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A BILL FOR AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.

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

1 SECTION 1. Section 329-16, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Any of the following substances, except those  
4 narcotic drugs listed in other schedules, whether produced  
5 directly or indirectly by extraction from substances of  
6 vegetable origin, or independently by means of chemical  
7 synthesis, or by combination of extraction and chemical  
8 synthesis:

9 (1) Opium and opiate, and any salt, compound, derivative,  
10 or preparation of opium or opiate, excluding  
11 apomorphine, thebaine-derived butorphanol,  
12 dextrorphan, nalbuphine, nalmeffene, naloxegol,  
13 naloxone, and naltrexone, and their respective salts,  
14 but including the following:

- 15 (A) Raw opium;  
16 (B) Opium extracts;  
17 (C) Opium fluid;  
18 (D) Powdered opium;

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- 1 (E) Granulated opium;
- 2 (F) Codeine;
- 3 (G) Ethylmorphine;
- 4 (H) Etorphine hydrochloride;
- 5 (I) Hydrocodone;
- 6 (J) Hydromorphone;
- 7 (K) Metopon;
- 8 (L) Morphine;
- 9 (M) Oxycodone;
- 10 (N) Oxymorphone;
- 11 (O) Thebaine;
- 12 (P) Dihydroetorphine;
- 13 (Q) Oripavine; and
- 14 (R) Tincture of opium;"
- 15 (2) Any salt, compound, isomer, derivative, or preparation
- 16 thereof which is chemically equivalent or identical
- 17 with any of the substances referred to in paragraph
- 18 (1), but not including the isoquinoline alkaloids of
- 19 opium;
- 20 (3) Opium poppy and poppy straw;
- 21 (4) Coca leaves and any salt, compound, derivative, or
- 22 preparation of coca leaves, and any salt, compound,

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1 derivative, or preparation thereof which is chemically  
2 equivalent or identical with any of these substances,  
3 but not including decocanized coca leaves or  
4 extractions which do not contain cocaine or ecgonine;  
5 cocaine or any salt or isomer thereof; and

6 (5) Concentrate of poppy straw (the crude extract of poppy  
7 straw in either liquid, solid, or powder form that  
8 contains the phenanthrene alkaloids of the opium  
9 poppy)."

10 SECTION 2. Section 329-38, Hawaii Revised Statutes, is  
11 amended by amending subsection (h) to read as follows:

12 "(h) The effectiveness of a prescription for the purposes  
13 of this section shall be determined as follows:

14 (1) A prescription for a controlled substance shall be  
15 issued for a legitimate medical purpose by an  
16 individual practitioner acting in the usual course of  
17 the practitioner's professional practice. The  
18 responsibility for the proper prescribing and  
19 dispensing of controlled substances shall be upon the  
20 prescribing practitioner, but a corresponding  
21 responsibility shall rest with the pharmacist who  
22 fills the prescription. An order purporting to be a

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1 prescription issued not in the usual course of  
2 professional treatment or for legitimate and  
3 authorized research shall not be deemed a prescription  
4 within the meaning and intent of this section, and the  
5 person who knowingly fills such a purported  
6 prescription, as well as the person who issues the  
7 prescription, shall be subject to the penalties  
8 provided for violations of this chapter;

9 (2) A prescription may not be issued to allow an  
10 individual practitioner to obtain controlled  
11 substances for supplying the individual practitioner  
12 for the purpose of general dispensing to patients;

13 ~~[(3) A prescription may not be issued for the dispensing~~  
14 ~~of narcotic drugs listed in any schedule for the~~  
15 ~~purpose of "medically managed withdrawal", also known~~  
16 ~~as "detoxification treatment", or "maintenance~~  
17 ~~treatment" except as follows:~~

18 ~~(A) The administering or dispensing directly (but not~~  
19 ~~prescribing) of narcotic drugs listed in any~~  
20 ~~schedule to a narcotic drug dependent person for~~  
21 ~~"medically managed withdrawal", also known as~~  
22 ~~"detoxification treatment" or "maintenance~~

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1 ~~treatment" shall be deemed to be "in the course~~  
2 ~~of a practitioner's professional practice or~~  
3 ~~research" so long as the practitioner is~~  
4 ~~registered separately with the department and the~~  
5 ~~federal Drug Enforcement Agency as required by~~  
6 ~~section 329-32(e) and complies with Title 21 Code~~  
7 ~~of Federal Regulations section 823(g) and any~~  
8 ~~other federal or state regulatory standards~~  
9 ~~relating to treatment qualification, security,~~  
10 ~~records, and unsupervised use of drugs; and~~

11 ~~(B) Nothing in this section shall prohibit a~~  
12 ~~physician or authorized hospital staff from~~  
13 ~~administering or dispensing, but not prescribing,~~  
14 ~~narcotic drugs in a hospital to maintain or~~  
15 ~~detoxify a person as an incidental adjunct to~~  
16 ~~medical or surgical treatment of conditions other~~  
17 ~~than addiction;]~~

18 (3) A prescription may not be issued for "medically  
19 managed withdrawal", also known as "detoxification  
20 treatment" or "maintenance treatment", unless the  
21 prescription is for a schedule III, IV, or V narcotic  
22 drug approved by the Food and Drug Administration

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1 specifically for use in maintenance or detoxification  
2 treatment and the practitioner is in compliance with  
3 title 21 Code of Federal Regulations section 1301.28,  
4 the registration requirements of section 329-32(e),  
5 and any other federal or state regulatory standards  
6 relating to treatment qualification, security,  
7 records, and unsupervised use of drugs;

8 (4) A practitioner may administer or dispense directly  
9 (but not prescribe) a narcotic drug listed in any  
10 schedule to a narcotic dependent person for the  
11 purpose of maintenance or detoxification treatment if  
12 the practitioner meets both of the following  
13 conditions:

14 (A) The practitioner is separately registered with  
15 the Drug Enforcement Administration as a narcotic  
16 treatment program.

