
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that a nationwide drug
2 epidemic exists related to prescription pain relieving drugs
3 that are causing alarming rates of addiction, overdose, and
4 death. According to the National Institute on Drug Abuse, an
5 estimated 2,100,000 people in the United States suffer from
6 substance use disorders related to prescription opioid pain
7 relievers. Society is facing the devastating consequences of
8 this epidemic. The number of unintentional overdose deaths from
9 prescription pain relievers has more than quadrupled since 1999.
10 According to data provided by the Pew Charitable Trusts, opioid
11 pain relievers killed nearly 20,000 Americans in 2014.

12 According to the National Institute on Drug Abuse, in terms
13 of abuse and mortality, opioids account for the greatest
14 proportion of the prescription drug abuse problem. The rise of
15 prescription opioids started in the beginning of the twenty-
16 first century and by 2002 prescription opioids caused more
17 deaths than heroin or cocaine. The National Institute on Drug



1 Abuse reports that the increase in the availability of opioid
2 pain relievers is the result of a drastic increase in the number
3 of prescriptions written and dispensed, greater social
4 acceptability for using medications for different purposes, and
5 aggressive marketing by pharmaceutical companies. As a result
6 of the staggering number of people suffering from substance use
7 disorders related to prescription opioid pain relievers, the
8 United States Centers for Disease Control and Prevention,
9 national and state legislators, and many others are trying to
10 curb this epidemic through public education and limits on opioid
11 prescribing practices.

12 The legislature also finds that informed consent is an
13 effective process between a provider and patient that relates to
14 a specific medication or a form of treatment such as safe opioid
15 therapy. The informed consent process allows the patient to
16 better understand the goals of treatment, potential benefits of
17 treatment, realistic outcomes, potential risks, how to use the
18 medication, and alternative treatment options. The informed
19 consent process is one approach to begin addressing the
20 nationwide opioid epidemic.



1 The purpose of this Act is to reduce addiction, overdose,
2 and death related to the use of opioids by:

3 (1) Requiring execution of an opioid therapy informed
4 consent process agreement between a patient and a
5 prescriber of opioids in circumstances that may carry
6 an elevated risk of causing dependency; and

7 (2) Limiting initial prescriptions for opioids and
8 benzodiazepines to a maximum of seven consecutive
9 days, except for treatment of specified conditions.

10 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§329- Opioid therapy; informed consent process. (a)
14 Patients and prescribers of opioids shall execute a written
15 agreement to engage in an informed consent process if:

16 (1) A patient requires opioid treatment for more than
17 three months;

18 (2) A patient is prescribed benzodiazepines and opioids
19 together; or

20 (3) A patient is prescribed a dose of opioids that exceeds
21 ninety morphine equivalent doses.



1 (b) The harm reduction services branch of the department
2 of health shall develop and make available a template of an
3 opioid therapy informed consent process agreement for use in the
4 State. The template for the opioid therapy informed consent
5 process agreement shall include, at a minimum, the following:
6 (1) A statement that advises the patient that initial
7 prescriptions for opioids and benzodiazepines shall be
8 limited to a maximum of seven consecutive days unless
9 certain conditions are met;
10 (2) A statement that the prescriber has discussed with the
11 patient the possibility of overdose on opioids, the
12 availability of co-prescribing naloxone, and provided
13 education about how and when to use the prescribed
14 opioids and naloxone;
15 (3) A statement that the prescriber has discussed with the
16 patient non-opioid treatment options for chronic pain;
17 (4) For women patients ages eighteen to fifty, an
18 assessment of the patient's reproductive health plans
19 and a statement that the prescriber has discussed with
20 the patient the risks of opioid use during pregnancy



- 1 and has offered information on how to avoid pregnancy
2 while using opioids;
- 3 (5) An outline of initial and ongoing functional treatment
4 goals established at the initiation of the informed
5 consent process and a plan for the ongoing assessment
6 of progress toward the goals;
- 7 (6) Patient consent to an assessment at the initiation of
8 the informed consent process using an established
9 questionnaire or screening tool of the patient's
10 potential risk for opioid or alcohol abuse and other
11 psychosocial factors that contribute to abuse risk and
12 a plan for the ongoing assessment of risk thereafter;
- 13 (7) Patient consent to urine drug screening at the
14 initiation of the informed consent process and at
15 least two times each year thereafter;
- 16 (8) Patient consent for referral to a psychologist,
17 psychiatrist, or advanced practice registered nurse
18 for concurrent care or consultation if the opioid
19 therapy continues for longer than six months; and
- 20 (9) Confirmation that the electronic prescription
21 accountability system has been checked at the



1 initiation of the informed consent process and
2 agreement that the system will be checked at least
3 quarterly thereafter.

