
A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1 PART I

2 SECTION 1. Chapter 329, Hawaii Revised Statutes, is
3 amended by adding two new sections to be appropriately
4 designated and to read as follows:

5 "§329-A Narcotics advisory committee; established. (a)
6 There is established a narcotics advisory committee within the
7 department for administrative purposes. The committee shall be
8 composed of five members appointed by the governor in accordance
9 with section 26-34. Of the five members:

10 (1) Four members shall be physicians licensed to prescribe
11 prescription drugs within the scope of the physician's
12 practice in accordance with chapter 453; and

13 (2) One member shall be a registered pharmacist, as
14 defined in section 461-1;

15 provided that all members shall be in good standing.

16 (b) All members shall serve a term of _____ years. Any
17 vacancies occurring in the membership of the committee shall be



1 filled for the remainder of the unexpired term in the same
2 manner as the original appointments.

3 (c) The purpose of the narcotics advisory committee shall
4 be to:

5 (1) Recommend acceptable continuing medical education
6 program topics and curriculum to the department's
7 narcotics enforcement division, which shall qualify
8 for the per cycle credits required by the continuing
9 medical education requirements pursuant to section
10 329-D;

11 (2) Ascertaining whether the State has met community
12 standards of care and specialty standards of care and
13 coordinating with the state medical board if there has
14 been a deviation from standards of care; and

15 (3) Providing recommendations regarding state-designated
16 pain programs, opioid-use policy, continuing medical
17 education requirements concerning drug prescriptions.

18 §329-B Continuing medical education program; prescribing
19 practitioners; narcotics. (a) There shall be established a
20 mandatory continuing medical education program for prescribing



1 practitioners who prescribe narcotic drugs pursuant to section
2 329-38.

3 (b) A prescribing practitioner shall earn four credits
4 every two year cycle to maintain the prescribing practitioner's
5 Drug Enforcement Administration license; provided that the
6 credit requirements shall be incorporated into the license
7 certification process via the Drug Enforcement Administration's
8 registration renewal website.

9 (c) Acceptable continuing medical education program topics
10 and curriculum shall be determined by the department's narcotics
11 enforcement division, in consultation with the narcotics
12 advisory committee pursuant to section 329-C."

13 PART II

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

17 "§329- Pain medication agreement. (a) A pain
18 medication agreement shall be executed between a patient and any
19 prescriber of a narcotic drug within this State for use as pain
20 medication:



1 (1) Whenever the patient is determined to have chronic
2 pain and is prescribed a narcotic drug for use as pain
3 medication for three months or longer; or

4 (2) Any time the patient is prescribed a narcotic drug for
5 use as pain medication in the patient's first
6 encounter with the prescriber.

7 (b) The administrator shall develop and make available a
8 template of a pain medication agreement for use in the State.
9 The template for the pain medication agreement shall include, at
10 a minimum, the following:

11 (1) Informed consent to treat the patient with scheduled
12 medication on a chronic basis greater than three
13 months, excluding hospice, that acknowledges the long-
14 term risks of the chronic use of a narcotic drug as
15 pain medication;

16 (2) Consent to submit to random pill counts upon request
17 by the prescriber;

18 (3) Consent to urine drug testing a minimum of three times
19 per year per clinical standards of care as determined
20 by the prescriber;



- 1 (4) A list of insurers in the State that offer coverage
2 for urine drug testing;
- 3 (5) A statement that advises the patient of the risk of
4 injury when exceeding a morphine equianalgesic dose of
5 one hundred twenty per day or combinations of the same
6 with benzodiazepines;
- 7 (6) A statement that advises the patient of the risk of
8 injury when exceeding three grams of acetaminophen on
9 a daily basis in combination products;
- 10 (7) A statement recommending a single pharmacy and
11 identifying this pharmacy for all patients receiving
12 chronic pain medications; and
- 13 (8) A statement advising any patient who violates section
14 329-46 shall be guilty of a class C felony.
- 15 (c) For the purposes of this section, "narcotic drug"
16 means all schedule II substances pursuant to section 329-16 and
17 schedule III substances pursuant to section 329-18, including
18 derivatives of hydrocodone, oxycodone, morphine, codeine,
19 hydromorphone, benzodiazepines, and carisoprodol."



1 PART III

2 SECTION 3. Section 329-1, Hawaii Revised Statutes, is
3 amended by adding four new definitions to be appropriately
4 inserted and to read as follows:

5 "Chronic pain therapy" means at least three months of
6 continuous treatment for chronic pain.

7 "Pharmacist delegate" means a pharmacy employee who is
8 selected by a pharmacist to act as the pharmacist's agent and is
9 delegated with the task of accessing the electronic prescription
10 accountability system. The pharmacist shall take full
11 responsibility for any action taken by the pharmacist delegate
12 in their role as the pharmacist delegate.

