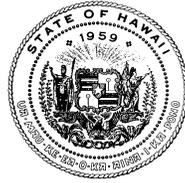


# SB807

Measure Title:	RELATING TO THE ELECTRONIC PRESCRIPTION ACCOUNTABILITY SYSTEM.
Report Title:	Electronic Prescription Accountability System; Hospice; Opioid Therapy; Informed Consent Process
Description:	Specifies that a health care provider shall not be required to consult the electronic prescription accountability system for patients when the prescription will be directly administered under the supervision of a health care provider or for patients who qualify for hospice care. Clarifies that an informed consent agreement is not necessary for patients whose prescription will be directly administered under the supervision of a health care provider.
Companion:	
Package:	None
Current Referral:	CPH, JDC
Introducer(s):	BAKER, S. Chang, English, Fevella, Kidani, Nishihara



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of (SB 0807)**  
**RELATING TO THE ELECTRONIC PRESCRIPTION ACCOUNTABILITY SYSTEM**

SENATOR ROSALYN H. BAKER, CHAIR  
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Hearing Date: January 30, 2019

Room Number: 229

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (DOH) supports this bill to exempt  
3 licensed health care providers from consulting the electronic prescription accountability system  
4 also known as the Prescription Drug Monitoring Program (PDMP) of the Department of Public  
5 Safety (PSD) when the patient is in an inpatient or hospital setting, or in hospice care. The DOH  
6 also supports the proposed exemption to not require an informed consent agreement for patients  
7 who are administered controlled substances under the supervision of a health care provider.

8 This measure aligns with the following prescriber education and pain management  
9 practice objectives of the Hawaii Opioid Action Plan (January 2019) that was developed by the  
10 Hawaii Opioid Initiative:

- 11 • In-Progress Objective 2-3a: “By December 2019, develop a standardized training on  
12 opioid-prescribing best practices and provide training to 50% of prescribers  
13 Statewide;”
- 14 • New Objective 2-2: “By December 2019, develop and recommend a plan for  
15 education for physicians specific to opioid prescribing and pain management  
16 practices that includes oversight to ensure that content remains relevant and current;”  
17 and
- 18 • In-Progress Objective 3-2: “By September 2018, develop a standardized framework  
19 for the collection, synthesis, and dissemination of data.”

1           The DOH supports a balanced implementation of this measure. The proposed exemptions  
2 promote both balance and faster relief for patients who are hospitalized or in hospice. Both  
3 exemptions also do not impact the PDMP whose purpose is to collect data on prescriptions  
4 dispensed in outpatient settings like doctor's offices or local pharmacies.

5           The DOH also defers to the PSD on the regulation and implementation of the proposed  
6 amendments to the Hawaii Uniform Controlled Substances Act.

7           Thank you for the opportunity to provide testimony.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**NOLAN P. ESPINDA**  
DIRECTOR

Deputy Director  
Administration

**Jodie F. Maesaka-Hirata**  
Deputy Director  
Corrections

**Renee R. Sonobe Hong**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 807  
RELATING TO THE ELECTRONIC PRESCRIPTION  
ACCOUNTABILITY SYSTEM

by

Nolan P. Espinda, Director  
Department of Public Safety

Senate Committee on Commerce, Consumer Protection, and Health  
Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair

Wednesday, January 30, 2019; 9:00 a.m.  
State Capitol, Conference Room 229

Chair Baker, Vice Chair Chang, and Members of the Committee:

The Department of Public Safety (PSD) supports Senate Bill (SB) 807, which clarifies that a health care provider would not be required to consult the electronic prescription accountability system, more commonly known as the Prescription Drug Monitoring Program (PDMP), when the prescription will be directly administered under the supervision of a health care provider or for patients who qualify for hospice care.

SB 807 would further clarify that an informed consent agreement is not required for patients whose prescription will be directly administered under the supervision of a health care provider.

First, PSD supports SB 807 patients in inpatient or hospice care settings who are under the direct supervision of health care providers. As such, the need to consult the PDMP to reduce the risk of overdose or harmful drug interactions is lessened as compared to the situation wherein a patient is prescribed a controlled substance in an unsupervised or outpatient setting. Second, the need for an

informed consent agreement is also reduced when a prescription is directly administered under the supervision of a health care provider.

