

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 • INTERNET: www.honolulu-pd.org

LATE

MUFI HANNEMANN
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OUR REFERENCE SD-TA

February 9, 2010

The Honorable Ryan I. Yamane, Chair
and Members
Committee on Health
House Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Yamane and Members:

Subject: House Bill No. 2592, Relating to Controlled Substances

I am Susan Dowsett, Major of the Narcotics/Vice Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports House Bill No. 2592, Relating to Controlled Substances.

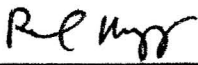
To ensure consistency in the regulation and enforcement of controlled substances, the Federal Controlled Substances Act serves as the basis for classification of all controlled substances on a national level. It is the model upon which the Uniform Controlled Substances Act, chapter 329, Hawaii Revised Statutes, is based. Passage of this bill will update chapter 329 to be consistent with the Federal Controlled Substances Act.

The Honolulu Police Department urges you to support House Bill No. 2592, Relating to Controlled Substances.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


LOUIS M. KEALOHA
Chief of Police


SUSAN DOWSETT, Major
Narcotics/Vice Division

Serving and Protecting With Aloha

February 9, 2010

To: Representative Ryan Yamane, Chair
Representative Scott Nishimoto, Vice Chair and
Members of the Committee on Health

From: Jeanne Y. Ohta, Executive Director

Re: HB 2592 Relating to Controlled Substances
Hearing: Tuesday, February 9, 2010, 9:30 a.m., Conference Room 329

Position: Opposed

The Drug Policy Forum of Hawai'i writes in opposition to HB 2592 Relating to Controlled Substances. DPFH objects to this measure for several reasons.

1. Adding Salvia Divinorum to Schedule I

Although this bill purports to making Hawaii's controlled substances laws consistent with that of federal law; it actually over reaches by adding salvia divinorum, salvinorin A, and divinorum A to Schedule I; the most restrictive of all schedules. These drugs have NOT been added to the federal controlled substance list.

According to HRS§329-11, the Department of Public Safety shall assess the degree of danger or probable danger of the substance by considering the following: A) Its history and current pattern of abuse; B) The scope, duration, and significance of abuse; and C) A judgment of the degree of actual or probable detriment that may result from the abuse of the substance.

There have been no documented cases of fatal or near fatal incidences involving the drug. Reports of salvia-related emergency room admissions are virtually non-existent, likely because its effects typically vanish in a few minutes.

There are no studies suggesting that salvia is addictive or its users prone to overdose or abuse, the criteria for adding drugs to the controlled substances schedule.

It does not make sense to add a drug to the controlled substances schedule without scientific information. The Drug Enforcement Administration (DEA) has spent more than a decade studying whether to add salvia to its list of controlled substances and has not done so. Bertha Madras, a deputy director of the Office of National Drug Control Policy (ONDCP) said that "there is an absence of good hard cold information" to schedule salvia.

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P.O. Box 61233
Honolulu, HI 96839

Phone: (808)-988-4386
Fax: (808) 373-7064

Email: info@dpfhi.org
Website: www.dpfhi.org

Proponents of scheduling salvia divinorum cite teen usage. Although teen use of any drug is concerning, by outlawing and prohibiting it, legislators will make the problem worse. Teen access to the drug can be curbed by enacting age controls and placing restrictions similar to those on tobacco and alcohol. Criminalizing drugs makes their access easier for young people because the criminal market does not check ID's for age.

Scientists believe salvia has potential medical use. Pharmacologists believe salvia could open new frontiers for the treatment of addiction, depression, pain, eating disorders, Alzheimer's disease, and HIV. Criminalizing salvia will hamper research, much like the situation we are in with the scheduling of marijuana preventing research on its medical uses. California Pacific Medical Center Research Institute has federal funding to study salvia's impact on humans.

Public policy must not be made on myths, falsehoods and by sensationalized fear.

At a time when financial resources are extremely strained, law enforcement has more serious matters and more dangerous drugs to deal with. Simply because a drug is an intoxicant does not mean it should be illegal. It does not make sense to add a drug to a schedule without the necessary scientific information.

2. Extends disclosure to "regulatory investigations" and adds U.S. Attorney

The language in this measure extends disclosure to "regulatory investigations" whereas it is currently limited to criminal investigations and prosecutions and it adds the U.S. Attorney to those authorized for disclosure. This could be a considerable expansion which is not discussed in the justification sheet.

We are concerned that since the Narcotics Enforcement Division has under its control all of the patient and physician information of the Medical Use of Marijuana Program, that this information will be available to federal authorities. Federal law is in direct conflict with state law with regard to medical marijuana. State agencies must preserve patient and physician confidentiality from federal authorities. It is unclear how this change could affect medical marijuana patient information.

Recall that a past U.S. Attorney for Hawai'i has threatened to arrest physicians and patients and to put an end to the medical marijuana program. Hawai'i state law should not facilitate that potential.

3. Repeals the cap on retention of patient prescription data

The identification number of patients is currently purged from the central repository system after 3 years. This measure would eliminate the 3 year cap on retaining identification numbers and allow the department to keep the information indefinitely. Again, there is little justification cited for this change. Current law already allows information to be kept beyond the 3 year limit if the information is part of an active investigation. It is dangerous to allow this information to be kept indefinitely, especially since no compelling reason is given for this change.

DPFH urges this committee to hold this bill since no convincing reasons have been given for the proposed changes. Thank you for this opportunity to provide testimony.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:

GARY M. SLOVIN
ANNE T. HORIUCHI
MIHOKO E. ITO
CHRISTINA ZAHARA NOH

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:

gslovin@goodsill.com
ahoriuchi@goodsill.com
meito@goodsill.com
cnoh@goodsill.com

MEMORANDUM

TO: Representative Ryan Yamane
Chair, House Committee on Health
Hawaii State Capitol, Room 419

FROM: Mihoko E. Ito

DATE: February 8, 2010

RE: **H.B. 2592 - Relating to Controlled Substances**
Hearing: Tuesday, February 9, 2010 at 9:30 a.m., Room 329

Dear Chair Yamane and Members of the Committee:

I am Mihoko Ito, an attorney with Goodsill Anderson Quinn & Stifel, testifying on behalf of Walgreen Co. ("Walgreens"). Walgreens operates and offers immunization services in all 50 states, the District of Columbia and Puerto Rico. In Hawai'i, Walgreens now has 9 stores on the islands of Maui and Oahu.

Walgreens **submits comments** regarding H.B. 2592, which amends Hawai'i's controlled substances law.

Walgreens has concerns with the language on page 15, lines 1-7, which changes the standard for failure to transmit required information from "intentional or knowing failure," to any failure to transmit such information. Walgreens believes that this language is overly broad, because it would result in a misdemeanor violation and immediate suspension of a pharmacy's ability to dispense medications, even for inadvertent reporting errors (for example, due to interruptions in reporting, or time spent contacting patients to make error corrections).

Walgreens understands that this measure is supported by the Department of Public Safety, Narcotics Enforcement Division, and is willing to work with the Department on workable language that will mutually address the parties' concerns.

February 8, 2010

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If the Committee is inclined to pass this measure, Walgreens respectfully requests that a defective effective date be inserted, so that the parties may have the opportunity for further discussion.

Thank you very much for the opportunity to testify.