

ACT 151

H.B. NO. 1602

A Bill for an Act Relating to Opioids.

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

SECTION 1. The legislature finds that opioids are a class of drugs that includes the illegal drug heroin, synthetic opioids such as fentanyl, and prescription pain relievers, such as oxycodone, hydrocodone, codeine, and morphine. These drugs are chemically related and interact with opioid receptors on nerve cells in the body and brain. The legislature further finds that opioid pain relievers are generally safe when taken for a short time as prescribed by a physician. However, regular use of opioid pain relievers, even as prescribed by a physician, can lead to dependence. Moreover, because opioid pain relievers produce euphoria in addition to pain relief, they are very prone to misuse. The misuse of opioid pain relievers can easily lead to overdose incidents and deaths.

The legislature further finds that the Centers for Disease Control and Prevention formally declared an opioid epidemic in 2011. According to the American Society of Addiction Medicine, more than 2,500,000 Americans have an opioid-use disorder. The opioid epidemic is the deadliest drug crisis in United States history, with drug overdoses claiming more lives in 2016 than motor vehicle accidents or gun violence. Stated otherwise, the opioid epidemic is tantamount to a new 9/11 attack every three weeks.

At the heart of the opioid epidemic is OxyContin, which is a brand name available for the prescription pain killer, oxycodone. OxyContin is a dangerous and deadly opioid that was developed in the 1990's by Purdue Pharma, which is based in Stamford, Connecticut and is owned and operated by the Sackler family. The Sacklers are best known as philanthropists whose family name is prominently featured in exhibits at a number of prominent institutions, including the Metropolitan Museum of Art, Harvard University, and the Louvre. Because the Sacklers have managed to write their family name out of the history of the family business, most visitors to these establishments are unaware that the family made their fortune by being one of the prime beneficiaries of the current epidemic of opioid use.

As detailed in an article published in *The New Yorker* on October 30, 2017, the Sacklers' great wealth was earned at the expense of the millions of people who have fallen prey to drug addiction due to OxyContin's intrinsic addictive properties, of which the Sacklers were well aware, but denied any knowledge. As noted, the Sacklers launched OxyContin with a multi-faceted marketing campaign that misinformed doctors about the risks of opioids, which included addiction and death. In September 2017, the attorneys general of forty-one U.S. states banded together to investigate the role these deceptive marketing campaigns on the part of opioid manufacturers and distributors, including Purdue Pharma, in the current crisis of opiate addictions and overdose deaths.

Meanwhile, in April 2016, Congress, yielding to pressure from the drug industry, passed a law that effectively stripped the federal Drug Enforcement Administration (DEA) of its most potent weapon against large drug companies suspected of spilling prescription narcotics onto the nation's streets. By that time, the opioid crisis had surged into the deadliest drug epidemic in United States history, having claimed 200,000 lives, more than three times the number of United States military deaths in the Vietnam War.

Prior to the passage of The Ensuring Patient Access and Effective Drug Enforcement Act of 2016, the DEA had broad authority to freeze suspicious narcotic shipments from drug distribution companies, as long as the shipment posed an "imminent danger" to the community. The DEA used this authority to immediately prevent drugs from reaching the streets. The new law requires the DEA to demonstrate that a company's action represents "a substantial likelihood of an immediate threat," which is a much higher bar. As a result, it is now virtually impossible for the DEA to freeze suspicious opioid shipments. The higher standard has severely undermined the DEA's previously aggressive enforcement efforts.

Accordingly, in this regulatory vacuum of effective federal law enforcement efforts against the drug epidemic, the several states have no choice but to step up their own efforts to combat the epidemic through multi-faceted attacks, such as requiring:

- (1) Warnings to accompany opioid prescriptions;
- (2) More comprehensive health insurance coverage for the treatment of opioid dependence;
- (3) Data collection on opioid overdoses and deaths; and
- (4) Lowest possible dosage levels for prescriptions.

The purpose of this Act is to require a health care professional or pharmacist who dispenses any opioid drug to include on the drug's package a specific warning label.

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

“§329- Opioid warning label. In addition to any requirements for labeling of drugs under part I of chapter 328, part III of this chapter, and any other requirement for labeling of prescription drugs pursuant to state or federal law, a health care professional or pharmacist who dispenses any opioid drug shall include on the drug's package a warning label that contains wording substantially similar to the following warning:

“Caution: Opioid. Risk of overdose and addiction.””

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. This Act shall take effect upon its approval; provided that the warning label requirement established by this Act shall be implemented commencing August 1, 2018.

(Approved July 9, 2018.)

Note

1. Edited pursuant to HRS §23G-16.5.