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# A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

- 1           SECTION 1. The purpose of this bill is to amend chapter  
2 329, Hawaii Revised Statutes, by:
- 3           (1) Adding and amending definitions to section 329-1,  
4           Hawaii Revised Statutes, to be consistent with federal  
5           law;
  - 6           (2) Establishing central fill pharmacies;
  - 7           (3) Clarifying the circumstances under which narcotics may  
8           be used;
  - 9           (4) Clarifying the requirements of a controlled substance  
10          prescription;
  - 11          (5) Clarifying the conditions for the transmittal of  
12          prescriptions [~~via~~] by facsimile equipment;
  - 13          (6) Adding new violations of prohibited acts; and
  - 14          (7) Allowing the sharing of controlled substances  
15          prescription information with other governmental  
16          agencies.



1 SECTION 2. Section 329-1, Hawaii Revised Statutes, is  
2 amended by adding eight new definitions to be appropriately  
3 inserted and to read as follows:

4 "Address" means, with respect to prescriptions, the  
5 physical location where an individual resides such as:

- 6 (1) Street address, city and state;
- 7 (2) Tax map key number; or
- 8 (3) The description of a physical location.

9 "Central fill pharmacy" means a pharmacy located in the  
10 State which is registered pursuant to section 329-32 to prepare  
11 and dispense controlled substance orders pursuant to a valid  
12 prescription transmitted to it by a registered pharmacy. A  
13 central fill pharmacies shall be deemed authorized to fill  
14 prescriptions on behalf of a pharmacy only if the pharmacy and  
15 the central fill pharmacy have a contractual relationship  
16 providing for these activities, or share a common owner.

17 "Detoxification treatment" means the dispensing, for a  
18 specific period of time, of a narcotic drug in decreasing doses  
19 to an individual to alleviate adverse physiological or  
20 psychological effects incident to withdrawal from the continuous  
21 or sustained used of a narcotic drug and as a method of bringing



1 the individual to a narcotic drug-free state within a specified  
2 period of time. For the purposes of this section:

3 (1) Short-term detoxification treatment means a period not  
4 more than 30 days;

5 (2) Long-term detoxification treatment means a period of  
6 more than 30 days but not more than 180 days.

7 "Maintenance treatment" means the dispensing of a narcotic  
8 drug in the treatment of an individual for dependence upon  
9 heroin or other morphine-like drug, for a period of not more  
10 than twenty-one days.

11 "Pharmacist" means a person who is licensed or holds a  
12 permit under chapter 461 to practice pharmacy, including a  
13 pharmacy intern who is under the immediate and direct  
14 supervision of a licensed pharmacist.

15 "Prescribe" means to direct, designate, or order the use of  
16 a formula for the preparation of a drug and medicine for a  
17 disease or illness and the manner of using them.

18 "Prescriber" means one who is authorized to issue a  
19 prescription.

20 "Prescription" means an order or formula issued by a  
21 licensed practitioner of medicine, osteopathy, podiatry,



1 dentistry, or veterinary medicine, for the compounding or  
2 dispensing of drugs."

3 SECTION 3. Section 329-1, Hawaii Revised Statutes, is  
4 amended by amending the definitions of "identification number"  
5 and "practitioner" to read as follows:

6 ""Identification number" means, with respect to a patient:

7 (1) The unique~~[7]~~ number on the valid driver's license  
8 number or state identification card issued to [øf] the  
9 patient, followed by ~~[the two-digit United States~~  
10 ~~Postal Service code]~~ the abbreviation for the state  
11 issuing the driver's license ~~[or, if the patient is a~~  
12 ~~foreign patient, the patient's passport number. If~~  
13 ~~the patient does not have a driver's license, the~~  
14 ~~"identification number" means the patient's social~~  
15 ~~security number, followed by the patient's state of~~  
16 ~~residency code. If the patient is less than eighteen~~  
17 ~~years old and has no such identification, the~~  
18 ~~identification number means the unique number~~  
19 ~~contained on the valid driver's license of the~~  
20 ~~patient's parent or guardian; or]~~ or identification  
21 card;



1        (2) If the patient is a foreign patient, the patient's  
2        passport number;

3        (3) If the patient does not have a valid driver's license  
4        or state identification card, the patient's social  
5        security number, followed by the patient's state  
6        abbreviation;

7        (4) If the patient is less than eighteen years of age and  
8        has none of the identification in paragraphs (1), (2),  
9        or (3) of this section, the unique number on the valid  
10       driver's license, state identification card, or  
11       passport of the patient's parent on guardian; or

12       [~~2~~] (5) If the controlled substance is obtained for an  
13       animal, the unique number of the animal's owner as  
14       described in [~~paragraph~~] paragraphs [~~1~~] (1), (2), or  
15       (3) of [~~the animal's owner.~~] of this section.

