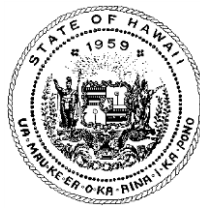




LATE

SB2915

Measure Title:	RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.
Report Title:	Uniform Controlled Substances Act
Description:	<p>Updates chapter 329, Hawaii Revised Statutes, to make it consistent with amendments in federal controlled substances law as required under section 329-11; amends section 329-1 to clarify existing definitions to be consistent with Federal controlled substance law; deletes definitions no longer utilized under federal law; adds new definitions to allow the use of "delegates" by practitioners and pharmacists to access the electronic prescription accountability system; clarify that individuals storing, conducting research, reverse distribution and analytical analysis with controlled substances must register with the Department and follow appropriate controlled substance statutes and rules; amend 329-23 to take advantage of technology in the posting of updates to Hawaii's drug schedules on the department's website; amend section 329-38 to be consistent with Federal limitations on the prescribing of Schedule II narcotic controlled substances; mandate that the collections of fines under section 329-49 be deposited into the State controlled substance registration revolving fund under section 329-59 to support the program; delete the requirement for a pseudoephedrine permit for transporting over 3 grams of pseudoephedrine as required under sections 329-73 and 329-74; amends chapter 329, part VIII ELECTRONIC PRESCRIPTION ACCOUNTABILITY SYSTEM, Hawaii Revised Statutes, by adding language to mandate the requirement that all practitioners and pharmacies register to utilize the electronic prescription accountability system when they obtain a controlled substance registration; authorize the Department of Public Safety Narcotics Enforcement Division Administrator to allow access to state, county, or federal regulatory agencies to the database when conducting joint regulatory investigations.</p>
Companion:	HB2386
Package:	Governor
Current Referral:	PSM/CPH, JDL/WAM
Introducer(s):	KOUCHI (Introduced by request of another party)



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

NOLAN P. ESPINDA
DIRECTOR

Cathy Ross
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Shawn H. Tsuha
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 2915
RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT

By
Nolan P. Espinda, Director
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental Affairs, and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator Will Espero, Vice Chair

Senate Committee on Commerce, Consumer Protection, and Health
Senator Rosalyn H. Baker, Chair
Senator Michelle N. Kidani, Vice Chair

Thursday, February 11, 2016; 8:30 a.m.
State Capitol, Conference Room 229

Chairs Nishihara and Baker, Vice Chairs Espero and Kidani, and Members of the Committee:

The Department of Public Safety (PSD) **strongly supports** Senate Bill (SB) 2915, which proposes updates to Hawaii's Uniform Controlled Substances Act, Chapter 329, Hawaii Revised Statutes, to be consistent with changes in federal law, as required by Section 329-11, HRS and deletes definitions no longer utilized under federal law.

HRS Section 329-11(d) states that if a substance is added, deleted or rescheduled under federal law and notice of the designation is given to PSD, then the Department shall recommend that a corresponding change in Hawaii law be made. PSD received notice that the following drug scheduling changes were made by the federal government:

1. July 17, 2015: The Administrator of the Drug Enforcement Administration (DEA) posted the final rule that scheduled the synthetic opioid, N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl), and its optical, positional, and geometric isomers, salts and salts of isomers, into schedule I of the Federal Controlled Substances Act (Federal Register Vol. 80, No. 137). This action is based on a finding by the Administrator that the placement of this synthetic opioid substance into schedule I of the Controlled Substances

Act is necessary to avoid an imminent hazard to the public safety. As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to Schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, import, export, engage in research, or possess), or propose to handle, acetyl fentanyl. SB 2915 proposes to schedule all products containing synthetic opioid, N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl), and its optical, positional, and geometric isomers, salts and salts of isomers, into Schedule I controlled substances under Section 329-14(b)(58) HRS in accordance with Section 329-11(d) HRS.

2. September 16, 2015: The Administrator of the Drug Enforcement Administration (DEA) posted notice of intent to schedule the synthetic cannabinoid, N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (Other names: MAB-CHMINACA; ADB-CHMINACA), and its optical, positional, and geometric isomers, salts and salts of isomers, into schedule I of the Federal Controlled Substance Act (Federal Register Vol. 80, No. 179). This action is based on a finding by the administrator that the placement of this synthetic cannabinoid substance into Schedule I of the Controlled Substance Act is necessary to avoid an imminent hazard to the public safety. Due to the growing problem of innovative chemists developing new synthetic hallucinogenic substances for sale to the public as “herbal incense, bath salts, plant food or legal highs” in the State and around the City and County of Honolulu, the Narcotics Enforcement Division (NED) and the DEA have attempted to protect the public from the ever-increasing numbers of synthetic hallucinogenic substances labeled as “not for human consumption,” but sold in retail shops with the promise of powerful, legal hallucinogenic highs, by placing them in Schedule I and making them illegal to possess or sell.

