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No. _____

TESTIMONY ON SENATE BILL 997, SENATE DRAFT 1
RELATING TO THE CONTROLLED SUBSTANCES ACT

by

Nolan P. Espinda, Director
Department of Public Safety

House Committee on Health
Representative Della Au Belatti, Chair
Representative Bertrand Kobayashi, Vice Chair

Tuesday, March 14, 2017; 8:30 a.m.
State Capitol, Conference Room 329

Chair Belatti, Vice Chair Kobayashi, and Members of the Committee:

The Department of Public Safety (PSD) **supports** Senate Bill (SB) 997, Senate Draft (SD) 1, which updates chapter 329 of the Hawaii Revised Statutes (HRS) to: 1) incorporate amendments made to the federal Controlled Substances Act, and 2) includes emergency scheduling as required under section 329-11, HRS.

First, chapter 329-11, HRS, provides that if a substance is added, deleted, or rescheduled under federal law, then PSD shall recommend to the Legislature that a corresponding change be made in Hawaii law. The following substances were scheduled by the federal government in 2016:

1. (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide), its isomers, esters, ethers, salts, and salts of isomers, esters and ethers, also known as, "AH-7921." (Schedule I)
2. N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers, also known as, "Butyryl Fentanyl." (Schedule I)

3. N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers, also known as, "Beta-hydroxythiofentanyl." (Schedule I)

4. ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (other names: BRV; UCB-34714; Briviact) (including its salts), also known as "Brivaracetam." (Schedule V)

5. (4-(methoxycarbonyl)-4-(N-phenmethoxyacetamido)-1-[2-(thienyl)ethyl]piperidine), including its isomers, esters, ethers, salts and salts of isomers, esters and ethers as possible, also known as, "Thiafentanyl." (Schedule II)

Second, section 329-11(e), HRS, authorizes the Administrator of PSD's Narcotics Enforcement Division (NED) to make an emergency scheduling by placing a substance into schedules I, II, III, IV or V on a temporary basis if the Administrator determines that such action is necessary to avoid an imminent hazard or the possibility of an imminent hazard to the health and safety of the public. Under section 329-11(e), HRS, PSD is required to post public notice thirty days prior to the effective date of the emergency scheduling action of the controlled substances listed below, at the State Capitol, in the Office of the Lieutenant Governor, and on PSD's website for public inspection. If a substance is added or rescheduled under this subsection, the control shall be temporary. Section 329-11, HRS, also provides that if in the next regular session, the State Legislature has not enacted the corresponding changes in this chapter, the temporary designation of the added or rescheduled substance shall be nullified. Pursuant to section 329-11(e), HRS, the following controlled substances were emergency scheduled in 2016:

1. N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers, also known as "Furanyl Fentanyl." (Schedule I)

2. Methyl -2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3, 3-dimethylbutanoate (other names: 5F-ADB, 5-flouro-ADB and 5F-MDMB-PINACA),

its optical, positional, and geometric isomers, salts and salts of isomers, also known as "5F-ADB." (Schedule I)

3. 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers, also known as "U-47700." (Schedule I).

To avoid such nullification of the controlled substances which were emergency scheduled in 2016, PSD supports the passage of SB 997, SD 1. Equally importantly, PSD supports SB 997, SD 1 as it amends chapter 329, HRS, to mirror recent changes to the federal Controlled Substances Act, thereby bringing clarity to the law and eliminating differences and confusion between federal and state law.

Thank you for the opportunity to present this testimony.



Dedicated to safe, responsible, humane and effective drug policies since 1993

TO: House Committee on Health
FROM: Carl Bergquist, Executive Director
HEARING DATE: 14 March 2017, 8:30AM
RE: SB997 SD1, Relating to the Uniformed Controlled Substances Act

Dear Chair Belatti, Vice Chair Kobayashi and Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) submits the following **comments** for your consideration regarding the scheduling of one particular controlled substance, “marijuana” (cannabis).

We ask that the Department of Public Safety (PSD) use its authority and seriously evaluate the actual danger posed by cannabis, currently listed as a Schedule I drug indicating the “highest degree of danger”. In related testimony [PSD say this cannot be done](#) “until the medical marijuana dispensaries have been opened”. Why not? An evaluation of this drug, which thousands of patients have been using without incident since it was approved as a medicine in our state nearly two decades ago, must address the clear contradiction at play.

