

Honolulu, Hawaii

FEB 18 2022

RE: S.B. No. 2443  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Health, to which was referred S.B. No. 2443  
entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Define pharmacy benefit manager practices; and
- (2) Authorize the Insurance Commissioner to suspend or  
revoke a pharmacy benefit manager's registration and  
impose fines for certain violations.

Your Committee received testimony in support of this measure  
from Hawai'i Primary Care Association and five individuals. Your  
Committee received comments on this measure from the Department of  
Commerce and Consumer Affairs, Department of Health, CVS Health  
Solutions LLC; Kaiser Permanente Hawaii, Pharmaceutical Care  
Management Association, and American Cancer Society Cancer Action  
Network.

Your Committee finds that pharmacy benefit managers (PBMs)  
are companies that manage prescription drug benefits on behalf of  
health insurers and other payors. PBMs wield great negotiating  
power, and thus have a significant behind-the-scenes impact in  
determining total drug costs for insurers, shaping patients'



access to medications, and determining how much pharmacies are paid. PBMs may also prevent pharmacists from engaging in certain beneficial behavior, such as contractually prohibiting pharmacists from informing a customer about the availability of a more affordable generic medication. This measure protects consumers' and pharmacists' interests by regulating certain PBM practices.

Your Committee acknowledges the testimonies of various stakeholders, including the Department of Health, the Insurance Commissioner of the Department of Commerce and Consumer Affairs' Insurance Division, Kaiser Permanente Hawaii, and CVS Health Solutions LLC, which provided suggested amendments to this measure for clarity and consistency with existing law.

Therefore, your Committee has amended this measure by:

- (1) Replacing PBM license issuance and service fees of \$140 with an amount required under section 431:7-101, Hawaii Revised Statutes;
- (2) Repealing section 328-106, Hawaii Revised Statutes;
- (3) Clarifying that information a PBM may not prohibit a pharmacy or pharmacist from discussing with a person is specific to the person's cost sharing obligations;
- (4) Clarifying that a PBM may not prohibit a pharmacy or pharmacist from disclosing information to law enforcement or government officials for the purposes of filing a complaint;
- (5) Amending the definition of "pharmacy benefit manager" in sections 431R-1 and 431S-1, Hawaii Revised Statutes, to be the same;
- (6) Amending section 1 to reflect its amended purpose;
- (7) Inserting an effective date of January 1, 2050, to encourage further discussion; and
- (8) 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2443, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2443, S.D. 1, and be referred to your Committee on Commerce and Consumer Protection.

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



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JARRETT KEOHOKALOLE, Chair



