

Honolulu, Hawaii

MAR 23 , 2018

RE: S.B. No. 3104
S.D. 2
H.D. 2

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 3104, S.D. 2, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to better manage costs and access to prescription drugs through increasing transparency and regulations. Specifically, this measure:

- (1) Establishes requirements for pharmacy benefit managers and maximum allowable cost, including by authorizing pharmacies to receive comprehensive maximum allowable cost lists and bring complaints within the purview of the Department of Commerce and Consumer Affairs, rather than the Department of Health;
- (2) Requires pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost when a maximum allowable cost is upheld on appeal;
- (3) Allows contracting pharmacies to reverse and rebill claims if the pharmacy benefit manager establishes a maximum allowable cost that is denied on appeal;



provided that the pharmacy benefit manager shall pay the cost difference to the contracting pharmacies; and

- (4) Prohibits a contracting pharmacy from disclosing the maximum allowable cost list and related information to any third party.

Times Pharmacy, Weinstein Pharmacy, Pharmacare Hawaii, bb inc, Shiigi Drug Company, Inc., KTA Super Stores, Times Supermarket Pharmacy, Waimanalo Pharmacy Inc, Kamehameha Pharmacy, Hawaii Pharmacists Association, Ululani Pharmacy, National Community Pharmacists Association, Molokai Drugs, Inc., Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i, and many concerned individuals testified in support of this measure. The Hawaii Medical Service Association and CVS Health testified in opposition to this measure. The Insurance Division of the Department of Commerce and Consumer Affairs and The Queen's Health Systems provided comments.

Your Committee has amended this measure by inserting language:

- (1) Defining a "contracting pharmacy";
- (2) Allowing a contracting pharmacy or pharmacist to provide an insured information regarding the amount of the insured's cost share for a prescription drug; and
- (3) Prohibiting a pharmacy benefits manager from penalizing a contracting pharmacy or pharmacist for discussing any allowable information regarding the insured's cost share of prescription drugs or for selling a lower priced prescription drug to the insured if one is available.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3104, S.D. 2, H.D. 1, as amended herein, and recommends that it be referred to your Committee on Finance in the form attached hereto as S.B. No. 3104, S.D. 2, H.D. 2.



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



ROY M. TAKUMI, Chair



Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: SB 3104, SD2, HD1	Committee Referral: HHS, CPC, FIN	Date: 3/21/18		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. TAKUMI, Roy M. (C)	✓			
2. ICHIYAMA, Linda (VC)	✓			
3. AQUINO, Henry J.C.	✓			
4. ITO, Ken	✓			
5. JOHANSON, Aaron Ling				✓
6. LoPRESTI, Matthew S.				✓
7. MIZUNO, John M.				✓
8. SAY, Calvin K.Y.		✓		
9. TOKIOKA, James Kunane	✓			
10. YAMANE, Ryan I.	✓			
11. McDERMOTT, Bob	✓			
TOTAL (11)	7	1	0	3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: <u><i>Linda Ichiyama</i></u>				
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