

**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 6, 2018

To: The Honorable Jill N. Tokuda, Chair,  
The Honorable J. Kalani English, Vice Chair, and  
Members of the Senate Committee on Labor

Date: Tuesday, February 6, 2018

Time: 3.30 p.m.

Place: Conference Room 309, State Capitol

From: Leonard Hoshijo, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. No. 2244 RELATING TO WORKERS' COMPENSATION**

**I. OVERVIEW OF PROPOSED LEGISLATION**

SB2244 proposes two new sections be added to Chapter 386, Hawaii Revised Statutes (HRS). The first under section **386-A** titled "**Opioid therapy; qualifying injured employees; informed consent process**", that will require an opioid therapy consent process agreement between the injured employee and the physician who prescribes the opioid(s). The written agreement will at the minimum consists of specific requirements on the part of both the injured employee and the physician.

The second proposed section **386-B**, titled "**Qualifying injured employees; initial concurrent prescriptions; opioids and benzodiazepines**" will limit the initial prescription to no more than a seven-day supply.

Section 3 of this proposal also amends Section 386-21.7, HRS, by amending subsection (a) to ensure that the initial concurrent prescriptions of opioids and benzodiazepines meet the requirement of the proposed section 386-B.

The Department supports the intent of the consent agreement process to help ensure that schedule II drugs, which have a high potential for abuse, are prescribed based upon medical necessity and are justifiably reasonable and necessary. According to the Centers for Disease Control and Prevention,

"Opioids (including prescription opioids and heroin) killed more than 33,000 people in 2015, more than any year on record. Nearly half of all opioid overdose deaths involve a prescription opioid." The opioid epidemic in the United States has a far-reaching impact on the workers compensation system. Many injured workers are prescribed opioid drugs to help with pain following a serious injury. For Service Year 2016, Hawaii spent \$8 million on 57,000 prescriptions for workers compensation claims.

If an injured worker becomes addicted to his or her "pain meds," it greatly affects their ability to get back to work, may increase their disability which will lead to higher medical costs, and sadly can have a disabling effect on the injured worker's family relationships and finances. This proposal limits the initial concurrent prescriptions of opioids and benzodiazepines to a seven (7) day supply. We support this as it will still provide the injured employee with the needed immediate relief.

Although the Department supports the intent of the measure, it does have some questions regarding potential, unintended consequences and has concerns pertaining to administration.

## **II. CURRENT LAW**

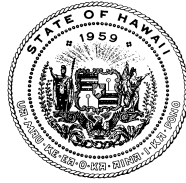
Currently, nothing in Chapter 386, HRS, mandates a consent process agreement be made between the injured employee and the prescribing physician of opioid drugs. Section 386-21.7, HRS, specifies how prescription and compound drugs are reimbursed. The law does not specify limits on supply and costs for compound drugs and does not preclude the physician from dispensing any drug including schedule II drugs beyond thirty days.

## **III. COMMENTS ON THE SENATE BILL**

Although the Department supports the intent of the measure, we offer the following concerns:

1. Section 1 of this proposal mandates a consent process agreement between the injured employee and the prescribing physician:
  - a. If the parties do not enter into an agreement prior to the prescribing of opioid drugs, will the employer have the right to deny the injured employee the prescribed opioid drugs? If the employer did deny, the injured worker would need to request a hearing, essentially defeating the purpose of the prescription. Moreover, it could also result in a bill dispute process between the healthcare provider and the employer/carrier.
  - b. Potential costs to the workers' compensation system include:

- Copying, mailing, faxing costs if the signed agreement will be required to be filed and copies sent to all parties in the case of either a bill dispute or a hearing;
- Additional requests for hearings with the Department on issues that result in denial of benefits associated with this proposal will prolong the life of the claim, require the injured worker to pay for the medication on their own, and increase costs to all parties involved because of a lengthened process.



STATE OF HAWAII  
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**Testimony COMMENTING on S.B. 2244  
RELATING TO WORKERS' COMPENSATION**

SENATOR JILL N. TOKUDA, CHAIR  
SENATE COMMITTEE ON LABOR

Hearing Date: February 6, 2018

Room Number: 229

1 **Fiscal Implications:** Undetermined

2 **Department Testimony:** The Department of Health (DOH) supports the intent of this bill to  
3 require providers to adopt an informed consent for injured employees requiring opioid therapy,  
4 as well as the regulation of initial concurrent prescriptions for opioids and benzodiazepines. This  
5 measure aligns with the following objectives in the Hawaii Opioid Action Plan (Plan), developed  
6 by the Governor's Opioid and Substance Misuse Initiative (Initiative):

- 7 • Objective 2-3: By March 2018, engage payers and physician organizations to disseminate  
8 basic best practice information on opioid-prescribing statewide;
- 9 • Objective 2-3a: By December 2019, develop a standardized training on opioid-  
10 prescribing best practices and provide training to 50 percent of prescribers statewide; and
- 11 • Objective 2-4: By July 2018, implement informed consent template as outlined in Act 66  
12 (2017).

