

---

---

# 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 prescription refills  
2 play an important role in allowing patients to obtain their  
3 medication without frequent office visits. Refills also support  
4 patient adherence to medications for chronic conditions.  
5 Typical pharmacotherapy requires a patient's adherence to the  
6 regimen to achieve the therapeutic outcome, especially in  
7 patients with chronic conditions. Abrupt cessation or unplanned  
8 interruption of therapy may lead to undesirable outcomes. It is  
9 paramount for the pharmacist to ensure the patient's regimen is  
10 not disrupted and medications are dispensed in a timely manner.

11           The legislature further finds that during times of natural  
12 disasters or public health emergencies, there may be significant  
13 challenges that impede a patient's ability to timely receive a  
14 necessary prescription. For example, the coronavirus disease  
15 2019 pandemic forced some providers to limit office hours.  
16 Additionally, quarantine mandates forced patients to cancel



1 existing appointments. These challenges resulted in gap periods  
2 without medications.

3 The purpose of this Act is to provide clear guidance for  
4 pharmacists to act in the best interest of patients by  
5 minimizing gap periods without medications during a declared  
6 state of emergency by allowing pharmacists to refill  
7 prescriptions for persons directly impacted by the emergency for  
8 up to a thirty-day supply if the practitioner is unavailable to  
9 authorize the refill and if, in the pharmacist's professional  
10 judgment, failure to refill the prescription may interrupt the  
11 patient's ongoing care and have a significant adverse effect on  
12 the patient's well-being.

13 SECTION 2. Chapter 461, Hawaii Revised Statutes, is  
14 amended by adding a new section to be appropriately designated  
15 and to read as follows:

16 **"§461- Refills without practitioner's authorization**  
17 **during state of emergency.** (a) During a declared state of  
18 emergency pursuant to section 127A-14, a prescription for  
19 persons directly impacted by the emergency may be refilled up to  
20 a thirty-day supply without the practitioner's authorization if  
21 the practitioner is unavailable to authorize the refill and if,



1 in the registered pharmacist's professional judgment, failure to  
2 refill the prescription may interrupt the patient's ongoing care  
3 and have a significant adverse effect on the patient's well-  
4 being.

5 (b) Before refilling a prescription pursuant to this  
6 section, the registered pharmacist shall make every reasonable  
7 effort to contact the practitioner. The registered pharmacist  
8 shall make an appropriate record, including the basis for  
9 proceeding under this section.

10 (c) The registered pharmacist shall inform the patient  
11 that the prescription was refilled pursuant to this section.

12 (d) The registered pharmacist shall notify the  
13 practitioner no later than twenty-four hours after the  
14 dispensing of any refills pursuant to this section.

15 Notification to a practitioner under this subsection may be made  
16 by phone, facsimile, or electronic mail.

17 (e) The practitioner who issued a prescription shall not  
18 incur any liability as the result of a registered pharmacist  
19 refilling that prescription pursuant to this section.

20 (f) Notwithstanding any law to the contrary, a person may  
21 possess a substance dispensed pursuant to this section.



1        (g) Nothing in this section shall authorize a registered  
2 pharmacist to refill a prescription for a controlled substance  
3 as defined in section 329-1."

4        SECTION 3. Section 328-16, Hawaii Revised Statutes, is  
5 amended as follows:

6        1. By amending subsections (a) and (b) to read:

7        "(a) A prescription drug shall be dispensed only if its  
8 label bears the following:

9        (1) The name, business address, and telephone number of  
10 the seller. The business address shall be the  
11 physical location of the pharmacy or the dispensing  
12 practitioner's office;

13        (2) Except as otherwise authorized for expedited partner  
14 therapy in section 453-52 or an opioid antagonist in  
15 section 461-11.8, the name of the person for whom the  
16 drug was prescribed or the name of the owner of the  
17 animal for which the drug was prescribed;

18        (3) The serial number of the prescription;

19        (4) The date the prescription was prepared;

20        (5) The name of the practitioner if the seller is not the  
21 practitioner;