4 (c) All opioid therapy informed consent process agreements
5 shall be filed with the harm reduction services branch of the
6 department of health. The harm reduction services branch shall
7 monitor all opioid therapy informed consent process agreements
8 and report any concerns about prescribers to the appropriate
9 licensing board.

10 (d) Notwithstanding any provision in this chapter to the
11 contrary, a violation of this section may result in disciplinary
12 action under section 453-8 or 457-12."

13 SECTION 3. Section 329-38, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§329-38 Prescriptions.** (a) No controlled substance in
16 schedule II may be dispensed without a written prescription of a
17 practitioner, except:

18 (1) In the case of an emergency situation, a pharmacist
19 may dispense a controlled substance listed in schedule
20 II upon receiving oral authorization from a
21 prescribing practitioner; provided that:



- 1 (A) The quantity prescribed and dispensed is limited
2 to the amount adequate to treat the patient
3 during the emergency period (dispensing beyond
4 the emergency period shall be pursuant to a
5 written prescription signed by the prescribing
6 practitioner);
- 7 (B) If the prescribing practitioner is not known to
8 the pharmacist, the pharmacist shall make a
9 reasonable effort to determine that the oral
10 authorization came from a registered
11 practitioner, which may include a callback to the
12 prescribing practitioner using the phone number
13 in the telephone directory or other good faith
14 efforts to identify the prescriber; and
- 15 (C) Within seven days after authorizing an emergency
16 oral prescription, the prescribing practitioner
17 shall cause a written prescription for the
18 emergency quantity prescribed to be delivered to
19 the dispensing pharmacist. In addition to
20 conforming to the requirements of this
21 subsection, the prescription shall have written



1 on its face "Authorization for Emergency
2 Dispensing". The written prescription may be
3 delivered to the pharmacist in person or by mail,
4 and if by mail, the prescription shall be
5 postmarked within the seven-day period. Upon
6 receipt, the dispensing pharmacist shall attach
7 this prescription to the oral emergency
8 prescription, which had earlier been reduced to
9 writing. The pharmacist shall notify the
10 administrator if the prescribing practitioner
11 fails to deliver a written prescription to the
12 pharmacy within the allotted time. Failure of
13 the pharmacist to do so shall void the authority
14 conferred by this paragraph to dispense without a
15 written prescription of a prescribing individual
16 practitioner. Any practitioner who fails to
17 deliver a written prescription within the seven-
18 day period shall be in violation of section 329-
19 41(a)(1);

20 (2) No schedule II narcotic controlled substance may be
21 prescribed or dispensed for more than a thirty-day



1 supply, except where such substances come in a single
2 unit dose package that exceeds the thirty-day limit or
3 where a terminally ill patient is certified by a
4 physician to exceed the thirty-day limit;

5 (3) When dispensed directly by a practitioner, other than
6 a pharmacist, to the ultimate user. The practitioner
7 in dispensing a controlled substance in schedule II
8 shall affix to the package a label showing:

9 (A) The date of dispensing;

10 (B) The name, strength, and quantity of the drug
11 dispensed;

12 (C) The dispensing practitioner's name and address;

13 (D) The name of the patient;

14 (E) The "use by" date for the drug, which shall be:

15 (i) The expiration date on the manufacturer's or
16 principal labeler's container; or

17 (ii) One year from the date the drug is
18 dispensed, whichever is earlier; and

19 (F) Directions for use, and cautionary statements, if
20 any, contained in the prescription or as required
21 by law.



