

STAND. COM. REP. NO.

2805

Honolulu, Hawaii

MAR 03 2022

RE: S.B. No. 2443
S.D. 2

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

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2443, S.D. 1, 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) Address and define pharmacy benefit manager practices;
- (2) Create enforcement authority by the Insurance Commissioner to suspend and revoke a pharmacy benefit manager's registration and impose fines; and
- (3) Repeal section 328-106, Hawaii Revised Statutes, which requires the Department of Health to enforce the terms of private contracts pertaining to pharmacy benefit managers.

Your Committee received testimony in support of this measure from the Department of Health, Hawai'i Primacy Care Association, Hawai'i Medical Association, and one individual. Your Committee received testimony in opposition to this measure from one individual. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs, CVS Health, and American Cancer Society Cancer Action Network.



Your Committee finds that pharmacy benefit manager practices, including the practice of limiting a pharmacy or pharmacist from disclosing certain information and requiring consumers to pay more than the cash price for prescriptions, have considerable impacts on the pricing of prescription drugs. Many residents in the State struggle to afford the medications they need and, accordingly, should have access to any information that would increase price transparency. Additionally, and particularly for cancer patients, certain drugs do not yet have a modestly-priced generic equivalent or other alternative to drug treatment. This measure prohibits certain pharmacy benefit manager practices to increase price transparency and require that any amounts paid by a covered person be attributable toward any deductible or out-of-pocket maximums under the covered person's health benefit plan. This measure is therefore necessary to establish a framework to prevent over-reaching pharmacy benefit managers from creating barriers to life-saving treatments and access to new drugs, especially for cancer care.

Your Committee has amended this measure by:

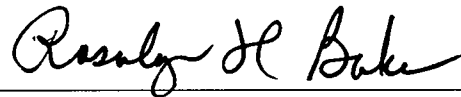
- (1) Clarifying the ability of the Insurance Commissioner, law enforcement, or state and federal government officials to access certain information;
- (2) Prohibiting a pharmacy benefit manager from reimbursing a 340B pharmacy differently than any other network pharmacy based on its status as a 340B pharmacy;
- (3) Extending certain penalties under chapter 480, Hawaii Revised Statutes;
- (4) Clarifying the Insurance Commissioner's ability to suspend or revoke the registration of a pharmacy benefit manager, including requiring the Insurance Commissioner to conduct a hearing in accordance with Chapter 91, Hawaii Revised Statutes;
- (5) Increasing the fine for failing to register as a pharmacy benefit manager from \$500 to \$1,000 for each violation;



- (6) Inserting language prohibiting a contract for managed care to contain a provision that authorizes pharmacy benefit managers to reimburse a contracting pharmacy on a maximum allowable cost basis after December 31, 2022;
- (7) Amending section 1 to reflect its amended purpose; 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 Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2443, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2443, S.D. 2.

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



ROSALYN H. BAKER, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2443, SD 1	HTH, CPN	02-22-2022		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	X			
CHANG, Stanley (VC)	X			
DECOITE, Lynn	X			
NISHIHARA, Clarence K.	X			
RIVIERE, Gil	X			
SAN BUENAVENTURA, Joy A.	X			
FEVELLA, Kurt	X			
TOTAL	7	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes