

Honolulu, Hawaii

FEB 04 , 2020

RE: H.B. No. 1609  
H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirtieth State Legislature  
Regular Session of 2020  
State of Hawaii

Sir:

Your Committee on Health, to which was referred H.B. No. 1609 entitled:

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

begs leave to report as follows:

The purpose of this measure is to increase transparency and improve the business practices of pharmacy benefit managers and protect the public health, safety, and welfare by:

- (1) Establishing business practice and transparency reporting requirements for pharmacy benefit managers;
- (2) Replacing the registration requirement for pharmacy benefit managers with a licensing requirement; and
- (3) Increasing penalties for violations of the pharmacy benefit managers law.

Your Committee received testimony in support of this measure from the United Public Workers, AFSCME, Local 646, AFL-CIO; Times Pharmacy; Kamehameha Pharmacy; 5 Minute Pharmacy; and four individuals. Your Committee received testimony in opposition to this measure from the Hawaii Medical Service Association and Hawaii Association of Health Plans. Your Committee received comments on this measure from the Department of Health, Department



of Commerce and Consumer Affairs, Department of the Attorney General, Office of Information Practices, The Queen's Health Systems, Hawaii Primary Care Association, and CVS Health.

Your Committee finds that this measure is intended to help reduce the cost of prescription drugs for the benefit of Hawaii's people and bring much-needed transparency and accountability to pharmacy benefit managers in the State.

Your Committee notes the concerns raised in testimony by the Department of the Attorney General, that the portion of this measure establishing business practices and transparency reporting requirements for pharmacy benefit managers may be subject to a preemption challenge under the Employee Retirement Income Security Act. The Department of Health noted in its testimony before your Committee that this measure may complicate or conflict with existing statutory language enacted by Act 175, Session laws of Hawaii 2015, and recommended repeal of that Act's amendments.

Your Committee also notes the comments raised in testimony by the Office of Information Practices, expressing uncertainty about how a pharmacy benefit manager's designation of information as a trade secret is intended to interact with the Uniform Information Practices Act (Modified) and recommending the replacement of the term "trade secret" with the term "confidential business information". Finally, your Committee wishes to note the concerns raised in testimony by CVS Health, that this measure may reduce flexibility with respect to pharmacy benefit managers and may have a negative impact on the quality and safety of patients' access to health care.

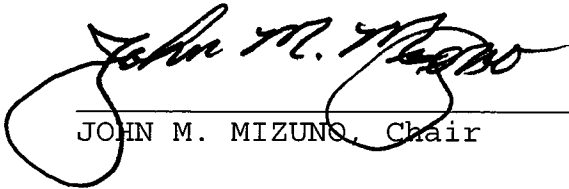
Your Committee has amended this measure by:

- (1) Changing its effective date to July 1, 2050, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of 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. 1609, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1609, 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,

  
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JOHN M. MIZUNO, Chair



