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No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL (HB) 1176 HOUSE DRAFT (HD) 2  
RELATING TO CONSUMER PROTECTION

By

Nolan P. Espinda, Director  
Department of Public Safety

Senate Committee on Health  
Senator Josh Green, Chair  
Senator Glenn Wakai, Vice Chair

Senate Committee on Commerce and Consumer Protection  
Senator Rosalyn H. Baker, Chair  
Senator Brian T. Taniguchi, Vice Chair

Thursday, March 19, 2015, 09:00 AM  
State Capitol, Conference Room 229

Chairs Green and Baker, Vice Chairs Wakai and Taniguchi, and Members of the Committee:

The Department of Public Safety (PSD) **supports the intent** of HB 1176, HD2, which proposes to restrict all practitioners covered under HRS Sections 453 (Medical Surgery) and 463E (podiatrists) from prescribing more than three sequential thirty-day prescriptions (a ninety-day supply) of a Schedule II controlled substance. HB 1176, HD2 would also prohibit refilling a Schedule III controlled substance to no more than five times.

If the intent of this measure is to limit the over-prescription of Schedule II and Schedule III "narcotic" controlled substances, the PSD would suggest placing this restrictive language in HRS Section 329-38, Relating to Controlled Substance Prescriptions. By amending Section 329-38, all prescribers of controlled substances would be subject to the restriction and not just practitioners covered under Sections 453 (physicians Medical, Surgery and Physician assistants) and 463E (podiatrists).

Presently, under existing State law, all Schedule III through V controlled substance prescriptions may not be filled or refilled more than three months after the date of the prescription or be refilled more than two times after the date of the prescription, unless the

prescription is renewed by the practitioner. Therefore, the language on Page 1, Lines 12 through 14 and on Page 1 and 2; Lines 9 through 11 of the bill are not necessary, and should be deleted.

The PSD suggests instead the following amendments to HRS Section 329-38(a) to read as follows:

**“§329-38 Prescriptions.** (a) No controlled substance in schedule II may be dispensed without a written prescription of a practitioner or prescribed for more than three thirty-day sequential prescriptions authorizing the patient to receive a total of up to a ninety-day supply of a narcotic drug included in schedule II. The requirement that no controlled substance in schedule II may be dispensed without a written prescription of a practitioner shall apply except:

- (1) In the case of an emergency situation, a pharmacist may dispense a controlled substance listed in schedule II upon receiving oral authorization from a prescribing practitioner; provided that:
  - (A) The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period (dispensing beyond the emergency period must be pursuant to a written prescription signed by the prescribing practitioner);
  - (B) If the prescribing practitioner is not known to the pharmacist, the pharmacist shall make a reasonable effort to determine that the oral authorization came from a registered practitioner, which may include a callback to the prescribing practitioner using the phone number in the telephone directory or other good faith efforts to identify the prescriber; and
  - (C) Within seven days after authorizing an emergency oral prescription, the prescribing practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of this subsection, the prescription shall have written on its face "Authorization for Emergency Dispensing". The written prescription may be delivered to the pharmacist in person or by mail, and if by mail, the prescription shall be postmarked within the seven-day period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency

prescription, which had earlier been reduced to writing. The pharmacist shall notify the administrator if the prescribing practitioner fails to deliver a written prescription to the pharmacy within the allotted time. Failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescribing individual practitioner. Any practitioner who fails to deliver a written prescription within the seven-day period shall be in violation of section 329-41(a)(1);

- (2) When dispensed directly by a practitioner, other than a pharmacist, to the ultimate user. The practitioner in dispensing a controlled substance in schedule II shall affix to the package a label showing:
- (A) The date of dispensing;
  - (B) The name, strength, and quantity of the drug dispensed;
  - (C) The dispensing practitioner's name and address;
  - (D) The name of the patient;
  - (E) The "use by" date for the drug, which shall be:
    - (i) The expiration date on the manufacturer's or principal labeler's container; or
    - (ii) One year from the date the drug is dispensed, whichever is earlier;and
  - (F) Directions for use, and cautionary statements, if any, contained in the prescription or as required by law.

A complete and accurate record of all schedule II controlled substances ordered, administered, prescribed, and dispensed shall be maintained for five years. Prescriptions and records of dispensing shall otherwise be retained in conformance with the requirements of section 329-36. No prescription for a controlled substance in schedule II may be refilled; no prescription for a narcotic controlled substance in schedule II may exceed a 90 day supply or

- (3) In the case of an electronic prescription, a pharmacist may dispense a controlled substance listed in schedule II upon receiving an electronic prescription.”

Thank you for the opportunity to testify in support of this measure.

**PRESENTATION OF THE  
HAWAII MEDICAL BOARD**

TO THE SENATE COMMITTEE ON HEALTH  
AND  
TO THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2015

Thursday, March 19, 2015  
9:00 a.m.

**WRITTEN COMMENTS ONLY**

**TESTIMONY ON HOUSE BILL NO. 1176, H.D. 2, RELATING TO CONSUMER  
PROTECTION.**

TO THE HONORABLE JOSH GREEN, CHAIR,  
TO THE HONORABLE ROSALYN BAKER, CHAIR,  
AND MEMBERS OF THE COMMITTEES:

My name is Ahlani Quiogue, Executive Officer of the Hawaii Medical Board (“Board”). Thank you for the opportunity to submit written comments on House Bill No. 1176, H.D. 2, Relating to Consumer Protection. The Board had an opportunity to review this bill at its meeting on March 12, 2015, and expressed its support of the intent of the bill with the recommendation below.

The purpose of the bill would be to prohibit persons licensed pursuant to Chapters 453 and 463E, Hawaii Revised Statutes, from prescribing more than a ninety-day supply (three thirty-day prescriptions) of narcotic drugs. This bill would also prohibit the refill of narcotic drugs more than five times.

The Board supports the intent of this measure because it believes that it would deter licensed practitioners from overprescribing, and limit drug abusers from doctor shopping.

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However, the Board, upon prior discussions with the Department of Public Safety, Narcotics Enforcement Division, requests that the language in this measure be placed in Chapter 329, Hawaii Revised Statutes, so that all registrants authorized to prescribe narcotic drugs in the State (e.g. dentists, advanced practice registered nurses with prescriptive authority, etc.) be subject to the same requirements.

Thank you for the opportunity to submit written comments on House Bill No. 1176, H.D. 2, Relating to Consumer Protection.