THE SENATE
TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAII

S.B. NO. 983 S.D. 1

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION PRESCRIPTION DRUGS.

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

SECTION 1. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§386- Injured employees; opioid therapy; informed consent process.** (a) Injured employees and physicians who prescribe opioids shall execute a written agreement to engage in an informed consent process if:

(1) An injured employee requires opioid treatment for more than three months;

(2) An injured employee is prescribed benzodiazepines and opioids together; or

(3) An injured employee is prescribed a dose of opioids that exceeds ninety morphine equivalent doses.

(b) The harm reduction services branch of the department of health shall develop and make available a template of an opioid therapy informed consent process agreement for use in the State and shall advise the department of labor and industrial relations on the contents of the agreement. The template for

the opioid therapy informed consent process agreement shall include, at a minimum, the following:

(1) A statement that advises the injured employee that initial prescriptions for opioids and benzodiazepines shall be limited to a maximum of seven consecutive days;

(2) A statement that the physician has discussed with the injured employee the possibility of overdose on opioids, the availability of co-prescribing naloxone, and education about how and when to use the prescribed opioids and naloxone;

(3) A statement that the physician has discussed with the injured employee non-opioid treatment options for chronic pain;

(4) An outline of initial and ongoing functional treatment goals established at the initiation of the informed consent process, and a plan for the ongoing assessment of progress toward the goals;

(5) Consent to an initial assessment using an established questionnaire or screening tool of the injured employee's potential risk for opioid or alcohol abuse,

as well as other psychosocial factors that contribute to abuse risk, at the initiation of the informed consent process, and a plan for the ongoing assessment of risk thereafter;

(6) Consent to urine drug screening at the initiation of the informed consent process and at least two times each year thereafter;

(7) Consent to be referred to a psychologist or psychiatrist for concurrent care or consultation if the opioid therapy continues for longer than six months; and

(8) Confirmation that the electronic prescription accountability system has been checked at the initiation of the informed consent process and agreement that the system will be checked at least quarterly thereafter."

SECTION 2. Section 386-21.7, Hawaii Revised Statutes, is amended to read as follows:

"**[~~]§386-21.7[~~] Prescription drugs; pharmaceuticals.** (a) Notwithstanding any other provision to the contrary, immediately after a work injury is sustained by an employee and so long as

reasonably needed, the employer shall furnish to the employee all prescription drugs as the nature of the injury requires. The liability for the prescription drugs shall be subject to the deductible under section 386-100.

(b) Payment for all forms of prescription drugs including repackaged and relabeled drugs shall be one hundred forty per cent of the average wholesale price set by the original manufacturer of the dispensed prescription drug as identified by its National Drug Code and as published in the Red Book: Pharmacy's Fundamental Reference as of the date of dispensing, except where the employer or carrier, or any entity acting on behalf of the employer or carrier, directly contracts with the provider or the provider's assignee for a lower amount.

(c) Payment for compounded prescription drugs shall be the sum of one hundred forty per cent of the average wholesale price by gram weight of each underlying prescription drug contained in the compounded prescription drug. For compounded prescription drugs, the average wholesale price shall be that set by the original manufacturer of the underlying prescription drug as identified by its National Drug Code and as published in the Red Book: Pharmacy's Fundamental Reference as of the date of

compounding, except where the employer or carrier, or any entity acting on behalf of the employer or carrier, directly contracts with the provider or provider's assignee for a lower amount. In no instance shall the prescription supply be for more than thirty days nor shall payment exceed $ in a thirty-day period.

(d) All pharmaceutical claims submitted for repackaged, relabeled, or compounded prescription drugs shall include the National Drug Code of the original manufacturer. If the original manufacturer of the underlying drug product used in repackaged, relabeled, or compounded prescription drugs is not provided or is unknown, then reimbursement shall be one hundred forty per cent of the average wholesale price for the original manufacturer's National Drug Code number as listed in the Red Book: Pharmacy's Fundamental Reference of the prescription drug that is most closely related to the underlying drug product.

(e) Reimbursement for any drug under schedule II of chapter 329, the uniform controlled substances act, that is dispensed directly by a physician to an injured employee shall be limited to reimbursement for an initial seven-day supply, commencing upon the first visit with that physician; provided

that the injured employee and physician shall engage in an informed consent process pursuant to section 386- prior to the injured employee being prescribed opioids.

[~~(e)~~] (f) Notwithstanding any other provision in this section to the contrary, equivalent generic drug products shall be substituted for brand name pharmaceuticals unless the prescribing physician certifies that no substitution shall be prescribed because the injured employee's condition does not tolerate an equivalent generic drug product.

[~~(f)~~] (g) For purposes of this section, "equivalent generic drug product" has the same meaning as provided in section 328-91."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2050; provided that the opioid therapy informed consent process agreement pursuant to section 1 of this Act shall be in use no later than thirty days after the effective date of this Act.

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Report Title:
Workers' Compensation; Prescription Drugs; Compounded Prescription Drugs; Informed Consent; Opioids

Description:
Requires an opioid therapy informed consent process agreement to be executed between an injured employee and a physician who prescribes opioids within the State under certain conditions. Requires the harm reduction services branch of the department of health to develop and make available a template of an opioid therapy informed consent process agreement between injured employees and physicians for use in the State and advise the department of labor and industrial relations on the contents of the agreement. Limits prescriptions for compounded prescription drugs to a 30-day supply and reimbursements for compounded prescription drugs to an unspecified amount in a thirty-day period. Limits reimbursements for any schedule II drug under chapter 329, Uniform Controlled Substances Act, Hawaii Revised Statutes, dispensed by a physician to reimbursement for an initial, seven-day supply upon the first visit. Effective 7/1/2050. (SD1)

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