

JAN 18 2023

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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 already difficult before the coronavirus disease 2019 pandemic  
4 and has been exacerbated by the pandemic. According to the  
5 University of Hawaii's 2021 Annual Report on Findings from the  
6 Hawaii Physician Workforce Assessment Project, while there is an  
7 eleven per cent shortage of adult psychiatry practitioners  
8 statewide, when unmet demand without overage is not taken into  
9 account, there is a forty-six and sixty-two per cent shortage  
10 for the counties of Hawaii and Kauai, respectively. Due to this  
11 shortage, a vast number of residents who seek assistance are  
12 unable to receive the treatment they need.

13           The legislature also finds that to meet this urgent gap in  
14 services, health care providers are using telehealth to  
15 supplement services. Contracting with telehealth providers who  
16 are licensed and credentialed in the State but not physically  
17 residing in the State improves access to meet this need.



1 However, many individuals in need of outpatient psychiatric  
2 assistance are unable to receive medication management to  
3 maintain function and prevent potential hospitalization or  
4 incarceration.

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

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

19 The purpose of this Act is to give physicians, advanced  
20 practice registered nurses, and physician assistants, who are  
21 licensed and credentialed in the State but not physically



1 residing in the State, the ability to treat patients via  
2 telehealth modalities.

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

6 "§329- Prescriptions; physical presence; pharmacies.

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

15 (1) Has a valid Drug Enforcement Administration  
16 registration number and is registered under section  
17 329-32; and

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



1        (b) A pharmacy may dispense a prescription authorized  
2 under subsection (a)."

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

5        "(i) Prescriptions for controlled substances shall be  
6 issued only as follows:

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

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



1 Except for electronic prescriptions, controlled  
2 substance prescriptions shall be no larger than eight  
3 and one-half inches by eleven inches and no smaller  
4 than three inches by four inches. A practitioner may  
5 sign a prescription in the same manner as the  
6 practitioner would sign a check or legal document  
7 (e.g., J.H. Smith or John H. Smith) and shall use both  
8 words and figures (e.g., alphabetically and  
9 numerically as indications of quantity, such as five  
10 (5)), to indicate the amount of controlled substance  
11 to be dispensed. Where an electronic prescription is  
12 permitted, either words or figures (e.g.,  
13 alphabetically or numerically as indications of  
14 quantity, such as five or 5), to indicate the amount  
15 of controlled substance to be dispensed shall be  
16 acceptable. Where an oral order or electronic  
17 prescription is not permitted, prescriptions shall be  
18 written with ink or indelible pencil or typed, shall  
19 be manually signed by the practitioner, and shall  
20 include the name, address, telephone number, and  
21 registration number of the practitioner. The



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

19 A corresponding liability shall rest upon a  
20 pharmacist who fills a prescription not prepared in the  
21 form prescribed by this section. A pharmacist may add



1 a patient's missing address or change a patient's  
2 address on all controlled substance prescriptions  
3 after verifying the patient's identification and  
4 noting the identification number on the back of the  
5 prescription document on file. The pharmacist shall  
6 not make changes to the patient's name, the controlled  
7 substance being prescribed, the quantity of the  
8 prescription, the practitioner's Drug Enforcement  
9 Administration number, the practitioner's name, the  
10 practitioner's electronic signature, or the  
11 practitioner's signature;

- 12 (2) An intern, resident, or foreign-trained physician, or  
13 a physician on the staff of a Department of Veterans  
14 Affairs facility or other facility serving veterans,  
15 exempted from registration under this chapter, shall  
16 include on all prescriptions issued by the physician:
- 17 (A) The registration number of the hospital or other  
18 institution; and
  - 19 (B) The special internal code number assigned to the  
20 physician by the hospital or other institution in



1            lieu of the registration number of the  
2            practitioner required by this section.

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

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

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

18           (B) The official's service identification number, in  
19           lieu of the registration number of the  
20           practitioner required by this section. The  
21           service identification number for a Public Health





1           Service employee shall be the employee's social  
2           security or other government issued  
3           identification number.

4           Each prescription shall have the name of the officer  
5           stamped, typed, or handprinted on it, as well as the  
6           signature of the officer; and

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

11          (A) The Drug Enforcement Administration registration  
12          number of the supervising physician; and

13          (B) The Drug Enforcement Administration registration  
14          number of the physician assistant.

15          Each written controlled substance prescription issued  
16          shall include the printed, stamped, typed, or hand-  
17          printed name, address, and phone number of both the  
18          supervising physician and physician assistant, and  
19          shall be signed by the physician assistant."

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



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

2           (1) Who is subject to part III to distribute, administer,

3           prescribe, or dispense a controlled substance in

4           violation of section 329-38 or rules authorized under

5           section 329-31; however, a licensed manufacturer or

6           wholesaler may sell or dispense a controlled substance

7           to a master of a transpacific ship or a person in

8           charge of a transpacific aircraft upon which no

9           physician is regularly employed, for the actual

10          medical needs of persons on board [~~such~~] the ship or

11          aircraft when not in port; provided schedule I or II

12          controlled substances shall be sold to the master of

13          [~~such~~] the ship or person in charge of [~~such~~] the

14          aircraft only in accordance with the provisions set

15          forth in 21 Code of Federal Regulations, sections

16          1301, 1305, and 1307, adopted pursuant to Title 21,

17          United States Code, section 821;

18          (2) Who is a registrant to manufacture a controlled

19          substance not authorized by the registrant's

20          registration or to distribute or dispense a controlled

21          substance not authorized by the registrant's



- 1 registration to another registrant or another  
2 authorized person;
- 3 (3) To refuse or fail to make available, keep, or furnish  
4 any record, notification, order form, prescription,  
5 statement, invoice, or information in patient charts  
6 relating to the administration, dispensing, or  
7 prescribing of controlled substances;
- 8 (4) To refuse any lawful entry into any premises for any  
9 inspection authorized by this chapter;
- 10 (5) [~~Knowingly to~~] To knowingly keep or maintain any  
11 store, shop, warehouse, dwelling, building, vehicle,  
12 boat, aircraft, or other structure or place for the  
13 purpose of using these substances or which is used for  
14 keeping or selling them in violation of this chapter  
15 or chapter 712, part IV;
- 16 (6) Who is a practitioner or pharmacist to dispense a  
17 controlled substance to any individual not known to  
18 the practitioner or pharmacist, except under the  
19 following circumstances:
- 20 (A) When dispensing a controlled substance directly  
21 to an individual, the practitioner or pharmacist



1 shall first obtain and document, in a log book or  
2 an electronic database, the full name,  
3 identification number, identification type, and  
4 signature, whether by actual signature or by  
5 electronic signature capture device, of the  
6 individual obtaining the controlled substance.

7 If the individual does not have any form of  
8 proper identification, the pharmacist shall  
9 verify the validity of the prescription and  
10 identity of the patient with the prescriber, or  
11 their authorized agent, before dispensing the  
12 controlled substance; and

13 (B) For mail order prescriptions, the practitioner or  
14 pharmacist shall not be subject to subparagraph  
15 (A); provided that all other requirements of  
16 chapter 329 shall apply and that the practitioner  
17 or pharmacist, as part of the initial  
18 registration process of an individual in a mail  
19 order prescription drug plan and ~~[prior to]~~  
20 before the controlled substance ~~[being]~~ is  
21 dispensed, shall obtain all identification



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

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

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

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



# S.B. NO. 60

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:

A handwritten signature in black ink, appearing to be 'DGC', written over a horizontal line.

# S.B. NO. 60

**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 the prescriptions.

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