1 A complete and accurate record of all schedule II
2 controlled substances ordered, administered,
3 prescribed, and dispensed shall be maintained for five
4 years. Prescriptions and records of dispensing shall
5 otherwise be retained in conformance with the
6 requirements of section 329-36. No prescription for a
7 controlled substance in schedule II may be refilled;
8 or

9 (4) In the case of an electronic prescription, a
10 pharmacist may dispense a controlled substance listed
11 in schedule II upon receiving an electronic
12 prescription.

13 (b) A schedule II controlled substance prescription shall:

14 (1) Be filled within seven days following the date the
15 prescription was issued to the patient; and

16 (2) Be supplied to a patient only if the prescription has
17 been filled and held by the pharmacy for not more than
18 seven days.

19 (c) Initial prescriptions for opioids and benzodiazepines
20 shall not be for longer than seven consecutive days unless a



1 supply of longer than seven days is determined to be medically
2 necessary for the treatment of:

- 3 (1) Pain experienced while the patient is in post-
- 4 operative care;
- 5 (2) Chronic pain and pain management;
- 6 (3) Substance abuse or opioid or opiate dependence;
- 7 (4) Pain experienced while the patient is in palliative
- 8 care; or
- 9 (5) Pain experienced while the patient is in hospice care;

10 provided that if a prescribing practitioner issues a
11 prescription for more than a seven-day supply of an opioid and
12 benzodiazepine, the practitioner shall document in the patient's
13 medical record the condition for which the practitioner issued
14 the prescription and that an alternative to the opioid and
15 benzodiazepine was not appropriate treatment for the condition.

16 (d) After an initial prescription for opioids and
17 benzodiazepines has been made, a prescribing practitioner may
18 authorize subsequent prescriptions through a telephone
19 consultation with the patient when the prescribing practitioner
20 deems such action to be medically necessary for post-operative
21 and pain management patients; provided that a prescribing



1 practitioner shall consult with a patient in person at least
2 once every thirty days for the duration during which the
3 practitioner prescribes opioids and benzodiazepines to the
4 patient.

5 [~~e~~] (e) The transfer of original prescription information
6 for a controlled substance listed in schedule III, IV, or V for
7 the purpose of dispensing is permissible between pharmacies on a
8 one time basis only. However, pharmacies electronically sharing
9 a real-time, online database may transfer up to the maximum
10 refills permitted by law and the prescriber's authorization.
11 Transfers are subject to the following requirements:

12 (1) The transfer shall be communicated directly between
13 two licensed pharmacists, and the transferring
14 pharmacist shall:

15 (A) Write or otherwise place the word "VOID" on the
16 face of the invalidated prescription;

17 (B) Record on the reverse of the invalidated
18 prescription the name, address, and Drug
19 Enforcement Administration registration number of
20 the pharmacy to which it was transferred and the



- 1 name of the pharmacist receiving the prescription
- 2 information; and
- 3 (C) Record the date of the transfer and the name of
- 4 the pharmacist transferring the information;
- 5 (2) The pharmacist receiving the transferred prescription
- 6 information shall reduce to writing the following:
- 7 (A) Write or otherwise place the word "transfer" on
- 8 the face of the transferred prescription;
- 9 (B) Record all information required to be on a
- 10 prescription, including:
- 11 (i) The date of issuance of original
- 12 prescription;
- 13 (ii) The original number of refills authorized on
- 14 original prescription;
- 15 (iii) The date of original dispensing;
- 16 (iv) The number of valid refills remaining and
- 17 dates and locations of previous refills;
- 18 (v) The pharmacy's name, address, Drug
- 19 Enforcement Administration registration
- 20 number, and original prescription number



1 from which the prescription information was
2 transferred;

3 (vi) The name of the transferor pharmacist; and

4 (vii) The pharmacy's name, address, and Drug
5 Enforcement Administration registration
6 number, along with the prescription number
7 from which the prescription was originally
8 filled;

9 (3) Both the original and transferred prescription shall
10 be maintained for a period of five years from the date
11 of last refill; and

12 (4) Any pharmacy electronically accessing a prescription
13 record shall satisfy all information requirements of a
14 manual mode prescription transferal.

15 Failure to comply with this subsection shall void the
16 authority of the pharmacy to transfer prescriptions or receive a
17 transferred prescription to or from another pharmacy.