17 (B) The practitioner is in compliance with Drug  
18 Enforcement Administration regulations regarding  
19 treatment qualifications, security, records, and  
20 unsupervised use of the drugs pursuant to this  
21 chapter;

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- 1        (5) Nothing in this section shall prohibit a physician who  
2        is not specifically registered to conduct a narcotic  
3        treatment program from administering (but not  
4        prescribing) narcotic drugs to a person for the  
5        purpose of relieving acute withdrawal symptoms when  
6        necessary while arrangements are being made for  
7        referral for treatment. Not more than one day's  
8        medication may be administered to the person or for  
9        the person's use at one time. Such emergency  
10       treatment may be carried out for not more than three  
11       days and may not be renewed or extended;
- 12       (6) This section is not intended to impose any limitations  
13       on a physician or authorized hospital staff to  
14       administer or dispense narcotic drugs in a hospital to  
15       maintain or detoxify a person as an incidental adjunct  
16       to medical or surgical treatment of conditions other  
17       than addiction, or to administer or dispense narcotic  
18       drugs to persons with intractable pain in which no  
19       relief or cure is possible or none has been found  
20       after reasonable efforts;
- 21       (7) A practitioner may administer or dispense (including  
22       prescribe) any schedule III, IV, or V narcotic drug

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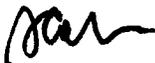
1 approved by the Food and Drug Administration  
 2 specifically for use in maintenance or detoxification  
 3 treatment to a narcotic dependent person if the  
 4 practitioner complies with the requirements of title  
 5 21 Code of Federal Regulations section 1301.28, the  
 6 registration and any requirements of section 329-  
 7 32(e), and any other federal or state regulatory  
 8 standards relating to treatment qualification,  
 9 security, records, and unsupervised use of drugs;

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

14 [~~5~~] (9) A pharmacist shall not dispense a substance  
 15 included in schedule II, III, IV, or V for the  
 16 pharmacist's personal use."

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

19 SECTION 4. This Act shall take effect upon its approval.

21 INTRODUCED BY: 

22 BY REQUEST

JAN 22 2018

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**Report Title:**

Uniform Controlled Substances Act

**Description:**

Updates chapter 329, Hawaii Revised Statutes, as follows: amends sections 329-16 and 329-38(h) to be consistent with federal law, by allowing prescribing authorization of drugs which include buprenorphine and naloxone to patients undergoing "medically managed withdrawal", also known as "detoxification treatment" and "maintenance treatment" by practitioners who are properly registered.

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

## JUSTIFICATION SHEET

DEPARTMENT: Public Safety

TITLE: A BILL FOR AN ACT RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.

PURPOSE: Update chapter 329, Hawaii Revised Statutes (HRS), as follows: amend sections 329-16 and 329-38(h), HRS, to be consistent with federal law by allowing prescribing authorization of drugs including buprenorphine to patients undergoing "medically managed withdrawal", also known as "detoxification treatment" and "maintenance treatment" by practitioners who are properly registered.

MEANS: Amend sections 329-16(b) and 329-38(h), HRS.

JUSTIFICATION: Proposed amendments to chapter 329, HRS, will:

- (1) Amend section 329-16(b), schedule II, to list exclusions as provided for under title 21 Code of Federal Regulations (CFR) section 1308.12. This amendment excludes naloxone, as well as other opiate-based drugs, from schedule II, which would allow practitioners to prescribe them to patients undergoing "medically managed withdrawal", also known as "detoxification treatment" and "maintenance treatment."
- (2) Amend section 329-38(h), HRS, to allow prescribing of schedule III, IV, and V drugs as provided for under title 21 CFR sections 1306.04 and 1306.07. This amendment clarifies that buprenorphine, a schedule III drug, may be prescribed to patients undergoing "medically managed withdrawal", also known as "detoxification treatment" and "maintenance treatment" by practitioners who are registered separately with the department and the federal Drug Enforcement Administration as required by section 329-32(e), HRS, and comply with title 21 CFR section 1301.28. This amendment provides practitioners with

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prescribing authority for buprenorphine consistent the federal Drug Abuse Treatment Act of 2000 (DATA 2000).

Impact on the public: This bill updates chapter 329 to be consistent with federal law, facilitates accessibility of buprenorphine and naloxone medication for substance abuse treatment by practitioners.

Impact on the department and other agencies: These proposed amendments would assist the Department's Narcotics Enforcement Division in its regulation of the Uniform Controlled Substances Act and maintaining its law enforcement, controlled substance registration, Hawaii Prescription Database Monitoring Program (HI-PDMP) and other services it provides to prevent diversion and drug abuse in the community.

GENERAL FUND: None.

OTHER FUNDS: None.

OTHER AFFECTED AGENCIES: State Of Hawaii, Department of Health, Alcohol and Drug Abuse Division.  
Federal, State, and County law enforcement.

EFFECTIVE DATE: Upon approval.