16       "Practitioner" means:

17       (1) A physician, dentist, veterinarian, scientific  
18       investigator, or other person licensed and registered  
19       under section 329-32 to distribute, dispense, or  
20       conduct research with respect to a controlled  
21       substance in the course of professional practice or  
22       research in this State~~[-]~~; and



1 (2) A pharmacy, hospital, or other institution licensed,  
 2 registered, or otherwise permitted to distribute,  
 3 dispense, conduct research with respect to or to  
 4 administer a controlled substance in the course of  
 5 professional practice or research in this State.

6 [~~(3) Prescribe means: to direct, designate or order the use  
 7 of a formula for the preparation of a drug and  
 8 medicine for a disease or illness and the manner of  
 9 using them.~~

10 ~~(4) Prescriber means: one who is authorized to issue a  
 11 prescription.~~

12 ~~(5) Prescription means: an order or formula issued by a  
 13 licensed practitioner of medicine, osteopathy,  
 14 podiatry, dentistry, or veterinary medicine, for the  
 15 compounding or dispensing of drugs.]"~~

16 SECTION 4. Section 329-38, Hawaii Revised Statutes, is  
 17 amended to read as follows:

18 "**§329-38 Prescriptions.** (a) No controlled substance in  
 19 schedule II may be dispensed without a written prescription of a  
 20 practitioner, except:

21 (1) In the case of an emergency situation, a pharmacist  
 22 may dispense a controlled substance listed in schedule



1 II upon receiving oral authorization from a  
2 prescribing practitioner; provided that:

3 (A) The quantity prescribed and dispensed is limited  
4 to the amount adequate to treat the patient  
5 during the emergency period (dispensing beyond  
6 the emergency period must be pursuant to a  
7 written prescription signed by the prescribing  
8 practitioner);

9 (B) If the prescribing practitioner is not known to  
10 the pharmacist, the pharmacist shall make a  
11 reasonable effort to determine that the oral  
12 authorization came from a registered  
13 practitioner, which may include a callback to the  
14 prescribing practitioner using the phone number  
15 in the telephone directory or other good faith  
16 efforts; and

17 ~~[(B)]~~ (C) Within ~~[seventy-two hours]~~ seven days after  
18 authorizing an emergency oral prescription, the  
19 prescribing practitioner shall cause a written  
20 prescription for the emergency quantity  
21 prescribed to be delivered to the dispensing  
22 pharmacist. In addition to conforming to the



1 requirements of this subsection, the prescription  
2 shall have written on its face "Authorization for  
3 Emergency Dispensing". The written prescription  
4 may be delivered to the pharmacist in person or  
5 by mail, and if by mail, the prescription must be  
6 postmarked within the [~~seventy-two hour~~] seven-  
7 day period. Upon receipt, the dispensing  
8 pharmacist shall attach this prescription to the  
9 oral emergency prescription, which had earlier  
10 been reduced to writing. The pharmacist shall  
11 notify the administrator if the prescribing  
12 practitioner fails to deliver a written  
13 prescription to the pharmacy within the allotted  
14 time. Failure of the pharmacist to do so shall  
15 void the authority conferred by this paragraph to  
16 dispense without a written prescription of a  
17 prescribing individual practitioner. Any  
18 [~~physician~~] practitioner who fails to deliver a  
19 written prescription within the [~~seventy-two~~  
20 ~~hour~~] seven-day period shall be in violation of  
21 section 329-41(a)(1); or





1 (2) When dispensed directly by a practitioner, other than  
2 a pharmacist, to the ultimate user. The practitioner  
3 in dispensing a controlled substance in schedule II  
4 shall affix to the package a label showing:

5 (A) The date of dispensing;

6 (B) The name, strength, and quantity [~~issued of~~] the  
7 drug dispensed;

8 (C) The dispensing practitioner's name and address;

9 (D) The name of the patient;

10 [~~(E) The date the potency of the drug expires if that~~  
11 ~~date is available from the manufacturer or~~  
12 ~~principal labeler; and]~~

13 (E) The "use by" date for the drug, which shall be:

14 (i) The expiration date on the manufacture's or  
15 principal labeler's container; or

16 (ii) One year from the date the drug is  
17 dispensed, whichever is earlier; and

18 (F) Directions for use, and cautionary statements, if  
19 any, contained in the prescription or as required  
20 by law.