18 [~~d~~] (f) A pharmacy and an authorized central fill
19 pharmacy may share information for initial and refill
20 prescriptions of schedule III, IV, or V controlled substances.

21 The following requirements shall apply:



- 1 (1) A pharmacy may electronically transmit, including by
2 facsimile, prescriptions for controlled substances
3 listed in schedule III, IV, or V to a central fill
4 pharmacy. The pharmacy transmitting the prescription
5 information shall:
- 6 (A) Ensure that all information required to be on a
7 prescription pursuant to subsection [~~g~~] (i) is
8 transmitted to the central fill pharmacy either
9 on the face of the prescription or
10 electronically; and
- 11 (B) Keep a record of receipt of the filled
12 prescription, including the date of receipt, the
13 method of delivery (private, common, or contract
14 carrier) and the identity of the pharmacy
15 employee accepting delivery; and
- 16 (2) The central fill pharmacy receiving the transmitted
17 prescription shall:
- 18 (A) Keep for five years a copy of a prescription
19 received by facsimile or an electronic record of
20 all the information transmitted by the pharmacy,
21 including the name, address, and Drug Enforcement



1 Administration registration number of the
 2 pharmacy transmitting the prescription;
 3 (B) Keep a record of the date of receipt of the
 4 transmitted prescription, the name of the
 5 licensed pharmacists filling the prescription,
 6 and the dates the prescription was filled or is
 7 refilled; and

8 (C) Keep a record of the date the filled prescription
 9 was shipped to the pharmacy.

10 [~~e~~] (g) No controlled substance in schedule III, IV, or
 11 V may be dispensed without a written, facsimile of a written,
 12 oral prescription of a practitioner, or receipt of an electronic
 13 prescription, except when a controlled substance is dispensed
 14 directly by a practitioner, other than a pharmacist, to an
 15 ultimate user. The practitioner, in dispensing a controlled
 16 substance in schedule III, IV, or V, shall affix to the package
 17 a label showing:

- 18 (1) The date of dispensing;
- 19 (2) The name, strength, and quantity issued of the drug;
- 20 (3) The dispensing practitioner's name and business
 21 address;



- 1 (4) The name of the patient;
 - 2 (5) The "use by" date for the drug, which shall be:
 - 3 (A) The expiration date on the manufacturer's or
 - 4 principal labeler's container; or
 - 5 (B) One year from the date the drug is dispensed,
 - 6 whichever is earlier;
 - 7 (6) Directions for use; and
 - 8 (7) Cautionary statements, if any, contained in the
 - 9 prescription or as required by law.
- 10 A complete and accurate record of all schedule III, IV, and V
- 11 controlled substances administered, prescribed, and dispensed
- 12 shall be maintained for five years. Prescriptions and records
- 13 of dispensing shall be retained in conformance with the
- 14 requirements of section 329-36 unless otherwise provided by law.
- 15 Prescriptions may not be filled or refilled more than three
- 16 months after the date of the prescription or be refilled more
- 17 than two times after the date of the prescription, unless the
- 18 prescription is renewed by the practitioner.
- 19 [~~f~~] (h) The effectiveness of a prescription for the
- 20 purposes of this section shall be determined as follows:



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



1 (3) A prescription may not be issued for the dispensing of
2 narcotic drugs listed in any schedule for the purpose
3 of "medically managed withdrawal", also known as
4 "detoxification treatment", or "maintenance treatment"
5 except as follows:

6 (A) The administering or dispensing directly (but not
7 prescribing) of narcotic drugs listed in any
8 schedule to a narcotic drug-dependent person for
9 "medically managed withdrawal", also known as
10 "detoxification treatment", or "maintenance
11 treatment" shall be deemed to be "in the course
12 of a practitioner's professional practice or
13 research" so long as the practitioner is
14 registered separately with the department and the
15 federal Drug Enforcement Agency as required by
16 section 329-32(e) and complies with Title 21 Code
17 of Federal Regulations section 823(g) and any
18 other federal or state regulatory standards
19 relating to treatment qualification, security,
20 records, and unsupervised use of drugs; and



1 (B) Nothing in this section shall prohibit a
2 physician or authorized hospital staff from
3 administering or dispensing, but not prescribing,
4 narcotic drugs in a hospital to maintain or
5 detoxify a person as an incidental adjunct to
6 medical or surgical treatment of conditions other
7 than addiction;

8 (4) An individual practitioner shall not prescribe or
9 dispense a substance included in schedule II, III, IV,
10 or V for that individual practitioner's personal use,
11 except in a medical emergency; and

12 (5) A pharmacist shall not dispense a substance included
13 in schedule II, III, IV, or V for the pharmacist's
14 personal use.

