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CATHERINE P. AWAKUNI COLÓN
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TO HOUSE COMMITTEE ON HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Tuesday, February 7, 2017
9:30 a.m.

TESTIMONY ON HOUSE BILL NO. 1444 – RELATING TO PHARMACY BENEFIT MANAGERS

TO THE HONORABLE DELLA AU BELATTI, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department submits the following comments.

The purpose of this bill is to regulate the conduct of pharmacy benefit managers (“PBMs”) by establishing registration requirements for PBMs.

Section 26H-6, HRS, requires that new regulatory measures being considered for enactment be referred to the Auditor for a sunrise analysis. The statute requires the referral to be made by a concurrent resolution that identifies a specific legislative bill to be analyzed. The statute further requires that the analysis set forth the probable effects of regulation and assess whether its enactment is consistent with the legislative policies of the Hawaii Regulatory Licensing Reform Act, and assess alternative forms of regulation.

House Bill No. 1444
DCCA Testimony of Gordon Ito
Page 2

Therefore, this bill should be deferred until a sunrise analysis on this measure is conducted by the Auditor.

We thank the Committee for the opportunity to present testimony on this matter.

kobayashi1- Oshiro

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 4:49 PM
To: HLTtestimony
Cc: lduenas@diabetes.org
Subject: *Submitted testimony for HB1444 on Feb 7, 2017 09:30AM*

HB1444

Submitted on: 2/3/2017

Testimony for HLT on Feb 7, 2017 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Lawrence Duenas	American Diabetes Association	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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kobayashi2 - Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 3:40 PM
To: HLTtestimony
Cc: kglick@wheelchair-kauai.com
Subject: Submitted testimony for HB1444 on Feb 7, 2017 09:30AM

HB1444

Submitted on: 2/5/2017

Testimony for HLT on Feb 7, 2017 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Glick	Hawaii Community Pharmacists Association	Support	No

Comments: Pharmacy Benefit Managers are major components in the delivery of health care and pharmacy services and medications across the USA and particularly in Hawaii. This bill seeks to formalize their relationship to the State of Hawaii. Currently unless they provide Pharmacy Services in Hawaii there is little oversight. This bill seeks to bring oversight by the insurance commissioner to the role that pharmacy benefit managers play in the delivery of healthcare in Hawaii. Please pass this legislation intact from this committee.

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kobayashi1- Oshiro

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 11:32 AM
To: HLTtestimony
Cc: kglick@wheelchair-kauai.com
Subject: Submitted testimony for HB1444 on Feb 7, 2017 09:30AM

HB1444

Submitted on: 2/6/2017

Testimony for HLT on Feb 7, 2017 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Glick	Hawaii Community Pharmacists Association	Support	Yes

Comments: Pharmacy Benefit Managers (PBM) are some of the largest corporations in the USA. It is very important that PBM's answer to the State of Hawaii and this bill will formalize their oversight.

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February 7, 2017

To: Representative Della Au Belatti, Chair
Representative Bertand Kobayashi, Vice Chair
Committee on Health

Fr: Cynthia Laubacher, Senior Director, State Affairs
Express Scripts Holding Company

Re: House Bill 1444 – Pharmacy Benefit Manager Registration
Hearing Date: Tuesday, February 7, 2017 9:30 a.m.

Express Scripts appreciates the opportunity to submit testimony regarding House Bill 1444, which proposes to require pharmacy benefit managers to register with the state of Hawaii. Express Scripts manages the pharmacy benefit for 85 million Americans. We do not object to registration, however we do have a few concerns with the bill as drafted and offer the following suggested amendments for your consideration.

Page 1: Findings. This language wrongly states that PBMs decide which drugs are on the plan sponsor formulary, set copayment amounts, and specify prior authorization processes. These are all decisions made by the plan sponsor, not the PBM, and should be removed from the findings.

Page 3, line 1: As drafted, the language excludes federal employees from the definition of a covered entity. We suggest the language be amended to state: A covered entity does not include federal programs including, but not limited to, Medicare, Medicaid and the Department of Defense.