21 A complete and accurate record of all schedule II  
22 controlled substances ordered, administered,



1           prescribed, and dispensed shall be maintained for five  
2           years. Prescriptions and records of dispensing shall  
3           otherwise be retained in conformance with the  
4           requirements of section 329-36. No prescription for a  
5           controlled substance in schedule II may be refilled.

6           (b) Nothing in this section shall authorize a central fill  
7 pharmacy to prepare prescriptions for a controlled substance  
8 listed in Schedule II.

9           (c) A Schedule II controlled substance prescription shall:

10          (1) be filled within three days following the date the  
11          prescription was issued to the patient; and

12          (2) Be supplied to a patient only if the prescription has  
13          been filled and held by the pharmacy for no more than  
14          seven days.

15          ~~(b)~~ (d) The transfer of original prescription  
16 information for a controlled substance listed in schedule III,  
17 IV, or V for the purpose of refill dispensing is permissible  
18 between pharmacies on a one time basis, subject to the following  
19 requirements:

20          (1) The transfer shall be communicated directly between  
21          two licensed pharmacists, and the transferring  
22          pharmacist shall:



- 1 (A) Write or otherwise place the word "VOID" on the
- 2 face of the invalidated prescription;
- 3 (B) Record on the reverse of the invalidated
- 4 prescription the name, address, and DEA
- 5 registration number of the pharmacy to which it
- 6 was transferred and the name of the pharmacist
- 7 receiving the prescription information; and
- 8 (C) Record the date of the transfer and the name of
- 9 the pharmacist transferring the information;
- 10 (2) The pharmacist receiving the transferred prescription
- 11 information shall:
- 12 (A) Write or otherwise place the word "transfer" on
- 13 the face of the transferred prescription;
- 14 (B) Record all information required to be on a
- 15 prescription, including:
- 16 (i) The date of issuance of original
- 17 prescription;
- 18 (ii) The original number of refills authorized on
- 19 original prescription;
- 20 (iii) The date of original dispensing;
- 21 (iv) The number of valid refills remaining and
- 22 date of last refill;



1 (v) The pharmacy's name, address, DEA  
2 registration number, and original  
3 prescription number from which the  
4 prescription information was transferred;  
5 and

6 (vi) The name of transferor pharmacist;

7 (3) Both the original and transferred prescription must be  
8 maintained for a period of five years from the date of  
9 last refill; ~~and~~

10 (4) The procedure allowing the transfer of prescription  
11 information for refill purposes is permissible only  
12 between pharmacies located on the same island in this  
13 State~~[-]~~; and

14 (5) Any pharmacy electronically accessing a prescription  
15 record shall satisfy all information requirements of a  
16 manual mode prescription transferal.

17 Failure to comply with this subsection shall void the  
18 authority of the pharmacy to transfer prescriptions or receive a  
19 transferred prescription to or from another pharmacy.

20 (e) A pharmacy and an authorized central fill pharmacy may  
21 share information for initial and refill prescriptions of



1 schedule III, IV or V controlled substances. The following  
2 requirements shall apply:

3 (1) A pharmacy may electronically transmit, including by  
4 facsimile, prescriptions for controlled substances  
5 listed in schedule III, IV or V to a central fill  
6 pharmacy. The pharmacy transmitting the prescription  
7 information shall:

8 (A) Ensure that all information required to be on a  
9 prescription pursuant to subsection (f) is  
10 transmitted to the central fill pharmacy either  
11 on the face of the prescription or  
12 electronically; and

13 (B) Keep a record of receipt of the filled  
14 prescription, including the date of receipt, the  
15 method of delivery (private, common or contract  
16 carrier) and the identity of the pharmacy  
17 employee accepting delivery.