Speaking to this contradiction, **we note that cannabis is listed neither as a “dangerous” drug nor even as a “harmful” one for enforcement and sentencing purposes.** Instead, cannabis is considered a “detrimental” drug, putting it alongside all Schedule V drugs that include certain dosages of codeine etc mixed with nonnarcotic drugs as well as stimulants/depressants not listed in Schedules I-IV.

Finally, as far as we can tell, there is nothing in the requirements of the Cole Memorandum that requires keeping cannabis a state schedule I drug. In other words, rescheduling cannabis is compliant with this memo’s stipulation that a tightly regulated ship is needed to keep federal enforcement at bay. In fact, it is arguably easier to fully regulate a controlled substance if it is scheduled properly. **Accordingly, we respectfully ask that you amend this bill in line with the intent of bills [SB120/HB170](#).**

Mahalo for the opportunity to testify.

TESTIMONY ON SENATE BILL 997 SD1
RELATING TO CONTROLLED SUBSTANCE ACT

by
Keith Kamita

COMMITTEE ON HEALTH
Representative Della Au Belatti, Chair
Representative Bertrand Kobayashi, Vice Chair

Tuesday, March 14, 2017, 08:30 AM
State Capitol, Conference Room 329

Chair Au Belatti, Vice Chair Kobayashi and Members of the Committee:

I strongly support passage of Senate Bill 997 SD1 which is the Department of Public Safety's Narcotics Enforcement Division's vehicle for proposing updates to Hawaii's Uniform Controlled Substance Act, Chapter 329, Hawaii Revised Statutes, to be consistent with changes in Federal law, as required by Section 329-11, HRS and deletes definitions no longer utilized under federal law. HRS Section 329-11(d) states that if a substance is added, deleted or rescheduled under Federal law and notice of the designation is given to PSD, then the Department shall recommend that a corresponding change in Hawaii law be made. SB 997SD1 adds new controlled substances to Hawaii's Uniform Controlled Substance Act that was scheduled by the Federal government in 2016.

SB 997SD1 protects the citizens of Hawaii by placing these new opioids and synthetic drugs into their appropriate schedules and therefore allowing State and County law enforcement the ability to investigate and apprehend individuals abusing or trafficking in these new drugs.

Thank you for the opportunity to testify on this important bill.

To: House Committee on Health
Representative Della Au Belatti, Chair
Representative Bertrand Kobayashi, Vice Chair

Re: SB997 SD1 - Relating to the Uniform Controlled Substances Act

Hearing: Tuesday, March 14, 2017, 8:30AM in Room 329.

From: Clifton Otto, MD

Position: Support with changes

Please don't miss this opportunity to remove the embarrassing contradiction that exists with the state scheduling of marijuana.

Substances with medical use do not have the "highest degree of danger", which is what Hawaii's Schedule I requires.

Average annual deaths in Hawaii from marijuana (Schedule I) = ZERO.

Average annual deaths in Hawaii from prescription opioid pain relievers (Schedule II-III) = 50.

State and federal controlled substance schedules need only match for (1) prescription controlled substances that are FDA approved and sold in pharmacies, and (2) substances with no medical use.

Marijuana is the first Schedule I controlled substance that has been accepted for medical use in Hawaii.

Federal law says that marijuana cannot be in federal Schedule I if it has accepted medical use.

FDA approval is NOT the only type of accepted medical use.

Hawaii should stop following an outdated federal regulation that still has marijuana listed in federal Schedule I.

Please ask the Department of Public Safety to fulfill its administrative duty and provide a scheduling recommendation that recognizes that marijuana cannot be in state Schedule I before allowing this bill to pass through. We have had sixteen years of patient use of marijuana in Hawaii (over 100,000 patient-years of use) without a single marijuana-related death. We have had enough time to conclude that marijuana does NOT have the "highest degree of danger".

Thank you.

From: mailinglist@capitol.hawaii.gov
To: [HLTtestimony](#)
Cc: j.bobich@tcu.edu
Subject: *Submitted testimony for SB997 on Mar 14, 2017 08:30AM*
Date: Monday, March 13, 2017 3:19:24 PM

SB997

Submitted on: 3/13/2017

Testimony for HLT on Mar 14, 2017 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph A. Bobich	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE

kobayashi2 - Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 5:48 AM
To: HLTtestimony
Cc: milesw@hawaii.edu
Subject: *Submitted testimony for SB997 on Mar 14, 2017 08:30AM*

SB997

Submitted on: 3/14/2017

Testimony for HLT on Mar 14, 2017 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Miles W. Tuttle	Kush Bottles Hawaii	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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