A BILL FOR AN ACT

RELATING TO DRUG DISPOSAL.

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

SECTION 1. The purpose of this Act is to promote safe and sensible practices for disposal of unused or unwanted controlled substances by institutions and individuals within the State by allowing authorized hospitals and clinics with an on-site pharmacy, authorized retail pharmacies, and law enforcement agencies to manage and maintain safe and regulated official controlled substance collection receptacles.

SECTION 2. Chapter 329, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . COLLECTION BY AUTHORIZED COLLECTORS OF CONTROLLED SUBSTANCES FOR DISPOSAL

§329- Scope. This part sets forth the requirements for collection of damaged, expired, returned, recalled, unused, or otherwise unwanted controlled substances by authorized collectors. The purpose of these requirements is to provide prompt, safe, and effective disposal methods while providing
effective controls against the diversion of controlled substances. Nothing in this part shall be interpreted to require any authorized collector to establish or operate a program for the collection of controlled substances.

§329- Definitions. Whenever used in this part, unless a different meaning clearly appears from the context:

"Authorized collector" means

(1) A hospital or clinic with an on-site pharmacy or a retail pharmacy that is:

(A) Registered with the United States Drug Enforcement Administration to collect controlled substances for the purposes of safe disposal and destruction;

(B) Approved by the department of public safety to collect controlled substances for the purposes of safe disposal and destruction; and

(C) Approved by the board of pharmacy to collect controlled substances for the purposes of safe disposal and destruction; or

(2) A law enforcement agency.
"Controlled substance" means any substance listed in sections 329-16, 329-18, 329-20, or 329-22 as a Schedule II, III, IV, or V substance. "Controlled substance" shall not include any substance listed in section 329-14 as a Schedule I controlled substance.

"Non-registrant" means a person who lawfully possesses a pharmaceutical controlled substance for the purpose of disposal, including:

(1) An ultimate user;

(2) Any person lawfully entitled to dispose of a deceased ultimate user's property and to deliver the deceased ultimate user's lawfully possessed pharmaceutical controlled substances for the purpose of disposal; or

(3) A long-term care facility acting on behalf of an ultimate user who resides or resided at the facility and is or was in lawful possession of a pharmaceutical controlled substance.

"Non-retrievably destroyed" means incapable of being transformed to a physical or chemical condition or state as a controlled substance or controlled substance analogue.
"Ultimate user" means a person who has lawfully obtained and who possesses a pharmaceutical controlled substance for:

(1) The person's own use;
(2) The use of a member of the person's household; or
(3) An animal owned by the person or a member of the person's household.

§329- Authorization to collect from non-registrants.

(a) Hospitals and clinics with on-site pharmacies and retail pharmacies shall be authorized to collect controlled substances from non-registrants using a collection receptacle that meets the requirements of section 329- in compliance with this part; provided that the entity is authorized to be a collector pursuant to title 21 Code of Federal Regulations section 1317.40.

(b) Law enforcement agencies shall be authorized to collect controlled substances using a collection receptacle that meets the requirements of section 329- in compliance with this part.

§329- Collection of controlled substances. (a) An authorized collector authorized to collect controlled substances from non-registrants pursuant to section 329- shall:
(1) Maintain any records of removal, storage, or destruction of the controlled substances collected in a manner that is consistent with that agency's recordkeeping requirements for controlled substances;

(2) Store all collected controlled substances in a manner that prevents the diversion of the controlled substances and is consistent with that agency's standard procedures for storing controlled substances;

(3) Transfer the collected controlled substance to a destruction location in a manner that prevents the diversion of the controlled substances and is consistent with that agency's standard procedures for transferring controlled substances;

(4) Permit non-registrants to deposit in a collection receptacle only the substances listed in sections 329-16, 329-18, 329-20, or 329-22 at a registered location, and shall not permit the deposit of any substance listed in section 329-14; and

(5) Have and update policies and procedures for the safe and secure handling and disposal of controlled substances on an annual basis.
(b) Authorized collectors may collect and comingle controlled and non-controlled substances together in a collection receptacle that meets the requirements of section 329-. The comingling of controlled and non-controlled substances together shall not be required.

(c) Once a substance has been deposited into a collection receptacle, the substance shall not be counted, sorted, inventoried, or otherwise individually handled.

(d) For hospitals and clinics with on-site pharmacies and retail pharmacies, a pharmacist shall not delegate to a pharmacy technician the collection of controlled substances under this part.

§329- Collection receptacles. (a) Authorized collectors may manage and maintain collection receptacles for the disposal of controlled and non-controlled substances.

(b) Collection receptacles shall be securely and maintained:

(1) For hospitals and clinics with on-site pharmacies and retail pharmacies, inside the entity's registered premises and behind the prescription counter; and
(2) For law enforcement agencies, inside the agency's physical premises.

(c) The collection receptacle shall be clearly identified as a receptacle within which to place controlled substance for disposal.

§329- Disposal of controlled substances by authorized collectors. (a) Within thirty days after receipt of a controlled substance, a hospital or clinic with an on-site pharmacy or a retail pharmacy shall:

(1) Render the controlled substance non-retrievably destroyed on-site; or

(2) Deliver the controlled substance to a reverse distributor or similar third-party processor for destruction.

(b) A law enforcement agency shall dispose of controlled substances according to the agency's established policies and procedures.

§329- Reverse distributors. (a) Any person that reverse distributes a controlled substance shall be registered with the United States Drug Enforcement Agency and the department of
public safety as a reverse distributor, unless exempted by federal or state law, as applicable.

(b) A reverse distributor shall acquire, store, deliver, and destroy controlled substances in accordance with state law and federal requirements pursuant to title 21 Code of Federal Regulations section 1317.15.

§329- Take-back events. Nothing in this part shall be construed to prevent an authorized collector from conducting a take-back event in compliance with state and federal law.

§329- Mail-back programs. Nothing in this part shall be construed to prevent an authorized collector from conducting a mail-back program in compliance with state and federal law.

§329- Conflict between laws. Application and enforcement of this part shall comply with the federal Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended, and the federal Secure and Responsible Drug Disposal Act of 2010. In the event of a conflict between any provision of this part and any federal law or regulation relating to disposal of controlled substances, the applicable federal law or regulation shall govern."
SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. This Act shall take effect on July 1, 2019.
Report Title:
Pharmacies; Drugs; Take-Back; Collection Receptacles

Description:
Permits hospitals and clinics with on-site pharmacies, retail pharmacies, and law enforcement agencies to install and maintain take-back collection receptacles for controlled substances.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.