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## 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 access to  
2 psychiatric care on the neighbor islands and in rural Oahu was  
3 difficult prior to the pandemic and has been exacerbated by the  
4 pandemic. According to the University of Hawaii's 2021 Annual  
5 Report on Findings from the Hawaii Physician Workforce  
6 Assessment Project, while there is an eleven per cent shortage  
7 of adult psychiatrists statewide when overage is not taken into  
8 account, there is a forty-six and sixty-two per cent shortage  
9 for the counties of Hawaii and Kauai, respectively. Due to this  
10 shortage, a vast number of residents who seek assistance are  
11 unable to receive the treatment they need.

12           The legislature also finds that to meet this urgent gap in  
13 services, health care providers are using telehealth to  
14 supplement services. Contracting with telehealth providers in  
15 other states, with staff who are licensed and credentialed in  
16 the State, improves access to meet this need. However, many  
17 individuals in need of outpatient psychiatric assistance are



1 unable to receive medication management to maintain functioning  
2 and prevent potential hospitalization or incarceration.

3       The legislature further finds that telehealth providers who  
4 do not reside in the State, even if properly licensed and  
5 credentialed, are prohibited from prescribing necessary  
6 medications to address disorders such as anxiety, depression,  
7 and other mood disorders.

8       The legislature additionally finds that during the  
9 pandemic, when unemployment reached twenty-two per cent  
10 statewide, the number of QUEST patients dramatically increased.  
11 At the same time, the number of psychiatric providers residing  
12 in the State and who were willing to take QUEST patients  
13 decreased. This remains an ongoing problem, as there are few  
14 openings for existing patients to gain access to services, let  
15 alone new patients trying to access the system of care with  
16 QUEST or medicare coverage.

17       The purpose of this Act is to give physicians, advanced  
18 practice registered nurses, and physician assistants, who are  
19 licensed and credentialed in Hawaii but not physically residing  
20 in the State, the ability to treat patients via telehealth  
21 modalities.



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

4 "§329- Prescriptions; physical presence; pharmacies.

5 (a) Notwithstanding section 329-38(i)(1) to the contrary, a  
6 physician licensed under chapter 453, an advanced practice  
7 registered nurse with prescriptive authority licensed under  
8 section 457-8.6, or a physician assistant licensed under section  
9 453-5.3, who is not physically in the State, may issue a  
10 prescription for a schedule III, schedule IV, or schedule V  
11 controlled substance if the physician, advanced practice  
12 registered nurse, or physician assistant:

13 (1) Has a valid Drug Enforcement Administration  
14 registration number and is registered under section  
15 329-32; and

16 (2) Issues prescriptions pursuant to a written contract  
17 with or as an employee of a physician, medical group  
18 practice, or health care facility that is located  
19 within the State.

20 (b) A pharmacy may dispense a prescription authorized  
21 under subsection (a)."



1 SECTION 3. Section 329-38, Hawaii Revised Statutes, is  
2 amended by amending subsection (i) to read as follows:

3 "(i) Prescriptions for controlled substances shall be  
4 issued only as follows:

5 (1) All prescriptions for controlled substances shall  
6 originate from within the State, except as provided by  
7 section 329- , and be dated as of, and signed on,  
8 the day when the prescriptions were issued and shall  
9 contain:

10 (A) The first and last name and address of the  
11 patient; and

12 (B) The drug name, strength, dosage form, quantity  
13 prescribed, and directions for use. Where a  
14 prescription is for gamma hydroxybutyric acid,  
15 methadone, or buprenorphine, the practitioner  
16 shall record as part of the directions for use,  
17 the medical need of the patient for the  
18 prescription.