PSD requests, however, that the Committee make one revision to the wording on Page 4, Section 2, Page 4, Line 4, as follows:

(4) ~~Written~~ Prescribed while the state electronic prescription accountability system is nonfunctional.”

PSD requests that the word “written” be replaced with “prescribed” because prescriptions for controlled substances in Hawaii may be issued by the written, oral, electronic or faxed order of a prescriber.

Thank you for the opportunity to present this testimony.

**SB-807**

Submitted on: 1/29/2019 1:52:24 PM

Testimony for CPH on 1/30/2019 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Linda Rosen, M.D., M.P.H.	Testifying for Hawaii Health Systems Corporation	Support	No

Comments:

We support this measure which clarifies important legislation from last year.



January 30, 2019 at 9:00 am  
Conference Room 229

**Senate Committee on Commerce, Consumer Protection, and Health**

To: Chair Rosalyn H. Baker  
Vice Chair Stanley Chang

From: Paige Heckathorn Choy  
Director of Government Affairs  
Healthcare Association of Hawaii

Re: **Testimony in Support**  
**SB 807, Relating to the Electronic Prescription Accountability System**

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the healthcare continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

Thank you for the opportunity to testify in **support** of SB 807. In the 2018 legislative session, the legislature passed Act 153, which requires all prescribers who prescribe a Schedule II, III, or IV controlled substance to check the state's electronic prescription accountability system (better known as the Prescription Drug Monitoring Program, or PDMP), in order to reduce the risk of abuse of or addiction to a controlled substance, as needed to avoid harmful drug interactions, or as otherwise medically necessary. This legislation was passed amidst a national opioid crisis that is requiring lawmakers, providers, and the community to find ways to address access to these potentially dangerous drugs.

The Association's members have taken the charge of Act 153 seriously and have been working diligently to comply with the law. Indeed, many facilities are trying to find ways to make checking the PDMP as seamless as possible to ensure the highest level of patient care. However, in implementing the law, there were some areas highlighted as needing clarification or amendment.

First, we would support a change to the law clarifying that the PDMP does not need to be checked for an admitted patient who is prescribed a drug as part of their inpatient treatment and that will be directly administered to the patient under supervision. Different facilities have interpreted the current language in different ways, meaning there is not a clear standard of

care. We are supportive of amended language in the bill that would clarify that the PDMP does not need to be checked if the prescription is to be administered to a patient under supervision, as is the case for inpatients in hospitals and nursing facilities. This small change would provide much-needed clarification for the provider community.

Second, we would support an exclusion for hospice patients. In the states that have similar PDMP query laws, 75 percent of those laws exempt hospice. This is because this type of check can create a barrier for providers and patients in hospice care. It is often very difficult for patients and their families to elect to enroll in hospice. Increasing requirements and adding any burdens can discourage patients from electing this very important option at the end of life. Further, by nature of their condition as hospice patients, there is not a high concern that these patients will become addicted to some of these controlled substances—instead, there should be a focus on ensuring that these patients receive comfort care.

Lastly, we would support an amendment to Hawaii Revised Statutes §329-38.5, which requires providers to complete an informed consent process with qualifying opioid patients. The definition of a qualifying opioid patient includes those patients “prescribed benzodiazepines and opioids together....” This is problematic in a very small number of cases where a patient is receiving both benzodiazepines and opioids together in a hospital setting because of the extent of their condition but is unable to provide consent because he or she lacks decisional capacity. By making the small clarification in this bill, it will provide relief to hospitals and allow providers to furnish the most appropriate care to patients who need it.

We will continue to work with our members to ensure the safety of our communities. Thank you for the opportunity to provide comments in support of clarifications to this important law.



**HAWAII MEDICAL ASSOCIATION**

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814  
Phone (808) 536-7702 Fax (808) 528-2376  
www.hawaiimedicalassociation.org

To:

**SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND  
HEALTH**

Sen. Rosalyn Baker, Chair

Sen. Stanley Chang, Vice Chair

Date: January 30, 2019

Time: 9:00 a.m.

Place: Room 229

From: Hawaii Medical Association

Jerry Van Meter, MD, President

Christopher Flanders, DO, Executive Director

**Re: SB 807 – Relating to the Electronic Prescription Accountability System**

**Position: Support, with Comments**

The Hawaii Medical Association supports SB 807 and the changes contained. We would also ask that an exemption for palliative care be provided, as this population may be neither in-patient nor hospice eligible.