15 [~~(g)~~] (i) Prescriptions for controlled substances shall be
16 issued only as follows:

17 (1) All prescriptions for controlled substances shall
18 originate from within the State and be dated as of,
19 and signed on, the day when the prescriptions were
20 issued and shall contain:



- 1 (A) The first and last name and address of the
- 2 patient; and
- 3 (B) The drug name, strength, dosage form, quantity
- 4 prescribed, and directions for use. Where a
- 5 prescription is for gamma hydroxybutyric acid,
- 6 methadone, or buprenorphine, the practitioner
- 7 shall record as part of the directions for use,
- 8 the medical need of the patient for the
- 9 prescription.

10 Except for electronic prescriptions, controlled
11 substance prescriptions shall be no larger than eight
12 and one-half inches by eleven inches and no smaller
13 than three inches by four inches. A practitioner may
14 sign a prescription in the same manner as the
15 practitioner would sign a check or legal document
16 (e.g., J.H. Smith or John H. Smith) and shall use both
17 words and figures (e.g., alphabetically and
18 numerically as indications of quantity, such as five
19 (5)), to indicate the amount of controlled substance
20 to be dispensed. Where an oral order or electronic
21 prescription is not permitted, prescriptions shall be



1 written with ink or indelible pencil or typed, shall
2 be manually signed by the practitioner, and shall
3 include the name, address, telephone number, and
4 registration number of the practitioner. The
5 prescriptions may be prepared by a secretary or agent
6 for the signature of the practitioner, but the
7 prescribing practitioner shall be responsible in case
8 the prescription does not conform in all essential
9 respects to this chapter and any rules adopted
10 pursuant to this chapter. In receiving an oral
11 prescription from a practitioner, a pharmacist shall
12 promptly reduce the oral prescription to writing,
13 which shall include the following information: the
14 drug name, strength, dosage form, quantity prescribed
15 in figures only, and directions for use; the date the
16 oral prescription was received; the full name, Drug
17 Enforcement Administration registration number, and
18 oral code number of the practitioner; and the name and
19 address of the person for whom the controlled
20 substance was prescribed or the name of the owner of



1 the animal for which the controlled substance was
2 prescribed.

3 A corresponding liability shall rest upon a
4 pharmacist who fills a prescription not prepared in
5 the form prescribed by this section. A pharmacist may
6 add a patient's missing address or change a patient's
7 address on all controlled substance prescriptions
8 after verifying the patient's identification and
9 noting the identification number on the back of the
10 prescription document on file. The pharmacist shall
11 not make changes to the patient's name, the controlled
12 substance being prescribed, the quantity of the
13 prescription, the practitioner's Drug Enforcement
14 Administration number, the practitioner's name, the
15 practitioner's electronic signature, or the
16 practitioner's signature;

17 (2) An intern, resident, or foreign-trained physician, or
18 a physician on the staff of a Department of Veterans
19 Affairs facility or other facility serving veterans,
20 exempted from registration under this chapter, shall
21 include on all prescriptions issued by the physician:



- 1 (A) The registration number of the hospital or other
2 institution; and
- 3 (B) The special internal code number assigned to the
4 physician by the hospital or other institution in
5 lieu of the registration number of the
6 practitioner required by this section.
- 7 The hospital or other institution shall forward a copy
8 of this special internal code number list to the
9 department as often as necessary to update the
10 department with any additions or deletions. Failure
11 to comply with this paragraph shall result in the
12 suspension of that facility's privilege to fill
13 controlled substance prescriptions at pharmacies
14 outside of the hospital or other institution. Each
15 written prescription shall have the name of the
16 physician stamped, typed, or hand-printed on it, as
17 well as the signature of the physician;
- 18 (3) An official exempted from registration shall include
19 on all prescriptions issued by the official:
- 20 (A) The official's branch of service or agency (e.g.,
21 "U.S. Army" or "Public Health Service"); and



1 (B) The official's service identification number, in
2 lieu of the registration number of the
3 practitioner required by this section. The
4 service identification number for a Public Health
5 Service employee shall be the employee's social
6 security or other government issued
7 identification number.

