

JAN 25 2017

A BILL FOR AN ACT

RELATING TO ADMINISTERING, DISPENSING, OR PRESCRIBING NARCOTIC
DRUGS FOR USE IN MAINTENANCE OR DETOXIFICATION TREATMENT TO
A NARCOTIC DEPENDENT PERSON.

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

1 SECTION 1. The attorney general opined in 2016 that the
2 law regulating controlled substances including narcotics
3 permitted the prescription and dispensing of suboxone for the
4 detoxification or maintenance of narcotic dependent individuals.
5 The narcotics enforcement division had referred the matter to
6 the department of the attorney general for an opinion to resolve
7 differing interpretations of the law. The attorney general
8 recommended amending the law to clarify, identify, and change
9 language that could be ambiguous regarding the authorized
10 prescription and dispensing of suboxone.

11 SECTION 2. Section 329-16, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) Any of the following substances, except those
14 narcotic drugs listed in other schedules, whether produced
15 directly or indirectly by extraction from substances of
16 vegetable origin, or independently by means of chemical



1 synthesis, or by combination of extraction and chemical
2 synthesis:

3 (1) Opium and opiate, and any salt, compound, derivative,
4 or preparation of opium or opiate, excluding
5 apomorphine, thebaine-derived butorphanol,
6 dextrorphan, nalbuphine, nalmefene, naloxegol,
7 naloxone, and naltrexone, and their respective salts,
8 but including the following:

- 9 (A) Raw opium;
- 10 (B) Opium extracts;
- 11 (C) Opium fluid;
- 12 (D) Powdered opium;
- 13 (E) Granulated opium;
- 14 (F) Codeine;
- 15 (G) Ethylmorphine;
- 16 (H) Etorphine hydrochloride;
- 17 (I) Hydrocodone;
- 18 (J) Hydromorphone;
- 19 (K) Metopon;
- 20 (L) Morphine;
- 21 (M) Oxycodone;



- 1 (N) Oxymorphone;
- 2 (O) Thebaine;
- 3 (P) Dihydroetorphine;
- 4 (Q) Oripavine; and
- 5 (R) Tincture of opium;
- 6 (2) Any salt, compound, isomer, derivative, or preparation
- 7 thereof which is chemically equivalent or identical
- 8 with any of the substances referred to in paragraph
- 9 (1), but not including the isoquinoline alkaloids of
- 10 opium;
- 11 (3) Opium poppy and poppy straw;
- 12 (4) Coca leaves and any salt, compound, derivative, or
- 13 preparation of coca leaves, and any salt, compound,
- 14 derivative, or preparation thereof which is chemically
- 15 equivalent or identical with any of these substances,
- 16 but not including decocanized coca leaves or
- 17 extractions which do not contain cocaine or ecgonine;
- 18 cocaine or any salt or isomer thereof; and
- 19 (5) Concentrate of poppy straw (the crude extract of poppy
- 20 straw in either liquid, solid, or powder form that



1 contains the phenanthrene alkaloids of the opium
2 poppy)."

3 SECTION 3. Section 329-38, Hawaii Revised Statutes, is
4 amended by amending subsection (f) to read as follows:

5 "(f) The effectiveness of a prescription for the purposes
6 of this section shall be determined as follows:

7 (1) A prescription for a controlled substance shall be
8 issued for a legitimate medical purpose by an
9 individual practitioner acting in the usual course of
10 the practitioner's professional practice. The
11 responsibility for the proper prescribing and
12 dispensing of controlled substances shall be upon the
13 prescribing practitioner, but a corresponding
14 responsibility shall rest with the pharmacist who
15 fills the prescription. An order purporting to be a
16 prescription issued not in the usual course of
17 professional treatment or for legitimate and
18 authorized research shall not be deemed a prescription
19 within the meaning and intent of this section, and the
20 person who knowingly fills such a purported
21 prescription, as well as the person who issues the



1 prescription, shall be subject to the penalties
2 provided for violations of this chapter;

3 (2) A prescription may not be issued to allow an
4 individual practitioner to obtain controlled
5 substances for supplying the individual practitioner
6 for the purpose of general dispensing to patients;

7 ~~(3) [A prescription may not be issued for the dispensing
8 of narcotic drugs listed in any schedule for the
9 purpose of "detoxification treatment" or "maintenance
10 treatment" except as follows:~~

