

STAND. COM. REP. NO.

152

Honolulu, Hawaii

February 7, 2019

RE: H.B. No. 1442  
H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Sir:

Your Committee on Health, to which was referred H.B. No. 1442  
entitled:

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

begs leave to report as follows:

The purpose of this measure is to:

- (1) Transfer regulatory jurisdiction for pharmacy benefit managers from the Department of Health to the Department of Commerce and Consumer Affairs, including provisions for reimbursements, disclosure of information, complaints process, and enforcement; and
- (2) Clarify that the refusal to reimburse a contracting pharmacy at the maximum allowable cost rate is punishable as an unfair and deceptive practice in the conduct of trade or commerce.

The Queen's Health Systems and one individual provided testimony in support of this measure. The Hawaii Medical Service Association testified in opposition to this measure. The Department of Commerce and Consumer Affairs, Office of Information Practices, Cigna, CVS Health, and Pharmaceutical Care Management Association provided comments on this measure.



Your Committee has amended this measure by:

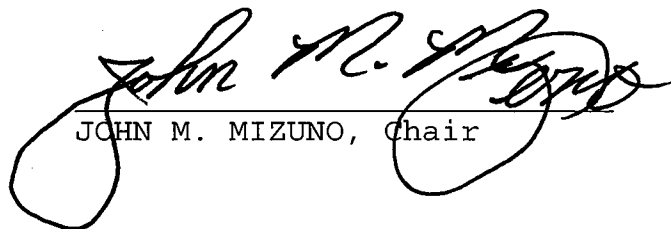
- (1) Amending language that established requirements for disclosure and reimbursement to contracting pharmacies by pharmacy benefit managers by deleting requirements for:
  - (A) The frequency of disclosure of comprehensive reports on maximum cost lists;
  - (B) Reimbursement according to the maximum allowable cost on the day a drug was dispensed;
  - (C) Disclosure of acquisition cost increases of ten percent or greater;
  - (D) Provision of information on where a drug may be obtained at a lower cost after a maximum allowable cost reimbursement was upheld on appeal; and
  - (E) Disclosure of maximum allowable cost lists and related information to the Insurance Commissioner and elected officials for the purpose of oversight;
- (2) Specifying that comprehensive reports on maximum allowable cost lists shall be disclosed on a per-plan basis and in a readily available and secure electronic or usable web-based format;
- (3) Specifying that rebilling for drugs after a reimbursement amount was not upheld on appeal shall be allowable for all claims for the same drug under the same plan;
- (4) Authorizing, rather than requiring, the Insurance Commissioner to adopt specified rules to regulate pharmacy benefit managers and deleting the requirement that the Commissioner resolve disputed claims;
- (5) Specifying that the regulatory system established applies to interactions with contracting pharmacies that are independent, not affiliated with any other pharmacy chain or pharmacy services administration organization, and located at least ten miles from any other pharmacy;



- (6) Conforming the definition of "maximum allowable cost list" to the definition contained in the current Department of Health regulatory system;
- (7) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (8) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1442, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1442, H.D. 1, and be referred to your Committees on Consumer Protection & Commerce and Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Health,

  
JOHN M. MIZUNO, Chair



