

STAND. COM. REP. NO.

265

Honolulu, Hawaii

FEB 16 2011

RE: S.B. No. 1414  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1414 entitled:

"A BILL FOR AN ACT RELATING TO REPACKAGED DRUGS AND COMPOUND MEDICATIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to restrict reimbursements under workers' compensation insurance for repackaged prescription drugs and compounded medications to the amount that is currently authorized for retail pharmacies under state law.

Your Committee received testimony in support of this measure from the Department of Human Resources Development, the City and County of Honolulu, Marriott International, Inc., Hawaii Employers' Mutual Insurance Company, Inc., Hawaii Insurers Council, GEICO, the Property Casualty Insurers Association of America, IMS, and ALTRES, Inc. Your Committee received testimony in opposition to this measure from Aloha Pain Clinic, Industrial Pharmacy Management, LLC, Workstar Injury Recovery Center, Hawaii Injured Worker's Alliance, and two individuals.

Your Committee finds that the cost of prescription drugs is one of the main drivers of health care cost inflation nationwide. Your Committee further finds that the repackaging and compounding of prescription drugs is a means of artificially increasing the retail price of drugs by merely modifying packaging materials or delivery systems. Your Committee also finds that this measure

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will serve as an effective cost-containment strategy for the workers' compensation system without impacting an injured employee's access to needed medications. Furthermore, your Committee finds that this measure is not intended to apply to the practice of pharmacy that creates a specialized drug, consisting of more than one active ingredient, according to a doctor's prescription for certain individual patients nor to the practice of medicine whereby a doctor mixes or combines drugs for dispensing directly to a patient according to the patient's individualized needs.

Your Committee is not unsympathetic to concerns voiced by health care providers, especially those on the neighbor islands, that low rates of reimbursements and delays in receiving payment for medical care provided to workers' compensation patients affects providers' ability to effectively deliver care. Your Committee notes that the allowable reimbursement rate of one hundred percent of the drug's cost plus forty percent for repackaged or compounded drugs contained in this measure is one of the most generous in the nation. However, your Committee further finds that it is inappropriate for providers to recover costs by using repackaging or compounding schemes to recoup costs at the expense of workers' compensation insurers. Your Committee recommends that providers who find themselves at odds with workers' compensation insurance policies pursue remedies that reform that system instead of engaging in unfair business practices.

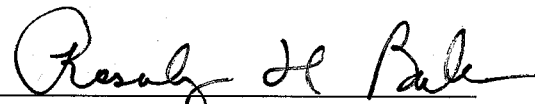
Your Committee has amended this measure by:

- (1) Clarifying that the restrictions on reimbursements for compounded medications apply only to physician-dispensed premixed or prepackaged compounded medications; and
- (2) 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. 1414, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1414, S.D. 1, and be referred to the Committee on Judiciary and Labor.



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




ROSALYN H. BAKER, Chair



The Senate  
Twenty-Sixth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1414	CPN, JDL	2/11/2011		
<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)	✓			
TANIGUCHI, Brian T. (VC)		✓		
GALUTERIA, Brickwood		✓		
GREEN, M.D., Josh			✓	
NISHIHARA, Clarence K.		✓		
SOLOMON, Malama		✓		
SLOM, Sam		✓		
<b>TOTAL</b>	1	5	1	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
<b>Distribution:</b>				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

\*Only one measure per Record of Votes