
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. The legislature finds that drug overdose deaths
2 and opioid-involved deaths continue to increase in the United
3 States. According to information from the federal Centers for
4 Disease Control and Prevention, the majority of drug overdose
5 deaths involve an opioid. The number of overdose deaths
6 involving opioids has quadrupled since 1999, with more than half
7 a million people dying from drug overdoses between 2000 and
8 2015. The Centers for Disease Control and Prevention notes that
9 overdoses from prescription opioids are a driving factor in the
10 fifteen-year increase in opioid overdose deaths. Furthermore,
11 although the amount of prescription opioids sold to pharmacies,
12 hospitals, and doctors' offices nearly quadrupled from 1999 to
13 2010, there has not been an overall change in the amount of pain
14 reported by Americans. The Centers for Disease Control and
15 Prevention also estimates that the total economic burden of
16 prescription opioid misuse in the United States is
17 \$78,500,000,000 a year, including the costs of health care, lost



1 productivity, addiction treatment, and criminal justice
2 involvement.

3 The legislature further finds that numerous efforts have
4 been made at the national and state levels to respond to the
5 nation's opioid epidemic. A number of states have also taken
6 steps through their workers' compensation systems to stem the
7 overprescribing of opioids to workers injured on the job.

8 The use of prescription opioids may be a reasonable and
9 appropriate treatment option for some workplace injuries.

10 However, the legislature notes that according to the National
11 Safety Council, research on medical outcomes when opioids are
12 used in workers' compensation has demonstrated that opioid use
13 beyond the acute phase can impair function, be a barrier to
14 recovery, and increase an injured worker's experience of pain.

15 The legislature therefore finds that it is important to
16 address the opioid epidemic in the workers' compensation system
17 in a manner similar to the way opioid use has been addressed in
18 other areas of state law.

19 Accordingly, the purpose of this Act is to:

- 20 (1) Require health care providers in the workers'
21 compensation system who are authorized to prescribe



1 opioids to adopt and maintain policies for informed
2 consent to opioid therapy in circumstances that carry
3 elevated risk of dependency; and

4 (2) Establish limits for concurrent opioid and
5 benzodiazepine prescriptions in the workers'
6 compensation system.

7 SECTION 2. Chapter 386, Hawaii Revised Statutes, is
8 amended by adding two new sections to be appropriately
9 designated and to read as follows:

10 "§386-A Opioid therapy; qualifying injured employees;
11 informed consent process. (a) Beginning on July 1, 2019, any
12 health care provider authorized to prescribe opioids shall adopt
13 and maintain a written policy or policies that include execution
14 of a written agreement to engage in an informed consent process
15 between the health care provider authorized to prescribe opioids
16 and a qualifying injured employee.

17 (b) If the qualifying injured employee is unable to
18 physically or mentally execute the written agreement pursuant to
19 subsection (a), due to the injury, then the physician shall
20 execute the agreement as soon as the employee's condition



1 improves. At no time shall the employee be responsible for the
2 payment of the medication prescribed.

3 (c) The department shall make available on its website a
4 copy of the template for an opioid therapy informed consent
5 process agreement developed by the department of health pursuant
6 to section 329-38.5(b). The template shall be posted to the
7 department's website no later than December 31, 2018.

8 (d) For the purposes of this section, "qualifying injured
9 employee" means:

10 (1) An injured employee requiring opioid treatment for
11 more than three months;

12 (2) An injured employee who is prescribed benzodiazepines
13 and opioids together; or

14 (3) An injured employee who is prescribed a dose of
15 opioids that exceeds ninety morphine equivalent doses.

16 (e) A violation of this section shall not be subject to
17 the penalty provisions of part IV of chapter 329.

18 **§386-B Qualifying injured employees; initial concurrent**
19 **prescriptions; opioids and benzodiazepines.** (a) Initial
20 concurrent prescriptions for opioids and benzodiazepines shall
21 not be for longer than seven consecutive days unless a supply of



1 longer than seven days is determined to be reasonably needed for
2 the treatment of:

- 3 (1) Pain experienced while the qualifying injured employee
4 is in post-operative care;
- 5 (2) Chronic pain and pain management;
- 6 (3) Substance abuse or opioid or opiate dependence;
- 7 (4) Cancer;
- 8 (5) Pain experienced while the qualifying injured employee
9 is in palliative care; or
- 10 (6) Pain experienced while the qualifying injured employee
11 is in hospice care;

12 provided that if a health care provider authorized to prescribe
13 opioids issues a concurrent prescription for more than a seven-
14 day supply of an opioid and benzodiazepine, the health care
15 provider shall document in the qualifying injured employee's
16 medical record the condition for which the health care provider
17 issued the prescription and that an alternative to the opioid
18 and benzodiazepine was not appropriate treatment for the
19 condition.

20 (b) After an initial concurrent prescription for opioids
21 and benzodiazepines has been made, a health care provider



1 authorized to prescribe opioids may authorize subsequent
 2 prescriptions through a telephone consultation with the
 3 qualifying injured employee when the health care provider deems
 4 such action to be reasonably needed for post-operative care and
 5 pain management; provided that the health care provider shall
 6 consult with a qualifying injured employee in person at least
 7 once every ninety days for the duration during which the health
 8 care provider concurrently prescribes opioids and
 9 benzodiazepines to the qualifying injured employee.

10 (c) For the purposes of this section, "qualifying injured
 11 employee" has the same meaning as in section 386-A."

12 SECTION 3. Section 386-21.7, Hawaii Revised Statutes, is
 13 amended by amending subsection (a) to read as follows:

14 "(a) Notwithstanding any other provision to the contrary,
 15 immediately after a work injury is sustained by an employee and
 16 so long as reasonably needed, the employer shall furnish to the
 17 employee all prescription drugs as the nature of the injury
 18 requires[-]; provided that initial concurrent prescriptions for
 19 opioids and benzodiazepines shall meet the requirements of
 20 section 386-B. The liability for the prescription drugs shall
 21 be subject to the deductible under section 386-100."



1 SECTION 4. In codifying the new sections added by
2 section 2 and referenced in section 3 of this Act, the revisor
3 of statutes shall substitute appropriate section numbers for the
4 letters used in designating the new sections in this Act.

5 SECTION 5. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect on January 1, 2050.



Report Title:

Workers' Compensation; Opioid Therapy; Informed Consent;
Prescription Limits

Description:

Requires health care providers in the workers' compensation system who are authorized to prescribe opioids to adopt and maintain policies for informed consent to opioid therapy in circumstances that carry elevated risk of dependency. Establishes limits for concurrent opioid and benzodiazepine prescriptions. (SB2244 HD2)

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