8 Each prescription shall have the name of the officer
9 stamped, typed, or handprinted on it, as well as the
10 signature of the officer; and

11 (4) A physician assistant registered to prescribe
12 controlled substances under the authorization of a
13 supervising physician shall include on all controlled
14 substance prescriptions issued:

15 (A) The Drug Enforcement Administration registration
16 number of the supervising physician; and

17 (B) The Drug Enforcement Administration registration
18 number of the physician assistant.

19 Each written controlled substance prescription issued
20 shall include the printed, stamped, typed, or hand-
21 printed name, address, and phone number of both the



1 supervising physician and physician assistant, and
2 shall be signed by the physician assistant. The
3 medical record of each written controlled substance
4 prescription issued by a physician assistant shall be
5 reviewed and initialed by the physician assistant's
6 supervising physician within seven working days.

7 ~~[(h)]~~ (j) A prescription for controlled substances may
8 only be filled by a pharmacist acting in the usual course of the
9 pharmacist's professional practice and either registered
10 individually or employed in a registered pharmacy, central fill
11 pharmacy, or registered institutional practitioner. A central
12 fill pharmacy authorized to fill prescriptions on behalf of a
13 pharmacy shall have a contractual relationship with the pharmacy
14 that provides for this activity or shall share a common owner
15 with the pharmacy. A central fill pharmacy shall not prepare
16 prescriptions for any controlled substance listed in schedule
17 II.

18 ~~[(i)]~~ (k) Partial filling of controlled substance
19 prescriptions shall be determined as follows:

20 (1) The partial filling of a prescription for a controlled
21 substance listed in schedule II is permissible if the



1 pharmacist is unable to supply the full quantity
2 called for in a written, electronic prescription, or
3 emergency oral prescription and the pharmacist makes a
4 notation of the quantity supplied on the face of the
5 written prescription (or written record of the
6 electronic prescription or emergency oral
7 prescription). The remaining portion of the
8 prescription may be filled within seventy-two hours of
9 the first partial filling; provided that if the
10 remaining portion is not or cannot be filled within
11 the seventy-two-hour period, the pharmacist shall
12 notify the prescribing individual practitioner. No
13 further quantity shall be supplied beyond seventy-two
14 hours without a new prescription;

15 (2) The partial filling of a prescription for a controlled
16 substance listed in schedule III, IV, or V is
17 permissible; provided that:

18 (A) Each partial filling is recorded in the same
19 manner as a refilling;



- 1 (B) The total quantity dispensed in all partial
2 fillings does not exceed the total quantity
3 prescribed;
- 4 (C) No dispensing occurs more than three months after
5 the date on which the prescription was issued;
6 and
- 7 (D) The prescription is refilled no more than two
8 times after the initial date of the prescription,
9 unless the prescription is renewed by the
10 practitioner; and
- 11 (3) A prescription for a schedule II controlled substance
12 issued for a patient in a long-term care facility or
13 for a patient with a medical diagnosis documenting a
14 terminal illness may be filled in partial quantities
15 to include individual dosage units. If there is any
16 question whether a patient may be classified as having
17 a terminal illness, the pharmacist shall contact the
18 practitioner prior to partially filling the
19 prescription. Both the pharmacist and the prescribing
20 practitioner have a corresponding responsibility to
21 assure that the controlled substance is for a



1 terminally ill patient. The pharmacist shall record
2 on the prescription document on file whether the
3 patient is "terminally ill" or a "long-term care
4 facility patient". For the purposes of this section,
5 "TI" means terminally ill and "LTCF" means long-term
6 care facility. A prescription that is partially
7 filled and does not contain the notation "TI" or "LTCF
8 patient" shall be deemed to have been filled in
9 violation of this section. For each partial filling,
10 the dispensing pharmacist shall record on the back of
11 the prescription (or on another appropriate record,
12 uniformly maintained, and readily retrievable) the
13 date of the partial filling, quantity dispensed,
14 remaining quantity authorized to be dispensed, and the
15 identification of the dispensing pharmacist. The
16 total quantity of schedule II controlled substances
17 dispensed in all partial fillings shall not exceed the
18 total quantity prescribed, nor shall a prescription be
19 partially filled more than three times after the
20 initial date of the prescription. Schedule II
21 controlled substance prescriptions for patients in a



