

## ACT 241

H.B. NO. 1051

A Bill for an Act Relating to Prescription Drugs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . MEDICAID PREAUTHORIZATION EXEMPTION**

**§346- Findings.** The legislature finds that:

- (1) Patients who are medicaid recipients and who suffer from the human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, or who are in need of immunosuppressives as a result of organ transplants, have the least means available to obtain proper medications required to control their illnesses;
- (2) These medicaid recipients, if not promptly treated and maintained on effective medications, will, by the very nature of their illnesses, suffer greatly and may require increased medical care, including prolonged hospitalization, resulting in increased costs to these patients and society as a whole;
- (3) Failure to promptly treat a patient with the human immunodeficiency virus, acquired immune deficiency syndrome, or hepatitis C, and failure to use effective immunosuppressives during and after organ transplants, may result in increased suffering by the patients, the early or unnecessary loss of the patients' lives, increased cost of medical care, and increased emotional, physical, financial, and societal costs;

- (4) It is ethically imperative that the physicians who treat medicaid recipient patients with human immunodeficiency virus, acquired immune deficiency syndrome, or hepatitis C, or patients who are in need of immunosuppressives before, during, and after transplant operations, have the unfettered ability to promptly medically intervene in treating these patients and to continue proven medications for those patients;
- (5) The procedure of requiring preauthorization of medicaid recipients before dispensing medications for the treatment of human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, and immunosuppressives needed for transplant patients, is unduly arduous, difficult, and too time-consuming for practitioners with large numbers of these patients who require immediate treatment to avoid permanent injury and other undesirable consequences; and
- (6) The imposition of a "first fail" plan before a physician can adjust or change a medication not on the approved list of medications is medically unsound. The condition of a seriously ill patient suffering from the human immunodeficiency virus, acquired immune deficiency syndrome, or hepatitis C, or who is in need of transplant immunosuppressives, will generally not remain stable for long without prompt treatment. If these persons are not more promptly and effectively treated, a significant probability exists that there will be a substantial increase in health care costs and hospitalizations, thereby increasing medical costs to the State.

**§346- Preauthorization exemption for certain physicians.** Any physician licensed in this State who treats a medicaid recipient patient suffering from the human immunodeficiency virus, acquired immune deficiency syndrome, or hepatitis C, or who is a patient in need of transplant immunosuppressives, may prescribe any medications approved by the United States Food and Drug Administration and that are eligible for Omnibus Budget Reconciliation Rebates Act (OBRA), that are necessary to treat the condition, without having to comply with the requirements of any preauthorization procedure established by any other provision of this chapter. This section shall not apply to QUEST medical plans.”

**SECTION 2.** This Act shall take effect upon its approval.

(Became law on July 12, 2005, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)