Page 4, lines 9-13: The definition of a pharmacy benefit manager is unclear. We recommend this language be deleted and replaced with the following, more standard definition:

“Pharmacy benefit manager” means a person, business, or other entity that, pursuant to a contract or under an employment relationship with a carrier, health benefit plan sponsor, or other third-party payer, either directly or through an intermediary, manages the prescription drug coverage provided by the carrier, plan sponsor, or other third-party payer, including, but not limited to, the processing and payment of claims for prescription drugs, the performance of drug utilization review, the processing of drug prior authorization requests, the adjudication of appeals or grievances related to prescription drug coverage, contracting with network pharmacies, and controlling the cost of covered prescription drugs.

Page 5, Line 1: Prohibits a PBM from operating without first being registered. While the bill includes a specific date by which renewals shall occur, there is no deadline for the requirement to obtain the registration. In an effort to provide the Insurance Commissioner time to set up this new registration process, we suggest the language regarding registration and renewal be amended to provide a start date of January 1, 2018 with annual renewals on or before January 1 thereafter.

Page 5, lines 7-20: While we do not object to a requirement to register, it is unclear as to the purpose behind the registration. As such, the information required under the bill is overly broad and would require a massive filing of information for no known purpose. States with simple registration requirements as proposed in this bill are usually limited to the identity of the pharmacy benefits manager; the name and business address of the contact person for the pharmacy benefits manager; and (3) where applicable, the federal employer identification number for the pharmacy benefits manager.

Again, we appreciate your consideration of our concerns and proposed amendments. Please feel free to contact me should you have any questions.



Representative Della Au Belatti, Chair
Representative Bertrand Kobayashi, Vice Chair
House Committee on Health

Tuesday, February 7, 2017
Conference Room 329; 9:30 AM

RE: HB 1444 – Relating to Pharmacy Benefit Managers - Comments

Aloha Chair Belatti, Vice Chair Kobayashi and members of the Committee:

CVS Health appreciates the opportunity to offer comments on HB 1444 which requires pharmacy benefit managers to register with the insurance commissioner.

We take no issue with pharmacy benefit manager (“PBM”) registration / entity registration with the state. We do, however request the Committee consider the following:

- While registration and a fee to establish nexus for certain out of state entities is appropriate, we ask that the Committee consider reducing or waiving the annual fee for a PBM when nexus and established business relationships are already long established by the company on the whole. For example, CVS Health already holds multiple registrations under DCCA’s Business Registration Division, so perhaps additional registration or at least registration fees may be unnecessary.
- Where business/entity registration is required, only the following elements are typically requested: (1) identity of the pharmacy benefits manager; (2) the name and business address of the contact person for the pharmacy benefits manager; and (3) where applicable, the federal employer identification number for the pharmacy benefits manager. We ask that the Committee consider clarifying these elements.
- Having PBM registration housed within the same department that houses the Board of Pharmacy raises some concern. As PBMs and Pharmacies have a financial relationship, we would respectfully submit that oversight of any sort by the Board of Pharmacy would be inappropriate. We request that the Committee entertain clarifying language to ensure no ambiguity as to the Board of Pharmacy’s authority under this bill.
- While we have no objection registering with the Insurance Commissioner, in other states we typically register with the Business Registration Division.

We thank you for your consideration of our comments.

Respectfully,



Eric P. Douglas

kobayashi1- Oshiro

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 11:29 PM
To: HLTtestimony
Cc: rontthi@gmail.com
Subject: *Submitted testimony for HB1444 on Feb 7, 2017 09:30AM*

HB1444

Submitted on: 2/3/2017

Testimony for HLT on Feb 7, 2017 09:30AM in Conference Room 329

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

Comments:

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kobayashi2 - Jessi

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To: HLTtestimony
Cc: pharmassisthi@gmail.com
Subject: Submitted testimony for HB1444 on Feb 7, 2017 09:30AM

HB1444

Submitted on: 2/5/2017

Testimony for HLT on Feb 7, 2017 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Gerry Fujii	Individual	Support	No

Comments: Along with drug companies and insurers, pharmacy benefit managers have long operated without transparency. The profits are just disgraceful and locally many dollars have left the State.

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