1 long-term care facility or patients with a medical
 2 diagnosis documenting a terminal illness shall be
 3 valid for a period not to exceed thirty days from the
 4 issue date unless sooner terminated by the
 5 discontinuance of medication.

6 ~~[(j)]~~ (1) A prescription for a schedule II controlled
 7 substance may be transmitted by the practitioner or the
 8 practitioner's agent to a pharmacy by facsimile equipment;
 9 provided that the original written, signed prescription is
 10 presented to the pharmacist for review prior to the actual
 11 dispensing of the controlled substance, except as noted in
 12 subsections ~~[(k), (l), and]~~ (m), (n), and (o). The original
 13 prescription shall be maintained in accordance with section 329-
 14 36. A prescription for a schedule III, IV, or V controlled
 15 substance may be transmitted by the practitioner or the
 16 practitioner's agent to a pharmacy by facsimile; provided that:

17 (1) The information shall be communicated only between the
 18 prescribing practitioner or the prescriber's
 19 authorized agent and the pharmacy of the patient's
 20 choice. The original prescription shall be maintained
 21 by the practitioner in accordance with section 329-36;



- 1 (2) The information shall be communicated in a
2 retrievable, recognizable format acceptable to the
3 intended recipient and shall include the physician's
4 oral code designation and the name of the recipient
5 pharmacy;
- 6 (3) No electronic system, software, or other intervening
7 mechanism or party shall alter the practitioner's
8 prescription, order entry, selection, or intended
9 selection without the practitioner's approval on a per
10 prescription per order basis. Facsimile prescription
11 information shall not be altered by any system,
12 software, or other intervening mechanism or party
13 prior to receipt by the intended pharmacy;
- 14 (4) The prescription information processing system shall
15 provide for confidentiality safeguards required by
16 federal or state law; and
- 17 (5) Prescribing practitioners and pharmacists shall
18 exercise prudent and professional judgment regarding
19 the accuracy, validity, and authenticity of any
20 facsimile prescription information. The facsimile
21 shall serve as the original written prescription for



1 purposes of this section and shall be maintained in
2 accordance with section 329-36.

3 [~~(k)~~] (m) A prescription prepared in accordance with
4 subsection [~~(g)~~] (i) written for a narcotic listed in schedule
5 II to be compounded for the direct administration to a patient
6 by parenteral, intravenous, intramuscular, subcutaneous, or
7 intraspinal infusion, but does not extend to the dispensing of
8 oral dosage units of controlled substances, may be transmitted
9 by the practitioner or the practitioner's agent to the pharmacy
10 by facsimile. The original prescription shall be maintained by
11 the practitioner in accordance with section 329-36. The
12 pharmacist shall note on the face of the facsimile prescription
13 in red ink "Home Infusion/IV" and this facsimile shall serve as
14 the original written prescription for purposes of this section
15 and it shall be maintained in accordance with section 329-36.

16 [~~(l)~~] (n) A prescription prepared in accordance with
17 subsection [~~(g)~~] (i) written for a schedule II substance for a
18 patient enrolled in a hospice care program certified or paid for
19 by medicare under Title XVIII or a hospice program that is
20 licensed by the State may be transmitted by the practitioner or
21 the practitioner's agent to the dispensing pharmacy by



1 facsimile. The original prescription shall be maintained by the
2 practitioner in accordance with section 329-36. The
3 practitioner or practitioner's agent shall note on the
4 prescription that the patient is a hospice patient. The
5 pharmacist shall note on the face of the facsimile prescription
6 in red ink "HOSPICE" and this facsimile shall serve as the
7 original written prescription for purposes of this section and
8 it shall be maintained in accordance with section 329-36.

