

GOV. MSG. NO. 773

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE GOVERNOR

May 30, 2008

The Honorable Colleen Hanabusa, President and Members of the Senate Twenty-Fourth State Legislature State Capitol, Room 409 Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 30, 2008, the following bill was signed into law:

SB2157 SD1 HD2 CD1

A BILL FOR AN ACT RELATING TO HEALTH. (ACT 131)

Sincerely,

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LINDA LINGLE

Approved by the Governor on <u>MAY 3 0 2008</u>

THE SENATE TWENTY-FOURTH LEGISLATURE, 2008 STATE OF HAWAII

ACT 131 S.B. NO. 2157 S.D. 1 H.D. 2 C.D. 1

A BILL FOR AN ACT

RELATING TO HEALTH.

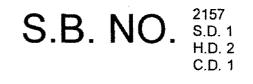
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. According to the American College of 2 Physicians, internal medicine section, most pain from disease 3 and chronic conditions can be controlled or even eliminated. 4 For example, even advanced pain can be controlled in 90 to 99 5 per cent of cases. In nine out of ten cases, physicians can 6 control pain by using pills alone without having to use 7 injections, operations, or other methods. In those few cases in 8 which pain from disease and chronic conditions cannot be 9 eliminated completely, it can be reduced so that the person can 10 live with the pain from day-to-day and still accomplish 11 activities that are important to the person. The American 12 College of Physicians further states that:

13 (1) The person with advanced pain from disease and chronic14 conditions has a right to effective pain control;

15 (2) Part of the job of a caregiver is to ensure effective16 pain control;

Page 2



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1	(3)	Pain control takes time to achieve, so persistence is
2		vital;
3	(4)	Only the person with pain knows what the pain is like;
4		and
5	(5)	Never assume that pain means the underlying medical
6		condition is spreading.
7	Furt	hermore, a pain initiative in Texas states that, while
8	alternati	ves to drug treatment such as biofeedback, hypnosis,
9	and acupu	ncture can be effective for some types of pain:
10	(1)	Most pain patients will also require narcotics;
11	(2)	Addiction is extremely rare when narcotics are used to
12		treat pain from disease and chronic conditions; and
13	(3)	Virtually all pain from disease and chronic conditions
14		can be relieved.
15	The	legislature finds that Hawaii law should permit pain
16	patients	to be prescribed appropriate narcotic pain medication.
17	The legis	lature further finds that pain patients deserve
18	appropriat	te medical care that relieves the debilitating and
19	intolerab.	le discomforts of pain as much as possible, so that
20	they can 3	lead normal lives to the greatest extent possible and
21	so that th	neir caregivers can be relieved of stress and anxiety

Page 3

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S.B. NO. 2157 S.D. 1 H.D. 2 C.D. 1

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1	in witnessing the ravaging effects of pain on the quality of			
2	life of the pain patient in their care.			
3	The purpose of this Act is to clarify a pain patient's			
4	right to be prescribed controlled substances to relieve pain.			
5	SECTION 2. Section 327H-2, Hawaii Revised Statutes, is			
6	amended to read as follows:			
7	"[+]§327H-2[-]] Bill of rights. (a) The pain patient's			
8	bill of rights includes the following:			
9	(1) A patient who suffers from severe acute pain or severe			
10	chronic pain has the option to request or reject the			
11	use of any or all modalities to relieve the pain;			
12	(2) A patient who suffers from severe acute pain or severe			
13	chronic pain has the option to choose from appropriate			
14	pharmacologic treatment options to relieve severe			
15	acute pain or severe chronic pain, including opiate			
16	medications, without first having to submit to an			
17	invasive medical procedure.			
18	For purposes of this paragraph, "invasive medical			
19	procedure" means surgery, destruction of a nerve or			
20	other body tissue by manipulation, or the implantation			

of a drug delivery system or device;

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S.B. NO. 2157 S.D. 1 H.D. 2 C.D. 1

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1	(3)	A patient's physician may refuse to prescribe opiate
2		medication for a patient who requests a treatment for
3		severe acute pain or severe chronic pain. However,
4		that physician may inform the patient of physicians
5		who are qualified to treat severe acute pain and
6		severe chronic pain employing methods that include the
7		use of opiates;
8	(4)	A physician who uses opiate therapy to relieve severe
9		acute pain or severe chronic pain may prescribe a
10		dosage deemed medically necessary to relieve the pain;
11	(5)	A patient may voluntarily request that the patient's
12		physician provide an identifying notice of the
13		prescription for purposes of emergency treatment or
14		law enforcement identification; and
15	(6)	With regard to pain patients, the application of this
16		section shall be guided by the medical principle that
17		physical tolerance and dependence are normal
18		consequences of sustained use of opiate medication,
19		distinguishable from psychological dependency or
20		addiction that bears no relationship to pain
21		experienced by a patient. For the purposes of this
22		section, psychological dependency shall be