11 ~~(A) The administering or dispensing directly (but not
12 prescribing) of narcotic drugs listed in any
13 schedule to a narcotic drug dependent person for
14 "detoxification treatment" or "maintenance
15 treatment" shall be deemed to be "in the course
16 of a practitioner's professional practice or
17 research" so long as the practitioner is
18 registered separately with the department and the
19 federal Drug Enforcement Agency as required by
20 section 329-32(e) and complies with Title 21 Code
21 of Federal Regulations section 823(g) and any~~



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1 ~~other federal or state regulatory standards~~
2 ~~relating to treatment qualification, security,~~
3 ~~records, and unsupervised use of drugs; and~~
4 ~~(B) Nothing in this section shall prohibit a~~
5 ~~physician or authorized hospital staff from~~
6 ~~administering or dispensing, but not prescribing,~~
7 ~~narcotic drugs in a hospital to maintain or~~
8 ~~detoxify a person as an incidental adjunct to~~
9 ~~medical or surgical treatment of conditions other~~
10 ~~than addiction;~~

11 ~~(4)]~~ A prescription may not be issued for detoxification
12 treatment or maintenance treatment, unless the
13 prescription is for a schedule III, IV, or V narcotic
14 drug approved by the United States Food and Drug
15 Administration specifically for use in maintenance or
16 detoxification treatment and the practitioner is in
17 compliance with 21 Code of Federal Regulations section
18 1301.28 and federal or state regulatory standards
19 relating to treatment qualifications, security,
20 records, and the unsupervised use of drugs;



- 1 (4) A practitioner may administer or dispense directly
2 (but not prescribe) a narcotic drug listed in any
3 schedule to a narcotic dependent person for the
4 purpose of maintenance or detoxification treatment if
5 the practitioner meets both of the following
6 conditions:
- 7 (A) The practitioner is separately registered with
8 federal Drug Enforcement Agency as a narcotic
9 treatment program; and
- 10 (B) The practitioner is in compliance with federal
11 Drug Enforcement Agency regulations regarding
12 treatment qualifications, security, records, and
13 unsupervised use of the drugs pursuant to the
14 federal Controlled Substances Act;
- 15 (5) Nothing in this section shall prohibit a physician who
16 is not specifically registered to conduct a narcotic
17 treatment program from administering (but not
18 prescribing) narcotic drugs to a person for the
19 purpose of relieving acute withdrawal symptoms when
20 necessary while arrangements are being made for
21 referral for treatment. Not more than one day's



1 medication may be administered to the person or for
2 the person's use at one time. Emergency treatment may
3 be carried out for not more than three days and may
4 not be renewed or extended;

5 (6) This section is not intended to impose any limitations
6 on a physician or authorized hospital staff to
7 administer or dispense narcotic drugs in a hospital to
8 maintain or detoxify a person as an incidental adjunct
9 to medical or surgical treatment of conditions other
10 than addiction, or to administer or dispense narcotic
11 drugs to persons with intractable pain in which no
12 relief or cure is possible or none has been found
13 after reasonable efforts;

14 (7) A practitioner may administer or dispense (including
15 prescribe) any schedule III, IV, or V narcotic drug
16 approved by the United States Food and Drug
17 Administration specifically for use in maintenance or
18 detoxification treatment to a narcotic dependent
19 person if the practitioner complies with the
20 requirements of 21 Code of Federal Regulations section
21 1301.28 and federal and state regulatory standards



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1 relating to treatment qualifications, security,
2 records, and unsupervised use of drugs;
3 (8) An individual practitioner shall not prescribe or
4 dispense a substance included in schedule II, III, IV,
5 or V for that individual practitioner's personal use,
6 except in a medical emergency; and
7 ~~(5)~~ (9) A pharmacist shall not dispense a substance
8 included in schedule II, III, IV, or V for the
9 pharmacist's personal use."

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

13

INTRODUCED BY: *Ronley H. Beck*



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Report Title:

Administer, Dispense, or Prescribe Narcotic Drugs; Maintenance or Detoxification Treatment; Narcotic Dependent Person.

Description:

Clarifies that treatment drugs such as suboxone may be used in the maintenance or detoxification of narcotic dependent persons.

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