

July 13, 2005

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

Re: Senate Bill Number 1420 SD2 HD3 CD1

On July 12, 2005, Senate Bill No. 1420, entitled "Relating to Psychotropic Medication," became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

The purpose of this bill is to prohibit the Department of Human Services (DHS) from imposing any restrictions or limitation on the coverage for, or a recipient's access to, psychotropic medication if it is prescribed by a licensed psychiatrist or by a licensed physician in consultation with a psychiatrist duly licensed in the State. The bill also provides that a physician may prescribe psychotropic medication to an individual who is Medicaid-eligible without the requirement of any preauthorization procedure, but only if the recipient is in need of emergency psychiatric or psychological service for a period up to seven days.

The objectives of the bill are laudable. It is vitally important to get the correct medicines to mentally-ill patients as promptly as possible. However, the bill poses several serious concerns.

First, unrestricted access for Medicaid-eligible patients will have a fiscal impact on the State. Preauthorization lists and formularies are seen as a method to foster the effective and efficient use of pharmaceutical resources. The Department of Human Services estimates this legislation could increase the State's annual drug expenditures by \$14 million.

While unrestricted access has cost implications, prior authorizations, even when they are carefully and scientifically developed, also pose problems. The ability to get the appropriate drug to the patient on a timely basis in the right amount cannot always be predetermined from a list of medications. The health industry is moving toward quality access to medications which incorporate best practices for prescribing at the national level.

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This Administration will continue to work with the health industry to develop quality access standards for both Medicaid-eligible patients and those under managed care programs such as QUEST.

It should be noted that this bill does not address the current psychotropic drug access for those patients covered by QUEST, thus creating two differing access arrangements for persons who are eligible for State-sponsored medical plans.

Finally, the language in the bill is vague as to when psychotropic drugs may be prescribed in non-emergency situations. While the first statutory section established by this bill prohibits the DHS from imposing restrictions or limitations on its coverage for, or a recipient's access to, psychotropic medications, the second section exempts physicians from having to follow a preauthorization process, but only for emergency situations. This would seem to infer, but does not expressly state, that a preauthorization process is otherwise appropriate for non-emergency situations.

For the reasons set forth above, the bill is less than perfect. Nevertheless, the goal of the bill to ensure that mental health patients receive appropriate medication is one to which I am deeply committed.

Therefore, I allowed SB1420 SD2 HD3 CD1 to become law as Act 239 effective July 12, 2005 without my signature.

Sincerely,

LINDA LINGLE