13 "Practitioner" means a physician, dentist, veterinarian,
14 advanced practice registered nurse with prescriptive authority,
15 or physician assistant.

16 "Practitioner delegate" means an agent or employee of a
17 practitioner who is delegated with the task of accessing the
18 electronic prescription accountability system. The practitioner
19 shall take full responsibility for any action taken by the
20 practitioner delegate in their role as the practitioner
21 delegate."



1 SECTION 4. Section 329-101, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (b) to read:

4 "(b) The designated state agency shall determine those
5 schedules of controlled substances, classes of controlled
6 substances, and specific controlled substances that are
7 purportedly being misused and abused in the State. No
8 practitioner may administer, prescribe, or dispense a controlled
9 substance unless the practitioner is registered with the
10 designated state agency to utilize the electronic prescription
11 accountability system. Beginning January 1, 2016, all
12 practitioners prescribing or dispensing a controlled substance
13 in schedules II through IV, in any quantity, shall use the
14 electronic prescription accountability system. No identified
15 controlled substances may be dispensed unless information
16 relevant to the dispensation of the substance is reported
17 electronically or by means indicated by the designated state
18 agency to the central repository established under section 329-
19 102, in accordance with rules adopted by the department."

20 2. By amending subsection (e) to read:



1 "(e) The system shall provide for the use of a central
2 repository in accordance with section 329-102. Beginning
3 January 1, 2017, all practitioners and practitioner delegates
4 shall request patient information from the central repository
5 prior to prescribing or dispensing a controlled substance to a
6 new patient and shall request patient information from the
7 central repository at least three times per year for a patient
8 that receives chronic pain therapy. The operation of the system
9 shall be overseen by the designated state agency. The system
10 shall include provisions to protect the confidentiality of
11 information in the system, in accordance with section 329-104."

12 SECTION 5. Section 329-104, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) This section shall not prevent the disclosure, at the
15 discretion of the administrator, of investigative information
16 to:

17 (1) Law enforcement officers, investigative agents of
18 federal, state, or county law enforcement or
19 regulatory agencies, United States attorneys, county
20 prosecuting attorneys, or the attorney general;
21 provided that the administrator has reasonable grounds



1 to believe that the disclosure of any information
2 collected under this part is in furtherance of an
3 ongoing criminal or regulatory investigation or
4 prosecution;

5 (2) Registrants authorized under chapters 448, 453, and
6 463E who are registered to administer, prescribe, or
7 dispense controlled substances ~~[7]~~ and practitioner
8 delegates; provided that the information disclosed
9 relates only to the registrant's own patient;

10 (3) Pharmacists ~~[7]~~ or pharmacist delegates, employed by a
11 pharmacy registered under section 329-32, who request
12 prescription information about a customer relating to
13 a violation or possible violation of this chapter;
14 ~~[ex]~~

15 (4) Other state-authorized governmental prescription-
16 monitoring programs ~~[7]~~ i

17 (5) The chief medical examiner or licensed physician
18 designee who requests information and certifies the
19 request is for the purpose of investigating the death
20 of a person;



- 1 (6) Qualified personnel for the purpose of legitimate
2 research or education; provided that any data that
3 reasonably identifies a specific recipient,
4 prescriber, or dispenser shall be deleted from the
5 information prior to disclosure; provided further that
6 release of the information shall be made pursuant to a
7 written agreement between qualified personnel and the
8 administrator to ensure compliance with this
9 subsection; and
- 10 (7) Other entities or individuals authorized by the
11 administrator to assist the program with projects that
12 enhance the electronic prescription accountability
13 system."

PART IV

15 SECTION 6. The Hawaii Revised Statutes is amended by
16 adding a new chapter to be appropriately designated and to read
17 as follows:

"CHAPTER

OVERDOSE PREVENTION AND EMERGENCY RESPONSE ACT

20 § -1 Immunity. (a) The following definitions apply
21 throughout this section:



1 "Health care professional" includes but is not limited to a
2 physician, physician assistant, or nurse practitioner who is
3 authorized to prescribe an opioid antagonist.

4 "Opioid antagonist" means any drug that binds to opioid
5 receptors and blocks or disinhibits the effects of opioids
6 acting on those receptors.

7 "Opioid-related drug overdose" means a condition including
8 but not limited to extreme physical illness, decreased level of
9 consciousness, respiratory depression, coma, or death resulting
10 from the consumption or use of an opioid, or another substance
11 with which an opioid was combined, or that a layperson would
12 reasonably believe to be an opioid-related drug overdose that
13 requires medical assistance.

