



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 20, 2017

GOV. MSG. NO. 1144

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 20, 2017, the following bill was signed into law:

HB1444 HD2 SD2 CD1

RELATING TO PHARMACY BENEFIT
MANAGERS
ACT 044 (17)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor

ORIGINAL

on JUN 20 2017

HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAII

ACT 044
H.B. NO.

1444
H.D. 2
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO PHARMACY BENEFIT MANAGERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that pharmacy benefit
2 managers are administrators of prescription drug programs and
3 are responsible for developing and maintaining formularies and
4 other clinical management programs, processing prescription drug
5 claims for insurance companies or corporations, and negotiating
6 contracts with pharmaceutical manufacturers. Pharmacy benefit
7 managers also perform utilization reviews, manage clinical
8 programs targeted to specific disease states, and operate
9 pharmacies, including mail order and specialty pharmacies. Over
10 the past decade, the role of pharmacy benefit managers in the
11 delivery of health care has increased due to a variety of
12 factors, including coverage expansions under the medicare Part D
13 prescription drug benefit and the federal Affordable Care Act
14 and an increase in prescription drug spending that has motivated
15 commercial health plans and self-insured employers to outsource
16 the management of their spending on outpatient prescription
17 drugs.



1 The legislature further finds that the actions of pharmacy
2 benefit managers can have wide-ranging impacts on pharmacies and
3 consumers in Hawaii, particularly on consumers in rural areas
4 who may have limited access to pharmacies within a pharmacy
5 benefit manager's network and local independent pharmacies.
6 Despite these potential impacts, pharmacy benefit managers are
7 not currently required to be registered. The legislature
8 additionally finds that increased transparency is needed
9 regarding many aspects of pharmacy benefit management, including
10 pharmacy benefit managers' relationships with pharmaceutical
11 companies, formulary creation, and evidence of rebates provided
12 to health plans in the State.

13 Finally, the legislature notes that prescription drugs are
14 a major factor of the spiraling increase in health care costs,
15 of which pharmacy benefit managers are a contributing factor.
16 Giving clear authority to the insurance commissioner to regulate
17 pharmacy benefit managers is therefore an important first step
18 toward regulating this industry and is necessary to provide
19 transparency and ensure adequate consumer protection.



1 Accordingly, the purpose of this Act is to require pharmacy
2 benefit managers in Hawaii to register with the insurance
3 commissioner.

4 SECTION 2. The Hawaii Revised Statutes is amended by
5 adding a new chapter to title 24 to be appropriately designated
6 and to read as follows:

7 "CHAPTER

8 PHARMACY BENEFIT MANAGERS

9 § -A Definitions. As used in this chapter:

10 "Commissioner" means the insurance commissioner.

11 "Covered entity" means:

12 (1) A health benefits plan regulated under chapter 87A;
13 health insurer regulated under article 10A of chapter
14 431; mutual benefit society regulated under article 1
15 of chapter 432; or health maintenance organization
16 regulated under chapter 432D; provided that a "covered
17 entity" under this paragraph shall not include a
18 health maintenance organization regulated under
19 chapter 432D that owns or manages its own pharmacies;

20 (2) A health program administered by the State in the
21 capacity of a provider of health coverage; or



1 (3) An employer, labor union, or other group of persons
2 organized in the State that provides health coverage
3 to covered persons employed or residing in the State.

4 "Covered entity" shall not include any plans issued for coverage
5 for federal employees or specified disease or limited benefit
6 health insurance as provided by section 431:10A-102.5.

7 "Covered person" means a member, policyholder, subscriber,
8 enrollee, beneficiary, dependent, or other individual
9 participating in a prescription drug benefit plan.

10 "Person" means an individual, partnership, corporation,
11 organization, or other business entity.

12 "Pharmacy benefit management" means:

13 (1) Any of the following services provided with regard to
14 the administration of pharmacy benefits:

15 (A) Mail service pharmacy;

16 (B) Claims processing, retail network management, and
17 payment of claims to pharmacies for prescription
18 drugs dispensed to covered persons;

19 (C) Clinical formulary development and management
20 services;

21 (D) Rebate contracting and administration;



1 (E) Certain patient compliance, therapeutic
2 intervention, and generic substitution programs;
3 or

4 (F) Disease management programs involving
5 prescription drug utilization;

6 (2) The procurement of prescription drugs by a pharmacy
7 benefit manager at a negotiated rate for dispensation
8 to covered persons in the State; or

9 (3) The administration or management of prescription drug
10 benefits provided by a covered entity for the benefit
11 of covered persons.

12 "Pharmacy benefit manager" means any person that performs
13 pharmacy benefit management, including but not limited to a
14 person or entity in a contractual or employment relationship
15 with a pharmacy benefit manager to perform pharmacy benefit
16 management for a covered entity.

17 "Prescription drug benefit plan" means a health insurance
18 plan offered by a covered entity that includes coverage for
19 prescription drugs.

20 § -B Applicability. This chapter shall apply to any
21 pharmacy benefit manager that provides pharmacy benefit



1 management services to covered persons who are residents of the
2 State.

3 § -C Registration required. (a) Notwithstanding any
4 law to the contrary, no person shall act or operate as a
5 pharmacy benefit manager without first obtaining a valid
6 registration issued by the commissioner pursuant to this
7 chapter.

8 (b) Each person seeking to register as a pharmacy benefit
9 manager shall file with the commissioner an application on a
10 form prescribed by the commissioner. The application shall
11 include:

12 (1) The name, address, official position, and professional
13 qualifications of each individual who is responsible
14 for the conduct of the affairs of the pharmacy benefit
15 manager, including all members of the board of
16 directors; board of trustees; executive commission;
17 other governing board or committee; principal
18 officers, as applicable; partners or members, as
19 applicable; and any other person who exercises control
20 or influence over the affairs of the pharmacy benefit
21 manager;



1 (2) The name and address of the applicant's agent for
2 service of process in the State; and

3 (3) A nonrefundable application fee of \$140.

4 § -D Annual renewal requirement. (a) Each pharmacy
5 benefit manager shall renew its registration by March 31 each
6 year.

7 (b) When renewing its registration, a pharmacy benefit
8 manager shall submit to the commissioner the following:

9 (1) An application for renewal on a form prescribed by the
10 commissioner; and

11 (2) A renewal fee of \$140.

12 (c) Failure on the part of a pharmacy benefit manager to
13 renew its registration as provided in this section shall result
14 in a penalty of \$140 and may cause the registration to be
15 revoked or suspended by the commissioner until the requirements
16 for renewal have been met.

17 § -E Penalty. Any person who acts as a pharmacy benefit
18 manager in this State without first being registered pursuant to
19 this chapter shall be subject to a fine of \$500 for each
20 violation.



1 § -F Rules. The commissioner shall adopt, amend, or
2 repeal rules pursuant to chapter 91 to carry out the purposes of
3 this chapter."

4 SECTION 3. In codifying the new sections added by section
5 2 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 4. This Act shall take effect on July 1, 2017.

APPROVED this 20 day of JUN , 2017



GOVERNOR OF THE STATE OF HAWAII



HB No. 1444, HD 2, SD 2, CD 1

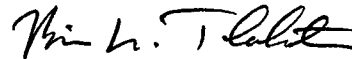
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki
Speaker
House of Representatives

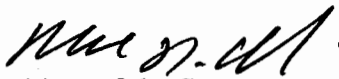



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.


President of the Senate


Clerk of the Senate