13 The Initiative brought together a wide range of legislators, state and county officials, law  
14 enforcement and first responders, health care professionals and other citizens to work together to  
15 develop and implement a Plan to reduce prescription opioid abuse and deaths from overdose.

16 The full Plan is available at: [https://health.hawaii.gov/substance-abuse/files/2013/05/The-](https://health.hawaii.gov/substance-abuse/files/2013/05/The-Hawaii-Opioid-Initiative.pdf)  
17 [Hawaii-Opioid-Initiative.pdf](https://health.hawaii.gov/substance-abuse/files/2013/05/The-Hawaii-Opioid-Initiative.pdf).

18 The DOH is also grateful to the sponsors of S.B. 2244 for their recommendation to  
19 expand the use of the opioid informed consent template developed by the Initiative. The

1    template is now posted on the DOH website: [https://health.hawaii.gov/substance-](https://health.hawaii.gov/substance-abuse/files/2017/12/opioid_informed_consent_template.pdf)  
2    [abuse/files/2017/12/opioid\\_informed\\_consent\\_template.pdf](https://health.hawaii.gov/substance-abuse/files/2017/12/opioid_informed_consent_template.pdf).

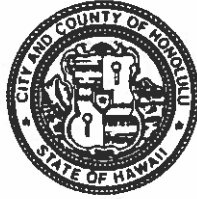
3            The DOH defers to the Department of Labor & Industrial Relations on the regulation and  
4    implementation of the Hawaii State Compensation Mutual Insurance Fund.

5            Thank you for the opportunity to provide testimony.

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL  
MAYOR



CAROLEE C. KUBO  
DIRECTOR

NOEL T. ONO  
ASSISTANT DIRECTOR

February 6, 2018

The Honorable Jill N. Tokuda, Chair  
The Honorable J. Kalani English, Vice Chair  
and Members of the Committee  
on Labor & Public Employment  
The Senate  
State Capitol, Room 229  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Tokuda, Vice Chair English, and Members of the Committee:

SUBJECT: Senate Bill No. 2244  
Relating to Workers' Compensation

S.B. 2244 requires health care providers in the workers' compensation system who are authorized to prescribe opioids to adopt and maintain policies for informed consent to opioid therapy in circumstances that carry elevated risk of dependency and establishes limits for concurrent opioid and benzodiazepine prescriptions.

The City and County of Honolulu, Department of Human Resources, fully supports this measure, which we believe will help to lessen the potential for abuse and possible addiction, and is consistent with providing reasonably needed medical care, services, and supplies to injured workers.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, reading "Carolee C. Kubo". The signature is written in a cursive, flowing style.

Carolee C. Kubo  
Director



*Dedicated to safe, responsible, humane and effective drug policies since 1993*

TO: Senate Committee on Labor  
FROM: Carl Bergquist, Executive Director  
HEARING DATE: 6 February 2018, 3:30PM  
RE: SB2244, RELATING TO WORKERS' COMPENSATION, **SUPPORT**

Dear Chair Tokuda, Vice Chair English, Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) supports this measure to bring the workers' compensation system in line with previous reforms related to Hawaii's preemptive policies against the opioid epidemic. Act 66 of 2017 (originating as SB505) contained identical provisions on informed consent & prescription limits for health care providers *outside* the workers' compensation system. Extending these common sense limits to healthcare providers *within* the workers' compensation system is an important part of the holistic approach the State of Hawai'i has adopted in as evidence by Act 66 and the Statewide Opioid Initiative released in December 2017.

It is essential that this tackling of the supply side of the equation continues to be balanced by a focus on the demand side. In particular, drug users need to be respected before they can be helped, and they can best be helped if they are not further harmed. To that effect, we must remain vigilant against punitive measures or excessively restrictive measures that can either cause health care providers to stop providing needed services or force drug users to turn to more dangerous sources in order to relieve their very real pain.

Finally, we applaud that the legislature is also looking at how the same workers compensation providers could begin paying for medical cannabis treatment in lieu of, or alongside, opioids. See e.g. SB2248. Case law developing in other states points to this becoming a requirement in the near future.

Thank you for the opportunity to testify.