- 1           (6) The name, strength, and quantity of the drug;
- 2           (7) The "use by" date for the drug, which shall be:
  - 3               (A) The expiration date on the manufacturer's
  - 4                        container; or
  - 5               (B) One year from the date the drug is dispensed,
  - 6                        whichever is earlier;
- 7           (8) The number of refills available, if any;
- 8           (9) In the case of the dispensing of an equivalent generic
- 9                drug product, the statement "same as (brand name of
- 10               the drug product prescribed or the referenced listed
- 11               drug name)", or words of similar meaning;
- 12          (10) In the case of the dispensing of an interchangeable
- 13               biological product, the statement "interchangeable
- 14               with (brand name of the biological product prescribed
- 15               or the referenced biological drug name)", or words of
- 16               similar meaning; and
- 17          (11) Specific directions for the drug's use; provided that
- 18               if the specific directions for use are too lengthy for
- 19               inclusion on the label, the notation "take according
- 20               to written instructions" may be used if separate
- 21               written instructions for use are actually issued with



1 the drug by the practitioner or the pharmacist, but in  
2 no event shall the notation "take as directed",  
3 referring to oral instructions, be considered  
4 acceptable.

5 If any prescription for a drug does not indicate the number of  
6 times it may be refilled, if any, the pharmacist shall not  
7 refill that prescription unless subsequently authorized to do so  
8 by the practitioner[~~or~~] or pursuant to section 461-\_\_\_\_\_. The act  
9 of dispensing a prescription drug other than a professional  
10 sample or medical oxygen contrary to this subsection shall be  
11 deemed to be an act that results in a drug being misbranded  
12 while held for sale.

13 (b) In addition to the requirements enumerated in  
14 subsection (a), a prescription drug shall be dispensed only:

15 (1) By a pharmacist pursuant to a valid prescription or  
16 section 453-52, 461-1, [~~or~~] 461-11.8[~~or~~], or 461-\_\_\_\_\_;

17 (2) By a medical oxygen distributor pursuant to a  
18 prescription or certificate of medical necessity;  
19 provided that the drug to be dispensed is medical  
20 oxygen; or

21 (3) By a practitioner to an ultimate user; provided that:



- 1 (A) Except as otherwise authorized for expedited  
2 partner therapy in section 453-52, the  
3 practitioner shall inform the patient, [~~prior to~~]  
4 before dispensing any drug other than a  
5 professional sample, that the patient may have a  
6 written, orally ordered, or electronically  
7 transmitted or conveyed prescription directed to  
8 a pharmacy or a medical oxygen distributor of the  
9 patient's own choice;
- 10 (B) The practitioner shall promptly record in the  
11 practitioner's records:
- 12 (i) The prescription in full;
  - 13 (ii) The name, strength, and quantity of the  
14 drug, and specific directions for the drug's  
15 use;
  - 16 (iii) The date the drug was dispensed;
  - 17 (iv) Except as otherwise authorized for expedited  
18 partner therapy in section 453-52 or for an  
19 opioid antagonist in section 461-11.8, the  
20 name and address of the person for whom the  
21 drug was prescribed or the name of the owner



1 of the animal for which the drug was  
2 prescribed; and  
3 (v) Prescription drugs dispensed or prescribed  
4 for expedited partner therapy as authorized  
5 under section 453-52 or for an opioid  
6 antagonist in section 461-11.8;

7 (C) The records described in subparagraph (B) shall  
8 be subject to the inspection of the department or  
9 its agents at all times; and

10 (D) No undisclosed rebate, refund, commission,  
11 preference, discount, or other consideration,  
12 whether in the form of money or otherwise, has  
13 been offered to the practitioner as compensation  
14 or inducement to dispense or prescribe any  
15 specific drug in preference to other drugs that  
16 might be used for the identical therapeutic  
17 indication."

18 2. By amending subsection (d) to read:

19 "(d) Any prescription may be refilled by the pharmacy and  
20 a prescription for medical oxygen may be refilled by the medical



1 oxygen distributor if that refilling is authorized by the  
2 practitioner either:

- 3 (1) In the original prescription; or
- 4 (2) By oral or electronic order, which shall be promptly  
5 recorded and filed by the receiving pharmacist or  
6 medical oxygen distributor[~~+~~],

7 or the refilling is conducted pursuant to section 461- ."

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

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



**Report Title:**

Pharmacists; Prescription Refills; State of Emergency

**Description:**

Allows registered pharmacists during declared states of emergency to refill prescriptions for persons directly impacted by the emergency for up to a thirty-day supply if the practitioner is unavailable or cannot be contacted to authorize the refill and if, in the pharmacist's professional judgment, failure to refill the prescription might interrupt the patient's ongoing care and have a significant adverse effect on the patient's well-being. (CD1)

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