Thank you for allowing testimony on this issue.

**HMA OFFICERS**

President – Jerry Van Meter, MD    President-Elect – Michael Champion, MD    Secretary – Thomas Kosasa, MD  
Immediate Past President – William Wong, Jr., MD    Treasurer – Elizabeth A. Ignacio, MD  
Executive Director – Christopher Flanders, DO

Testimony of  
Jonathan Ching  
Government Relations Specialist

Before:  
Senate Committee on Commerce, Consumer Protection, and Health  
The Honorable Rosalyn H. Baker, Chair  
The Honorable Stanley Chang, Vice Chair

January 30, 2019  
9:00 a.m.  
Conference Room 229

**Re: SB807, Relating to the Electronic Prescription Accountability System**

Chair Baker, Vice-Chair Chang, and committee members, thank you for this opportunity to provide testimony on SB807, which specifies that a health care provider shall not be required to consult the electronic prescription accountability system for patients in certain instances and clarifies that an informed consent agreement is not necessary for patients whose prescription will be directly administered under the supervision of a health care provider.

**Kaiser Permanente Hawai'i SUPPORTS SB807 with AMENDMENTS**

Kaiser Permanente Hawai'i is Hawai'i's largest integrated health system that provides care and coverage for nearly 253,000 members. Each day, more than 4,500 dedicated employees and more than 600 Hawai'i Permanente Medical Group physicians come to work at Kaiser Permanente Hawai'i to care for our members at Moanalua Medical Center and our 27 medical clinics, providing high-quality care for our members and delivering on our commitment to improve the health of the 1.4 million people living in the communities we serve.

SB 807 clarifies when a health care provider is required to consult the electronic prescription accountability system. In 2018, the Legislature passed Act 153, Session Laws Hawai'i, to require that prescribers of controlled substances check the electronic prescription accountability system, known as the prescription drug monitoring program (PDMP), prior to prescribing certain controlled substances.

While Kaiser Permanente Hawai'i generally supports prescribers checking the PDMP, we would like to offer a proposed amendment to more narrowly define the procedure for initial prescriptions in post-operative situations.

According to the Centers for Disease Control and Prevention recommendations on acute pain management, three days can significantly help patients post operation,<sup>1</sup> and many situations can be effectively managed within this limited prescription.<sup>2</sup> There is also evidence demonstrating that the probability of continued use by opioid-naïve patients is greatest after the 5<sup>th</sup> and 31<sup>st</sup> days<sup>3</sup>.

Therefore, Kaiser Permanente Hawai'i believes that providing a limited post-operation exception with a short duration will efficiently support patient care at a time when patients are most in need of pain management. Furthermore, there are other long-term advantages of a narrow and appropriately defined exception. We believe that such a process would promote prescribing practices that are consistent with clinical evidence and recommendations, reduce over-prescribing behavior, create consistency amongst providers, and reduce the likelihood of doctor shopping.

We have attached draft language for the proposed amendment to this testimony. Mahalo for the opportunity to testify on this important measure.

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<sup>1</sup> Dowell D, Haegerich TM, Chou R. CDC Guideline for Prescribing Opioids for Chronic Pain—United States, 2016. *Jama* [Internet]. 2016;315(15):1624. Available from: [https://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm?s\\_cid=rr6501e1\\_w](https://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm?s_cid=rr6501e1_w).  
Erratum in: *MMWR CDC Morbidity and Mortality Weekly Report* [Internet]. 2016 March 25; 65(11):295. Available from: [https://www.cdc.gov/mmwr/volumes/65/wr/mm6511a6.htm?s\\_cid=mm6511a6\\_w.htm#suggestedcitation](https://www.cdc.gov/mmwr/volumes/65/wr/mm6511a6.htm?s_cid=mm6511a6_w.htm#suggestedcitation)

See also CDC 7-2017 Vital Signs- Prescriber Fact Sheet Opioids- Problem & Solutions [Internet]. Atlanta [GA]: Centers for Disease Control and Prevention; [updated 2017 September 26]. Available from: <https://www.cdc.gov/vitalsigns/pdf/2017-07-vitalsigns.pdf>

<sup>2</sup> Prescribing Opioids for Postoperative Pain [Internet]. Seattle [WA]: Dr. Robert Bree Collaborative; [updated 2018 July 17]. Available from: <http://www.breecollaborative.org/wp-content/uploads/Supplemental-Bree-AMDG-Postop-pain-18-0718.pdf>

