



GOV. MSG. NO. 807

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 27, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB10 SD1, without my approval, and with the statement of objections relating to the measure.

HB10 SD1

A BILL FOR AN ACT RELATING TO PRESCRIPTION
DRUGS.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

April 27, 2007

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 10

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 10.

This bill would mandate that pharmaceutical companies, which voluntarily participate in the Hawaii Rx Plus program, provide rebates in addition to the discounted prescription prices that the manufacturers already provide to enrollees in the Hawaii Rx Plus program. It also requires the Department of Human Services to disclose information on drug manufacturing costs.

This bill is objectionable because its enactment will likely cause voluntary participation in the Hawaii Rx Plus program by prescription drug manufacturers to end. Approximately 112,000 Hawaii residents participate in the Hawaii Rx Plus program. Low-income uninsured and underinsured residents who are enrolled in the Hawaii Rx Plus program and need prescription medications would be hurt by enactment of this legislation.

Second, this bill sets no mandatory level for the rebate. Thus, firms could make token offers and still be in compliance. Nor does the bill seem to recognize that the major reason why the rebates have not been successful is the limited volume of prescriptions written on a monthly basis under Hawaii Rx Plus.

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Finally, the bill does not recognize the role the federal Centers for Medicare and Medicaid Services play in securing rebates for government-approved drug programs. Without the Centers for Medicare and Medicaid Services' approval, the Department of Human Services does not have the ability to impose a meaningful penalty on the prescription drug manufacturers that do not provide rebates.

My Administration supports the requirement of rebates from drug manufacturers but believes the rebates must be implemented in an appropriate and effective manner. My office proposed House Bill No. 1359, which is currently being considered in conference committee. This bill consolidates the current Medicare Part D State Pharmacy Assistance program and the Hawaii Rx Plus program under a single comprehensive Hawaii State Pharmacy Assistance Program. Once the Department obtains approval from the Centers for Medicare and Medicaid Services as a federally qualified state pharmaceutical assistance program, prescriptions purchased by Hawaii Rx Plus program enrollees will qualify for the same mandatory and supplemental rebates received by the Medicaid program. In addition, the market size of this consolidated program would be larger by the integration of the Hawaii Rx program into the State Pharmacy Assistance Program.

Should the Legislature send me a bill that incorporates a comprehensive approach such as that embodied in House Bill No. 1359, ensuring that the State has appropriate authority to secure pharmaceutical rebates and which will not discourage manufacturer participation in the Hawaii Rx Plus program, then I would be able to sign that measure.

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For the foregoing reasons, I am returning House Bill
No. 10 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE

Governor of Hawaii

A BILL FOR AN ACT

RELATING TO PRESCRIPTION DRUGS.

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

1 SECTION 1. Section 346-314, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) A drug manufacturer or labeler that sells
4 prescription drugs in the State [~~may~~] shall enter into a rebate
5 agreement with the department for this purpose. The rebate
6 agreement shall require the manufacturer or labeler to make
7 rebate payments to the department each calendar quarter or
8 according to a schedule established by the department."

9 SECTION 2. Section 346-314, Hawaii Revised Statutes, is
10 amended by amending subsection (e) to read as follows:

11 "(e) With respect to rebates effective July 1, [~~2005~~]
12 2007, the administrator shall use the administrator's best
13 efforts to obtain a rebate amount equal to or greater than the
14 amount of any discount, rebate, or price reduction for
15 prescription drugs provided to the federal government."

16 SECTION 3. Section 346-315, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:



1 "(b) The department or administrator [~~may also~~] shall
2 provide to health care providers information about the relative
3 cost of drugs produced by manufacturers that enter into rebate
4 agreements compared to the cost of drugs produced by those that
5 do not enter into rebate agreements. The department shall adopt
6 rules under chapter 91 creating procedures for the
7 implementation of this section."

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.