Page 5

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S.B. NO. ²¹⁵⁷ S.D. 1 H.D. 2 C.D. 1

1		<u>char</u>	acterized by a patient's compulsion to take a drug			
2		notw	notwithstanding the fact that the patient knows the			
3		harm	harmful and destructive effect of the drug on the			
4		pati	patient. The distinction is one of treatment of pain			
5		as o	as opposed to feeding a psychological need. A patient			
6		who	who suffers severe acute pain or severe chronic pain			
7		seco	secondary to a diagnosis in any form of disease and			
8		<u>chro</u>	chronic conditions may be entitled to receive a			
9		pres	cription of opiate medication for the treatment of			
10		the	pain, if requested by that patient; provided that:			
11		(A)	The particular opiate is appropriate to the			
12			treatment of that pain; and			
13		<u>(B)</u>	The patient is not addicted to the opiate. For			
14			the purposes of this subparagraph, the term			
15			"addicted" refers to a psychological dependence,			
16			rather than a progressive physical tolerance for			
17			the opiate to relieve the pain; provided that the			
18			term does not include a narcotic-dependent person			
19			as defined in section 329-40.			
20	[-(6)]	<u>(b)</u>	Nothing in this section shall be construed to:			
21		[-(A) -]	(1) Expand the authorized scope of practice of			
22			any licensed physician;			



Page 6

2157 S.D. 1 H.D. 2 S.B. NO. C.D. 1

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1	[(B)] <u>(2)</u>]	limit any reporting or disciplinary
2	provis	sions applicable to licensed physicians and
3	surgeo	ons who violate prescribing practices; and
4	[-(C)] <u>(3)</u>]	Prohibit the discipline or prosecution of a
5	licens	sed physician for:
6	[(i)]	(A) Failing to maintain complete, accurate,
7	ā	and current records that document the
8	I	physical examination and medical history of
9	ć	patient, the basis for the clinical
10	c	liagnosis of a patient, and the treatment
11	I	olan for a patient;
12	[(ii)] (B) Writing false or fictitious
13	I	prescriptions for controlled substances
14	E	cheduled in the Federal Comprehensive Drug
15	P	buse Prevention and Control Act of 1970, 21
16	I	U.S.C.] United States Code 801 et seq. or
17	i	n chapter 329;
18	[(iii)] <u>(</u>	<u>C)</u> Prescribing, administering, or
19	c	ispensing pharmaceuticals in violation of
20	t	he provisions of the Federal Comprehensive
21	Г	rug Abuse Prevention and Control Act of

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S.B. NO. ²¹⁵⁷ S.D. 1 H.D. 2 C.D. 1

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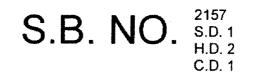
1		1970, 21 [U.S.C.] <u>United States Code</u> 801 et
2		seq. or of chapter 329;
3	[(iv)]	(D) Diverting medications prescribed for a
4		patient to the licensed physician's own
5		personal use; and
6	[-(v) -]	(E) Causing, or assisting in causing, the
7		suicide, euthanasia, or mercy killing of any
8		individual; provided that it is not
9		"causing, or assisting in causing, the
10		suicide, euthanasia, or mercy killing of any
11		individual" to prescribe, dispense, or
12		administer medical treatment for the purpose
13		of treating severe acute pain or severe
14		chronic pain, even if the medical treatment
15		may increase the risk of death, so long as
16		the medical treatment is not also furnished
17		for the purpose of causing, or the purpose
18		of assisting in causing, death for any
19		reason."
20	SECTION 3. Sec	ction 329-38, Hawaii Revised Statutes, is
21	amended by amending	subsection (b) to read as follows:

S.B. NO. ²¹⁵⁷ S.D. 1 H.D. 2 C.D. 1

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1	"(b) A schedule II controlled substance prescription
2	shall:
3	(1) Be filled within [three] seven days following the date
4	the prescription was issued to the patient; and
5	(2) Be supplied to a patient only if the prescription has
6	been filled and held by the pharmacy for not more than
7	seven days."
8	SECTION 4. Statutory material to be repealed is bracketed
9	and stricken. New statutory material is underscored.
10	SECTION 5. This Act shall take effect upon its approval.





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9	and stricken. New statutory material is underscored.
10	SECTION 5. This Act shall take effect upon its approval.

30 APPROVED this day of MAY , 2008 0 GOVERNOR OF THE STATE OF HAWAII



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