<sup>3</sup> Shah A, Hayes CJ, Martin BC. Characteristics of Initial Prescription Episodes and Likelihood of Long-Term Opioid Use — United States, 2006–2015. *MMWR Morbidity and Mortality Weekly Report* [Internet]. 2017;66(10):265–9. Available from: <https://www.cdc.gov/mmwr/volumes/66/wr/mm6610a1.htm>

THE SENATE  
THIRTIETH LEGISLATURE, 2019  
STATE OF HAWAII

**S.B. NO.** 807  
S.D. 1

PROPOSED

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# A BILL FOR AN ACT

RELATING TO THE ELECTRONIC PRESCRIPTION ACCOUNTABILITY SYSTEM.

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

1           SECTION 1. The legislature finds that Act 153,  
2 Session Laws Hawaii 2018, requires all prescribers of controlled  
3 substances to query the electronic prescription accountability  
4 system, prior to issuing a prescription for certain controlled  
5 substances, to reduce the risk of abuse of or addiction to a  
6 controlled substance. The electronic prescription  
7 accountability system, also known as the prescription drug  
8 monitoring program, is a useful tool for health care providers  
9 when determining which controlled substances a patient has been  
10 prescribed.

11           The legislature notes that although prescribers have taken  
12 steps to implement this law, some concerns have been raised  
13 about the applicability of the law to certain patient  
14 populations. The legislature further finds that the law should  
15 not apply in inpatient settings, where a patient is in a

1 hospital or nursing home and is directly administered a  
2 prescription under the supervision of a health care provider.  
3 Second, the law should not apply to initial prescriptions for  
4 patients being treated for post-operative pain with a limited  
5 three-day supply, given that this is consistent with a 2016  
6 Centers for Disease Control and Prevention recommendation on  
7 acute pain management. [~~An~~] Finally, an exemption for hospice  
8 patients is also appropriate to reduce barriers to this end-of-  
9 life choice. By definition, a patient electing hospice  
10 typically has only six months or less to live. Therefore,  
11 requiring a health care provider to consult the electronic  
12 prescription accountability system under these circumstances may  
13 cause a delay in the provision of appropriate care to the  
14 patient.

15 The legislature additionally finds that existing law  
16 requires prescribing health care providers to adopt and maintain  
17 informed consent policies for opioid therapy patients.  
18 Providers have since adopted these policies; however, concerns  
19 have been raised about requiring a patient to complete the  
20 informed consent process in certain situations, such as where  
21 the patient is in intensive care, is being monitored, or  
22 otherwise lacks the capacity to provide consent.

1 The purpose of this Act is to:

2 (1) Specify that a health care provider shall not be  
3 required to consult the electronic prescription accountability  
4 system when a patient is in an inpatient setting, in post-  
5 operative care, or in hospice care; and

6 (2) Clarify that an informed consent agreement is not  
7 required for patients whose prescription will be directly  
8 administered under the supervision of a health care provider.

9 SECTION 2. Section 329-38.2 Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11 "(b) No prescriber shall prescribe a schedule II, III, or  
12 IV controlled substance without first requesting, receiving, and  
13 considering records of the ultimate user from the state  
14 electronic prescription accountability system as needed to  
15 reduce the risk of abuse of or addiction to a controlled  
16 substance, as needed to avoid harmful drug interactions, or as  
17 otherwise medically necessary; provided that this subsection  
18 shall not apply to[+] any prescription:

19 (1) [~~Any prescription for~~] For a supply of three days or  
20 less that is made in an emergency situation, by an emergency  
21 medical provider, or in an emergency room; [~~and~~]

1           (2) ~~[Any prescription written]~~ That will be administered  
2 directly to a patient under the supervision of a health care  
3 provider licensed to practice within the State;

4           (3) That is an initial prescription for a patient being  
5 treated for post-operative pain; provided that the prescription  
6 be limited to a three-day supply with no refills;

7           (3) (4) For a patient receiving hospice care; or

8           (4) (5) Written while the state electronic prescription  
9 accountability system is nonfunctional."