9 ~~[(m)]~~ (o) A prescription prepared in accordance with
10 subsection ~~[(g)]~~ (i) written for a schedule II controlled
11 substance for a resident of a state-licensed long-term care
12 facility may be transmitted by the practitioner or the
13 practitioner's agent to the dispensing pharmacy by facsimile.
14 The original prescription shall be maintained by the
15 practitioner in accordance with section 329-36. The pharmacist
16 shall note on the face of the facsimile prescription in red ink
17 "LTCF" and this facsimile shall serve as the original written
18 prescription for purposes of this section and it shall be
19 maintained in accordance with section 329-36.



1 [~~n~~] (p) An electronic prescription for a schedule II,
2 III, IV, or V controlled substance may be electronically
3 transmitted by the practitioner to a pharmacy; provided that:

4 (1) The information shall be communicated only between the
5 prescribing practitioner and the pharmacy of the
6 patient's choice. The electronic prescription shall
7 be maintained by the practitioner in accordance with
8 section 329-36;

9 (2) The information shall be communicated in a
10 retrievable, recognizable format acceptable to the
11 intended recipient;

12 (3) No electronic system, software, or other intervening
13 mechanism or party shall alter the practitioner's
14 prescription, order entry, selection, or intended
15 selection without the practitioner's approval on a
16 per-prescription, per-order basis. Transmitted
17 prescription information shall not be altered by any
18 electronic system, software, or other intervening
19 mechanism or party prior to receipt by the intended
20 pharmacy;



1 (4) The prescription information processing system shall
2 provide for confidentiality safeguards required by any
3 applicable federal or state law; and

4 (5) Prescribing practitioners and pharmacists shall
5 exercise prudent and professional judgment regarding
6 the accuracy, validity, and authenticity of any
7 electronic prescription information."

8 SECTION 4. Section 457-12, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) In addition to any other actions authorized by law,
11 the board shall have the power to deny, revoke, limit, or
12 suspend any license to practice nursing as a registered nurse or
13 as a licensed practical nurse applied for or issued by the board
14 in accordance with this chapter, and to fine or to otherwise
15 discipline a licensee for any cause authorized by law, including
16 but not limited to the following:

17 (1) Fraud or deceit in procuring or attempting to procure
18 a license to practice nursing as a registered nurse or
19 as a licensed practical nurse;

20 (2) Gross immorality;



- 1 (3) Unfitness or incompetence by reason of negligence,
2 habits, or other causes;
- 3 (4) Habitual intemperance, addiction to, or dependency on
4 alcohol or other habit-forming substances;
- 5 (5) Mental incompetence;
- 6 (6) Unprofessional conduct as defined by the board in
7 accordance with its own rules;
- 8 (7) Wilful or repeated violation of any of the provisions
9 of this chapter or any rule adopted by the board;
- 10 (8) Revocation, suspension, limitation, or other
11 disciplinary action by another state of a nursing
12 license;
- 13 (9) Conviction, whether by nolo contendere or otherwise,
14 of a penal offense substantially related to the
15 qualifications, functions, or duties of a nurse,
16 notwithstanding any statutory provision to the
17 contrary;
- 18 (10) Failure to report to the board any disciplinary action
19 taken against the licensee in another jurisdiction
20 within thirty days after the disciplinary action
21 becomes final;



1 (11) Submitting to or filing with the board any notice,
2 statement, or other document required under this
3 chapter, which is false or untrue or contains any
4 material misstatement of fact, including a false
5 attestation of compliance with continuing competency
6 requirements; [~~or~~]

7 (12) Violation of the conditions or limitations upon which
8 any license is issued[-]; or

9 (13) Violation of chapter 329, the uniform controlled
10 substances act, or any rule adopted thereunder except
11 as provided in section 329-122."

12 SECTION 5. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect on July 1, 2070.



Report Title:

Opioid Therapy; Informed Consent; Prescription Limits; Nurses

Description:

Establishes procedural and documentary requirements for informed consent to opioid therapy in circumstances that carry elevated risk of dependency, subject to Department of Health administration and monitoring. Establishes limits for opioid and benzodiazepine prescriptions. Clarifies Board of Nursing authority to enforce compliance with Uniform Controlled Substance Act. (SB505 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