Any final order will impose the administrative, civil, and criminal sanctions and regulatory controls applicable to Schedule I controlled substances under the Controlled Substance Act on the manufacture, distribution, possession, importation, exportation, research, and conduct of instructional activities of this synthetic cannabinoid. SB 2915 proposes to schedule all products containing synthetic opioid, N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl), and its optical, positional, and geometric isomers, salts and salts of isomers, into Schedule I Controlled Substances under Section 329-14(g)(25) HRS in accordance with Section 329-11(d) HRS.

3. November 12, 2015: The Administrator of the Drug Enforcement Administration (DEA) posted final notice to schedule the substance 5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-

phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid (eluxadoline), including its salts, isomers, and salts of isomers, into schedule IV of the Controlled Substance Act. (Federal Register Vol. 80, No. 218). This action imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule IV controlled substances on persons who handle (manufacture, distribute, dispense, import, export, engage in research, conduct instructional activities, or possess) or propose to handle eluxadoline. SB 2915 proposes to schedule all products containing 5-[[[(2S)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid (eluxadoline) including its optical isomers and its salts, isomers, and salts of isomers, into Schedule IV Controlled Substances under Section 329-20(e)(2) HRS in accordance with Section 329-11(d) HRS.

Definitions

Senate Bill 2915 would also update Hawaii's Uniform Controlled Substances Act to be consistent with federal law and update new definitions in Section 329D by adding and deleting definitions to Sections 329-1, 329-31, 329-31.5, 329-32, 329-33, 329-34, 329-36, 329-37 and 329-52. These amendments would clarify that registrants who manufacture, distribute, prescribe, dispense, store, reverse distribute, conduct research, or chemical analysis with controlled substances shall obtain a State controlled substance registration.

Senate Bill 2915 also proposes to add the definitions of "medical marijuana dispensary", "medical marijuana production center", and "retail dispensing location" in accordance with Section 329D-1. Section 329-33 would also be amended to include the requirement of obtaining licensure from the Department of Health under Sections 329D-2 and 329D-8 prior to applying for controlled substance certification.

Senate Bill 2915 adds new definitions to Chapter 329 HRS to allow access to the Electronic Prescription Accountability System for "practitioner delegates" and "pharmacist delegates". The PSD Narcotics Enforcement Division's Electronic Prescription Accountability System has been in operation since 1993, and has evolved over the years to require all pharmacies and dispensing practitioners to submit prescription data into an electronic database. The program is capable of providing practitioners with a prescription history for anyone who is prescribed controlled substances in Schedules II to IV. This allows practitioners and pharmacists the ability to retrieve the prescription history of patients to avoid over-prescription and assist in providing them the most appropriate care, especially where controlled substance abuse is suspected. In addition, emergency room physicians are able to check the database to evaluate patients who periodically visit their facilities seeking controlled substances.

Access to the Electronic Prescription Accountability System will provide practitioners a very powerful tool to make better, more informed treatment decisions, allowing them to provide the most appropriate medical care for their patients.

Other Amendments

Senate Bill 2915 proposes to update Section 329-23(a), HRS, Republishing of Schedules, by clarifying that the Department would make available to the public an electronic copy of the updated controlled substances schedules on its website to increase accessibility to current, accurate information.

Senate Bill 2915 would amend Section 329-38 (a) by adding language to limit the allowable quantity of Schedule II narcotic controlled substance prescriptions to a 30-day supply in order to stem abuse and over-prescription of these drugs. Presently, Hawaii does not have a quantity limit on Schedule II narcotic drugs, unlike some the other states and many insurance carriers who have already implemented 30-day supply limits.

Senate Bill 2915 proposed to amend Section 329-49 to deposit the fines collected from the State General Fund to the Controlled Substance Registration Revolving Fund under Section 329-59. These funds are needed to cover the cost of compliance inspections, investigations, and prevention programs for controlled substance and regulated chemical registrants.

Section 329-101, Subsection (b) would be amended to require all practitioners and pharmacies to be registered with PSD to use the Electronic Prescription Accountability System, as part of the controlled substance registration process.

Section 329-104, Confidentiality of Information; disclosure of information, would be amended to include law enforcement regulatory agencies, the chief medical examiner or licensed physician designees investigating the death of an individual, qualified personnel conducting research or education, and other entities assisting the Prescription Accountability System, to receive certain information at the discretion of the Administrator.

HB 2915 would repeal Section 329-31.5 Clinics. Section 329-73 Pseudoephedrine Permit would also be repealed. Since the inception of the latter in 2006, the NED has not issued a single pseudoephedrine permit for persons transporting pseudoephedrine in excess of 3 grams. Most retailers or registrants are already in possession of a regulated chemical permit, thus we believe Section 329-73 is not necessary and should be deleted.

Thank you for the opportunity to testify on this measure.