10           SECTION 3. Section 329-38.5, Hawaii Revised Statutes, is  
11 amended by amending subsection (c) to read as follows:

12           "(c) For the purposes of this section, "qualifying opioid  
13 therapy patient" means:

14           (1) A patient requiring opioid treatment for more than  
15 three months;

16           (2) A patient who is prescribed benzodiazepines and  
17 opioids together; or

18           (3) A patient who is prescribed a dose of opioids that  
19 exceeds ninety morphine equivalent doses.

20           This term shall not apply to an individual who is receiving  
21 treatment at a hospital under the supervision of a licensed

1 health care provider and who lacks capacity as defined in  
2 section 327E-2."

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

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

**Report Title:**

Electronic Prescription Accountability System; Hospice; Opioid Therapy; Informed Consent Process

**Description:**

Specifies that a health care provider shall not be required to consult the electronic prescription accountability system for patients when the prescription will be directly administered under the supervision of a health care provider, for patients in post-operative care with a prescription limited to a three-day supply, or for patients who qualify for hospice care. Clarifies that an informed consent agreement is not necessary for patients whose prescription will be directly administered under the supervision of a health care provider. (SD1 PROPOSED)

Wednesday, January 30, 2019 at 9:00 AM  
Conference Room 229

**Committee on Commerce, Consumer Protection, and Health**

To: Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair

From: Michael Robinson  
Vice President, Government Relations & Community Affairs

Re: **Testimony in Support of SB 807**  
**Relating to the Electronic Prescription Accountability System**

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My name is Michael Robinson, Vice President, Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

**I write in support of SB 807** which specifies that a health care provider shall not be required to consult the electronic prescription accountability system for patients when the prescription will be directly administered under the supervision of a health care provider or for patients who qualify for hospice care. SB 807 also clarifies that an informed consent agreement is not necessary for patients whose prescription will be directly administered under the supervision of a health care provider.

The proposed language clarifying that the PDMP requires consultation for prescription administered to a patient without medical supervision is a much welcomed clarification to ensure compliance with both Act 153 (2018) and Act 066 (2017) towards providing optimal patient protections against opioid abuse.

The proposed changes in SB 807 will better clarify the specific care settings requiring physicians to consult the PDMP before prescribing any Schedule II, III, or IV controlled substance HPH affiliated hospitals, similar to most health care delivery systems, prescribe scheduled pharmaceuticals to patients in a variety of care settings including patients admitted as inpatients, patients under observation, ambulatory surgery patients, ambulatory treatment (infusion) center patients, and emergency department patients. The proposed language changes in SB 807 will provide clarification as HPH incorporates the requirements of Act 153 into its Quality Improvement programs related to management of potential opioid abuse amongst our patient population.

Similarly, HPH supports the proposed amendments to §329-38.5. The proposed amendments indicating that the informed consent requirements for qualified opioid therapy patients does not apply to patients receiving treatment at a hospital under the supervision of a licensed health care provider and who lacks capacity will also serve to better inform our policies to provide optimal care in the variety of settings we provide care to our patients.

Thank you for the opportunity to provide testimony on this bill.



## THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Rosalyn H. Baker, Chair  
The Honorable Stanley Chang, Vice Chair  
Members, Committee on Commerce, Consumer Protection, and Health

From:  Paula Yoshioka, Vice President, Government Relations and External Affairs, The Queen's Health Systems

Date: January 25, 2019

Hrg: Senate Committee on Commerce, Consumer Protection, and Health Hearing; Wednesday, January 30, 2019 at 9:00 AM in Room 229

Re: **Support for S.B. 807, Relating to the Electronic Prescription Accountability System**

The Queen's Health Systems (Queen's) is a not-for-profit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, 66 health care centers and labs, and more than 1,600 physicians statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide testimony in support of S.B. 807, relating to the electronic prescription accountability system. The measure clarifies that a health care provider does not need to consult the electronic prescription accountability system when a patient is in an inpatient setting or in hospice care. It also specifies that an informed consent agreement is not required for patients whose prescription will be directly administered under supervision of a health care provider. We concur with the testimony submitted by the Healthcare Association of Hawaii, and support the following changes to the law:

1. Amending language in the bill that would clarify that the electronic prescription accountability system does not need to be checked in an inpatient hospital setting;
2. Amending language included in the bill that excludes hospice patients; and,
3. Amending language in the bill which clarifies the definition of a qualifying opioid patient.