19 Except for electronic prescriptions, controlled  
20 substance prescriptions shall be no larger than eight  
21 and one-half inches by eleven inches and no smaller



1 than three inches by four inches. A practitioner may  
2 sign a prescription in the same manner as the  
3 practitioner would sign a check or legal document  
4 (e.g., J.H. Smith or John H. Smith) and shall use both  
5 words and figures (e.g., alphabetically and  
6 numerically as indications of quantity, such as five  
7 (5)), to indicate the amount of controlled substance  
8 to be dispensed. Where an electronic prescription is  
9 permitted, either words or figures (e.g.,  
10 alphabetically or numerically as indications of  
11 quantity, such as five or 5), to indicate the amount  
12 of controlled substance to be dispensed shall be  
13 acceptable. Where an oral order or electronic  
14 prescription is not permitted, prescriptions shall be  
15 written with ink or indelible pencil or typed, shall  
16 be manually signed by the practitioner, and shall  
17 include the name, address, telephone number, and  
18 registration number of the practitioner. The  
19 prescriptions may be prepared by a secretary or agent  
20 for the signature of the practitioner, but the  
21 prescribing practitioner shall be responsible in case



1           the prescription does not conform in all essential  
2           respects to this chapter and any rules adopted  
3           pursuant to this chapter. In receiving an oral  
4           prescription from a practitioner, a pharmacist shall  
5           promptly reduce the oral prescription to writing,  
6           which shall include the following information: the  
7           drug name, strength, dosage form, quantity prescribed  
8           in figures only, and directions for use; the date the  
9           oral prescription was received; the full name, Drug  
10          Enforcement Administration registration number, and  
11          oral code number of the practitioner; and the name and  
12          address of the person for whom the controlled  
13          substance was prescribed or the name of the owner of  
14          the animal for which the controlled substance was  
15          prescribed.

16                 A corresponding liability shall rest upon a  
17          pharmacist who fills a prescription not prepared in the  
18          form prescribed by this section. A pharmacist may add  
19          a patient's missing address or change a patient's  
20          address on all controlled substance prescriptions  
21          after verifying the patient's identification and



1           noting the identification number on the back of the  
2           prescription document on file. The pharmacist shall  
3           not make changes to the patient's name, the controlled  
4           substance being prescribed, the quantity of the  
5           prescription, the practitioner's Drug Enforcement  
6           Administration number, the practitioner's name, the  
7           practitioner's electronic signature, or the  
8           practitioner's signature;

9           (2) An intern, resident, or foreign-trained physician, or  
10          a physician on the staff of a Department of Veterans  
11          Affairs facility or other facility serving veterans,  
12          exempted from registration under this chapter, shall  
13          include on all prescriptions issued by the physician:

14          (A) The registration number of the hospital or other  
15          institution; and

16          (B) The special internal code number assigned to the  
17          physician by the hospital or other institution in  
18          lieu of the registration number of the  
19          practitioner required by this section.

20          The hospital or other institution shall forward a copy  
21          of this special internal code number list to the



1 department as often as necessary to update the  
2 department with any additions or deletions. Failure  
3 to comply with this paragraph shall result in the  
4 suspension of that facility's privilege to fill  
5 controlled substance prescriptions at pharmacies  
6 outside of the hospital or other institution. Each  
7 written prescription shall have the name of the  
8 physician stamped, typed, or hand-printed on it, as  
9 well as the signature of the physician;

10 (3) An official exempted from registration shall include  
11 on all prescriptions issued by the official:

12 (A) The official's branch of service or agency (e.g.,  
13 "U.S. Army" or "Public Health Service"); and

14 (B) The official's service identification number, in  
15 lieu of the registration number of the  
16 practitioner required by this section. The  
17 service identification number for a Public Health  
18 Service employee shall be the employee's social  
19 security or other government issued  
20 identification number.



1 Each prescription shall have the name of the officer  
2 stamped, typed, or handprinted on it, as well as the  
3 signature of the officer; and

4 (4) A physician assistant registered to prescribe  
5 controlled substances under the authorization of a  
6 supervising physician shall include on all controlled  
7 substance prescriptions issued:

8 (A) The Drug Enforcement Administration registration  
9 number of the supervising physician; and

10 (B) The Drug Enforcement Administration registration  
11 number of the physician assistant.

12 Each written controlled substance prescription issued  
13 shall include the printed, stamped, typed, or hand-  
14 printed name, address, and phone number of both the  
15 supervising physician and physician assistant, and  
16 shall be signed by the physician assistant. The  
17 medical record of each written controlled substance  
18 prescription issued by a physician assistant shall be  
19 reviewed and initialed by the physician assistant's  
20 supervising physician within seven working days."