14 (b) Notwithstanding any other law or regulation, a health
15 care professional otherwise authorized to prescribe an opioid
16 antagonist may, directly or by standing order, prescribe,
17 dispense, and distribute an opioid antagonist to an individual
18 at risk of experiencing an opioid-related drug overdose or to a
19 family member, friend, or other person in a position to assist
20 an individual at risk of experiencing an opioid-related drug
21 overdose. Any such prescription shall be regarded as being



1 issued for a legitimate medical purpose in the usual course of
2 professional practice.

3 (c) A health care professional who, acting in good faith
4 and with reasonable care, prescribes or dispenses an opioid
5 antagonist shall not be subject to any criminal or civil
6 liability or any professional disciplinary action for:

7 (1) Prescribing or dispensing the opioid antagonist; and

8 (2) Any outcomes resulting from the eventual
9 administration of the opioid antagonist.

10 (d) Notwithstanding any other law or regulation, any
11 person may lawfully possess an opioid antagonist.

12 (e) A person who, acting in good faith and with reasonable
13 care, administers an opioid antagonist to another person whom
14 the person believes to be suffering an opioid-related drug
15 overdose shall be immune from criminal prosecution, sanction
16 under any professional licensing statute, and civil liability,
17 for acts or omissions resulting from the act.

18 § -2 Naloxone hydrochloride administration; emergency
19 personnel. By January 1, 2016, every emergency medical
20 technician licensed and registered in Hawaii shall be authorized
21 to administer an opioid antagonist as clinically indicated.



1 § -3 **Medicaid coverage.** The department of human
2 services shall ensure that naloxone hydrochloride for outpatient
3 use is covered by the medicaid prescription drug program on the
4 same basis as other covered drugs.

5 § -4 **Naloxone hydrochloride; pharmacy exemption.** (a)
6 Prescription orders for naloxone hydrochloride are exempt from
7 the pharmacy license requirements and pharmacy permit
8 requirements of chapter 461.

9 (b) Notwithstanding any other law or regulation, a person
10 or organization acting under a standing order issued by a health
11 care professional licensed under chapter 453 who is otherwise
12 authorized to prescribe an opioid antagonist may store an opioid
13 antagonist without being subject to the provisions of chapter
14 328 except part VII of chapter 328, and may dispense an opioid
15 antagonist so long as such activities are undertaken without
16 charge or compensation.

17 § -5 **Unintentional drug overdose; reporting.** The
18 department of health shall ascertain, document, and publish an
19 annual report on the number of, trends in, patterns in, and risk
20 factors related to unintentional drug overdose fatalities
21 occurring each year within the State. The report shall provide



1 information on interventions that would be effective in reducing
2 the rate of fatal or nonfatal drug overdose.

3 § -6 Drug overdose recognition, prevention, and
4 response. The department of health shall provide or establish
5 the following:

- 6 (1) Education on drug overdose prevention, recognition,
7 and response, including naloxone administration;
- 8 (2) Training on drug overdose prevention, recognition, and
9 response, including naloxone administration, for
10 patients receiving opioids and their families and
11 caregivers;
- 12 (3) Naloxone hydrochloride prescription and distribution
13 projects; and
- 14 (4) Education and training projects on drug overdose
15 response and treatment, including naloxone
16 administration, for emergency services and law
17 enforcement personnel, including volunteer fire and
18 emergency services personnel."

19 SECTION 7. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much
21 thereof as may be necessary for fiscal year 2015-2016 and the



1 same sum or so much thereof as may be necessary for fiscal year
2 2016-2017 for drug overdose recognition, prevention, and
3 response, including the distribution and administration of
4 naloxone hydrochloride, as described in section -6, Hawaii
5 Revised Statutes, pursuant to section 6 of this Act.

6 The sums appropriated shall be expended by the department
7 of health for the purposes of this part.

8 PART V

9 SECTION 8. In codifying the new sections added by section
10 1 of this Act, the revisor of statutes shall substitute
11 appropriate section numbers for the letters used in designating
12 the new sections in this Act.

13 SECTION 9. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 10. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 11. This Act shall take effect on July 1, 2050.



Report Title:

Consumer Protection; Prescription Drugs

Description:

Establishes a Narcotics Advisory Committee and mandatory continuing medical education program for prescribing practitioners. Mandates a pain medication agreement between a patient and any prescriber of a narcotic drug within the State. Requires practitioners to register to administer, prescribe, or dispense a controlled substance. Requires the request of patient information by practitioners and practitioner delegates from a central repository. Establishes the Overdose Prevention and Emergency Response Act. Appropriates funds. (HB1176 HD1)

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

