair Cullen and members of the committee:

CVS Health is appreciative of the Committee on Health adopting our requested amendments in SB 1401 SD2 HD1 and are respectfully requesting these amendments be maintained. The language currently provides that a pharmacy benefit manager may not prohibit a pharmacy or pharmacist from sharing information with an insured individual on the amount of the insured's cost share for a prescription drug and the clinical efficacy of a more affordable alternative drug. It also prohibits penalization of a pharmacy or pharmacist for sharing such information or for selling a more affordable alternative if one is available. Similar language has been adopted in a number of other states across the country.

CVS Health is the nation's premier health innovation company helping people on their path to better health. Whether in one of its pharmacies or through its health services and plans, CVS Health is pioneering a bold new approach to total health by making quality care more affordable, accessible, simple and seamless. CVS Health is community-based and locally focused, engaging consumers with the care they need when and where they need it. The Company has more than 9,800 retail locations, approximately 1,100 walk-in medical clinics, a leading pharmacy benefits manager with approximately 93 million plan members, a dedicated senior pharmacy care business serving more than one million patients per year, expanding specialty pharmacy services, and a leading stand-alone Medicare Part D prescription drug plan. CVS Health also serves an estimated 39 million people through traditional, voluntary and consumer-directed health insurance products and related services, including a rapidly expanding Medicare Advantage offering. This innovative health care model increases access to quality care, delivers better health outcomes and lowers overall health care costs.

Our pharmacists are committed to helping patients find the most affordable options, and we ensure that pharmacists in our CVS Caremark networks do the same. Accordingly, CVS Health does not engage in gag clauses and we support efforts to ban them.

On behalf of CVS Health, I thank you for the opportunity to provide comments.

Respectfully,



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

**SB-1401-HD-1**

Submitted on: 3/25/2019 9:37:23 PM

Testimony for FIN on 3/28/2019 2:00:00 PM

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

Comments:

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March 28, 2019

To: The Honorable Sylvia Luke, Chair  
Members of the House Committee on Finance

Fr: Cynthia Laubacher, Senior Director, State Affairs

Re: Senate Bill 1401 SD2 HD1: March 28, 2019 2:00pm

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Thank you for the opportunity to submit comments on Senate Bill 1401 SD2 HD1. Cigna recently completed its purchase of a pharmacy benefits manager (“PBM”), Express Scripts.

SB 1401 ensures that pharmacists can tell patients if a medication is available at a retail price that is lower than the patient cost share or if a lower cost alternative is available. Express Scripts has a long-standing policy of requiring the pharmacies in our networks to dispense medications at the lesser of the patient’s insurance copayment or the pharmacy cash price.

We support this language, but note that the bill is unnecessary. Federal law already prohibits this practice and, in fact, goes further by including more expensive biologics. In October, 2018 Congress enacted S 2553-2:

“(m) PROHIBITION ON LIMITING CERTAIN INFORMATION ON DRUG PRICES.—A PDP sponsor and a Medicare Advantage organization shall ensure that each prescription drug plan or MA–PD plan offered by the sponsor or organization does not restrict a pharmacy that dispenses a prescription drug or biological from informing, nor penalize such pharmacy for informing, an enrollee in such plan of any differential between the negotiated price of, or copayment or coinsurance for, the drug or biological to the enrollee under the plan and a lower price the individual would pay for the drug or biological if the enrollee obtained the drug without using any health insurance coverage.”.

Therefore, we respectfully request that the committee defer action on this legislation. Thank you for your consideration of our concerns.

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March 27, 2019

The Honorable Sylvia Luke, Chair  
The Honorable Ty J.K. Cullen, Vice Chair  
House Committee on Finance

**LATE**

**Senate Bill 1401 SD2 HD1 – Relating to Pharmacy Benefit Managers**

Dear Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to testify in opposition to SB 1401, SD2, HD1.

Pharmacy benefit managers help health plans to control drug costs. While we appreciate amendments made in the previous committee, we still have concerns with the underlying language in the previous versions of the bill. We therefore respectfully ask that this measure be deferred.

Thank you for allowing us to testify in opposition to SB 1401, SD2, HD1.

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members