1 SECTION 4. Section 329-41, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) It is unlawful for any person:

4 (1) Who is subject to part III to distribute, administer,  
5 prescribe, or dispense a controlled substance in  
6 violation of section 329-38 or rules authorized under  
7 section 329-31; however, a licensed manufacturer or  
8 wholesaler may sell or dispense a controlled substance  
9 to a master of a transpacific ship or a person in  
10 charge of a transpacific aircraft upon which no  
11 physician is regularly employed, for the actual  
12 medical needs of persons on board such ship or  
13 aircraft when not in port; provided schedule I or II  
14 controlled substances shall be sold to the master of  
15 such ship or person in charge of such aircraft only in  
16 accordance with the provisions set forth in 21 Code of  
17 Federal Regulations, sections 1301, 1305, and 1307,  
18 adopted pursuant to Title 21, United States Code,  
19 section 821;

20 (2) Who is a registrant to manufacture a controlled  
21 substance not authorized by the registrant's



1 registration or to distribute or dispense a controlled  
2 substance not authorized by the registrant's  
3 registration to another registrant or another  
4 authorized person;

5 (3) To refuse or fail to make available, keep, or furnish  
6 any record, notification, order form, prescription,  
7 statement, invoice, or information in patient charts  
8 relating to the administration, dispensing, or  
9 prescribing of controlled substances;

10 (4) To refuse any lawful entry into any premises for any  
11 inspection authorized by this chapter;

12 (5) Knowingly to keep or maintain any store, shop,  
13 warehouse, dwelling, building, vehicle, boat,  
14 aircraft, or other structure or place for the purpose  
15 of using these substances or which is used for keeping  
16 or selling them in violation of this chapter or  
17 chapter 712, part IV;

18 (6) Who is a practitioner or pharmacist to dispense a  
19 controlled substance to any individual not known to  
20 the practitioner or pharmacist, except under the  
21 following circumstances:



1           (A) When dispensing a controlled substance directly  
2           to an individual, the practitioner or pharmacist  
3           shall first obtain and document, in a log book or  
4           an electronic database, the full name,  
5           identification number, identification type, and  
6           signature, whether by actual signature or by  
7           electronic signature capture device, of the  
8           individual obtaining the controlled substance.  
9           If the individual does not have any form of  
10          proper identification, the pharmacist shall  
11          verify the validity of the prescription and  
12          identity of the patient with the prescriber, or  
13          their authorized agent, before dispensing the  
14          controlled substance; and  
15          (B) For mail order prescriptions, the practitioner or  
16          pharmacist shall not be subject to subparagraph  
17          (A); provided that all other requirements of  
18          chapter 329 shall apply and that the practitioner  
19          or pharmacist, as part of the initial  
20          registration process of an individual in a mail  
21          order prescription drug plan and prior to the



1           controlled substance being dispensed, shall  
2           obtain all identification information, including  
3           the full name, identification number,  
4           identification type, signature, and a photocopy  
5           of a form of proper identification of the  
6           individual obtaining the controlled substance.  
7           The practitioner or pharmacist shall also comply  
8           with other requirements set forth by rule.

9           For the purpose of this section, "proper  
10          identification" means government-issued identification  
11          containing the photograph, printed name,  
12          identification number, and signature of the individual  
13          obtaining the controlled substance;

14          (7) Who is a practitioner to predate or pre-sign  
15          prescriptions to facilitate the obtaining or attempted  
16          obtaining of controlled substances; or

17          (8) Who is a practitioner to facilitate the issuance or  
18          distribution of a written prescription or to issue an  
19          oral prescription for a controlled substance when not  
20          physically in the State[-], except as authorized under  
21          section 329- ."



# H.B. NO. 2021

1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval;  
4 provided that the amendments made to section 329-38(i), Hawaii  
5 Revised Statutes, by section 3 of this Act shall not be repealed  
6 when that section is repealed and reenacted on June 30, 2023, by  
7 Act 66, Session Laws of Hawaii 2017.

8

INTRODUCED BY:

*Nadia K. Nakamura*

JAN 24 2022



# H.B. NO. 2021

**Report Title:**

Controlled Substances; Prescriptions; Out-Of-State Prescribers

**Description:**

Authorizes state-licensed and credentialed physicians, advanced practice registered nurses, and physician assistants, who are not physically in the State, to issue prescriptions for certain controlled substances under a limited circumstance. Authorizes pharmacies to dispense such prescriptions.

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