Since the passage of Act 153, Queen's has dedicated resources to be in compliance and ensure that the state's electronic prescription accountability system is consulted, in order to reduce the potential risk of abuse or addiction to a controlled substance, as needed to avoid harmful drug interactions, or as otherwise medically necessary. Thank you for your time and attention to this important issue.

*The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*



## **O`ahu County Committee on Legislative Priorities (OCCLP)**

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH  
Senator Roselyn H. Baker, Chair  
Senator Stanley Change, Vice Chair

DATE: Wednesday, January 30, 2019  
TIME: 9:00 a.m.  
PLACE: Conference Room 229 State Capitol

RE: SB 807 Relating to the Electronic Prescription Accountability System

Aloha mai kakou Members of the Senate Committee on Commerce, Consumer Protection, and Health:

The O`ahu County Committee on Legislative Priorities (OCCLP) of the Democratic Party of Hawai`i (DPH) hereby submits its testimony in **SUPPORT of SB 807 relating to the Electronic Prescription Accountability System.**

SB 807 specifies that a health care provider shall not be required to consult the electronic prescription accountability system for patients when the prescription will be directly administered under the supervision of a health care provider or for patients who qualify for hospice care. SB 807 clarifies that an informed consent agreement is not necessary for patients whose prescription will be directly administered under the supervision of a health care provider.

We applaud the passage of the "Our Care, Our Choice Act" (2018) which gives terminally ill and mentally capable adult patients the right to make their own end of life choices which includes medical aid in dying. We support all efforts to ensure that all terminally ill and mentally capable adult patients can make their own end of life choices, including full access to medical aid in dying. *Democratic Party of Hawai`i Platform (2018), p. 13, ln. 38-41.*

As indicated on page 2, lines 1-7 of SB 807: "An exemption for hospice patients is also appropriate to reduce barriers to this end-of-life choice. By definition, a patient electing hospice typically has only six months or less to live. Therefore, requiring a health care provider to consult

the electronic prescription accountability system under these circumstances may cause a delay in the provision of appropriate care to the patient.”

For the foregoing reasons, OCCLP supports SB 807 and urges its passage out of the Committee on Commerce, Consumer Protection and Health.

Mahalo nui loa  
Me ka `oia`i`o

/s/ Melodie Aduja

Melodie Aduja

Chair, O`ahu County Committee on Legislative Priorities of the Democratic Party of  
Hawai`i

Ph. (808) 258-8889

Email: [legislativepriorities@gmail.com](mailto:legislativepriorities@gmail.com)

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE HAWAII  
ASSOCIATION FOR JUSTICE IN OPPOSITION TO S.B. 807**

Wednesday, Jan. 30, 2019  
9:00 am  
Room 229



To: Chair Rosalyn H. Baker and Members of the Senate Committee on Commerce, Consumer Protection, and Health.

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in opposition to S.B. No. 807, Relating to the Electronic Prescription Accountability System.

The purpose of informed consent is to disclose to the patient what the risks are, as well as the benefits, of medical treatments or procedures. This bill is overly broad by allowing a health care provider to bypass providing an informed consent agreement and consulting the electronic prescription accountability system whenever a patent is being directly administered with a prescription.

Hawaii courts support the “patient-oriented” standard in cases as recently as 2015, in Ngo v. Queens. This has also been codified in HRS §671-3.

The Supreme Court has stated that the focus should be on what a reasonable person objectively needs to hear from his or her physician to allow the patient to make an informed and intelligent decision regarding proposed medical treatment. This standard has been the law for several years.

This bill creates an exception to the informed consent laws in certain situations when obtaining consent would be impracticable – such as in an emergency room setting or when a patient is in hospice care or when the electronic prescription accountability system is not working. However, section (2) allows health care providers to bypass informed consent and consulting the electronic prescription accountability system for

“any prescription [t]hat will be administered directly to a patient under the supervision of a health care provider licensed to practice within the State...” This provision is overly broad and essentially nullifies both requirements of informed consent and consulting the electronic prescription accountability system. We believe it is an important part of medical treatment to be informed about the medication you are about to take and to agree to it, whether or not you are under the direct supervision of a health care provider or not. There is no justification for removing the patient’s rights to receive informed consent. For these reasons, **we request that page 3, line 19 through page 4, line 2 be deleted.**

For these reasons HAJ opposes the passage of this bill. Thank you for the opportunity to testify on this matter.