

ACT 152

H.B. NO. 2384

A Bill for an Act Relating to the Uniform Controlled Substances Act.

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

SECTION 1. Section 329-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, nalmefene, naloxegol, naloxone, and naltrexone, and their respective salts, but including the following:
 - (A) Raw opium;
 - (B) Opium extracts;
 - (C) Opium fluid;
 - (D) Powdered opium;
 - (E) Granulated opium;
 - (F) Codeine;

- (G) Ethylmorphine;
 - (H) Etorphine hydrochloride;
 - (I) Hydrocodone;
 - (J) Hydromorphone;
 - (K) Metopon;
 - (L) Morphine;
 - (M) Oxycodone;
 - (N) Oxymorphone;
 - (O) Thebaine;
 - (P) Dihydroetorphine;
 - (Q) Oripavine; and
 - (R) Tincture of opium;
- (2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium;
 - (3) Opium poppy and poppy straw;
 - (4) Coca leaves and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocanized coca leaves or extractions which do not contain cocaine or ecgonine; cocaine or any salt or isomer thereof; and
 - (5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form that contains the phenanthrene alkaloids of the opium poppy)."

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

"(h) The effectiveness of a prescription for the purposes of this section shall be determined as follows:

- (1) A prescription for a controlled substance shall be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of the practitioner's professional practice. The responsibility for the proper prescribing and dispensing of controlled substances shall be upon the prescribing practitioner, but a corresponding responsibility shall rest with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or for legitimate and authorized research shall not be deemed a prescription within the meaning and intent of this section, and the person who knowingly fills such a purported prescription, as well as the person who issues the prescription, shall be subject to the penalties provided for violations of this chapter;
- (2) A prescription may not be issued to allow an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients;
- [~~(3)~~] ~~A prescription may not be issued for the dispensing of narcotic drugs listed in any schedule for the purpose of "medically managed withdrawal", also known as "detoxification treatment", or "maintenance treatment" except as follows:~~
- ~~(A) The administering or dispensing directly (but not prescribing) of narcotic drugs listed in any schedule to a narcotic drug-dependent person for "medically managed withdrawal", also~~

- known as “detoxification treatment”¹ or “maintenance treatment” shall be deemed to be “in the course of a practitioner’s professional practice or research” so long as the practitioner is registered separately with the department and the federal Drug Enforcement Agency as required by section 329-32(e) and complies with Title 21 Code of Federal Regulations section 823(g) and any other federal or state regulatory standards relating to treatment qualification, security, records, and unsupervised use of drugs; and
- (B) Nothing in this section shall prohibit a physician or authorized hospital staff from administering or dispensing, but not prescribing, narcotic drugs in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction;]
- (3) A prescription may not be issued for “medically managed withdrawal”, also known as “detoxification treatment” or “maintenance treatment”, unless the prescription is for a schedule III, IV, or V narcotic drug approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment and the practitioner is in compliance with title 21 Code of Federal Regulations section 1301.28, the registration requirements of section 329-32(e), and any other federal or state regulatory standards relating to treatment qualification, security, records, and unsupervised use of drugs;
 - (4) A practitioner may administer or dispense directly (but not prescribe) a narcotic drug listed in any schedule to a narcotic dependent person for the purpose of maintenance or detoxification treatment if the practitioner meets both of the following conditions:
 - (A) The practitioner is separately registered with the Drug Enforcement Administration as a narcotic treatment program;
and
 - (B) The practitioner is in compliance with Drug Enforcement Administration regulations regarding treatment qualifications, security, records, and unsupervised use of the drugs pursuant to this chapter;
 - (5) Nothing in this section shall prohibit a physician who is not specifically registered to conduct a narcotic treatment program from administering (but not prescribing) narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one day’s medication may be administered to the person or for the person’s use at one time. Such emergency treatment may be carried out for not more than three days and may not be renewed or extended;
 - (6) This section is not intended to impose any limitations on a physician or authorized hospital staff to administer or dispense narcotic drugs in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction, or to administer or dispense narcotic drugs to persons with intractable pain in which no relief or cure is possible or none has been found after reasonable efforts;
 - (7) A practitioner may administer or dispense (including prescribe) any schedule III, IV, or V narcotic drug approved by the Food and Drug Administration specifically for use in maintenance or detoxification

treatment to a narcotic dependent person if the practitioner complies with the requirements of title 21 Code of Federal Regulations section 1301.28, the registration and any other requirements of section 329-32(e), and any other federal or state regulatory standards relating to treatment qualification, security, records, and unsupervised use of drugs;

- [~~(4)~~] (8) An individual practitioner shall not prescribe or dispense a substance included in schedule II, III, IV, or V for that individual practitioner's personal use, except in a medical emergency; and
- [~~(5)~~] (9) A pharmacist shall not dispense a substance included in schedule II, III, IV, or V for the pharmacist's personal use."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 9, 2018.)

Note

1. Prior to amendment “,” appeared here.