18 (2) The central fill pharmacy receiving the transmitted  
19 prescription must:

20 (A) Keep for five years a copy of a prescription  
21 received by facsimile and an electronic record of  
22 all the information transmitted by the pharmacy,



1                   including the name, address, and DEA registration  
2                   number of the pharmacy transmitting the  
3                   prescription;

4           (B) Keep a record of the date of receipt of the  
5           transmitted prescription, the name of the  
6           licensed pharmacists filling the prescription,  
7           and the dates the prescription was filled or is  
8           to be refilled; and

9           (C) Keep a record of the date the filled prescription  
10           was shipped to the pharmacy.

11           [~~(e)~~] (f) No controlled substance in schedule III, IV, or  
12 V may be dispensed without a [~~written~~] written, including one  
13 transmitted by facsimile, or oral prescription of a  
14 practitioner, except when a controlled substance is dispensed  
15 directly by a practitioner, other than a pharmacist, to an  
16 ultimate user. The practitioner, in dispensing a controlled  
17 substance in schedule III, IV, or V, shall affix to the package  
18 a label showing:

- 19           (1) The date of dispensing;  
20           (2) The name, strength, and quantity issued of the drug;  
21           (3) The dispensing practitioner's name and business  
22           address;



1 (4) The name of the patient;  
2 [~~(5) [The date the potency of the drug expires, if that~~  
3 ~~date is available from the manufacturer or the~~  
4 ~~principal labeler;]~~

5 (5) The "use by" date for the drug, which shall be:

6 (A) The expiration date on the manufacturer's or  
7 principal labeler's container; or

8 (B) One year from the date the drug is dispensed,  
9 whichever is earlier;

10 (6) Directions for use; and

11 (7) Cautionary statements, if any, contained in the  
12 prescription or as required by law.

13 A complete and accurate record of all schedule III, IV, and V  
14 controlled substances administered, prescribed, and dispensed  
15 shall be maintained for five years. Prescriptions and records  
16 of dispensing shall be retained in conformance with the  
17 requirements of section 329-36 unless otherwise provided by law.  
18 Prescriptions may not be filled or refilled more than three  
19 months after the date of the prescription or be refilled more  
20 than two times after the date of the prescription, unless the  
21 prescription is renewed by the practitioner.



1           ~~(d)~~ (g) The effectiveness of a prescription for the  
2 purposes of this section shall be determined as follows:

- 3           (1) A prescription for a controlled substance shall be  
4 issued for a legitimate medical purpose by an  
5 individual practitioner acting in the usual course of  
6 the practitioner's professional practice. The  
7 responsibility for the proper prescribing and  
8 dispensing of controlled substances shall be upon the  
9 prescribing practitioner, but a corresponding  
10 responsibility shall rest with the pharmacist who  
11 fills the prescription. An order purporting to be a  
12 prescription issued not in the usual course of  
13 professional treatment or for legitimate and  
14 authorized research shall not be deemed a prescription  
15 within the meaning and intent of this section, and the  
16 person who knowingly fills such a purported  
17 prescription, as well as the person who issues the  
18 prescription, shall be subject to the penalties  
19 provided for violations of this chapter;
- 20           (2) A prescription may not be issued to allow an  
21 individual practitioner to obtain controlled





1 substances for supplying the individual practitioner  
2 for the purpose of general dispensing to patients;

3 (3) A prescription may not be issued for the dispensing of  
4 narcotic drugs listed in any schedule for the purpose  
5 of "detoxification treatment" or "maintenance  
6 treatment" [~~Nothing in this section shall prohibit a  
7 physician or authorized hospital staff from  
8 administering or dispensing narcotic drugs in a  
9 hospital to maintain or detoxify a person as an  
10 incidental adjunct to medical or surgical treatment of  
11 conditions other than addiction; and] except as  
12 follows:~~

13 (A) The administering or dispensing directly (but not  
14 prescribing) of narcotic drugs listed in any  
15 schedule to a narcotic drug-dependent person for  
16 "detoxification treatment" or "maintenance  
17 treatment" shall be deemed to be "in the course  
18 of a practitioner's professional practice or  
19 research" so long as the practitioner is  
20 registered with the department and the federal  
21 Drug Enforcement Agency as required by section  
22 329-32(e) and complies with Title 21 Code of



1 Federal Regulations section 823(g) and any other  
2 federal or state regulatory standards relating to  
3 treatment qualification, security, records, and  
4 unsupervised use of drugs; and

5 (B) Nothing in this section shall prohibit a  
6 physician or authorized hospital staff from  
7 administering or dispensing (but not prescribing)  
8 narcotic drugs in a hospital to maintain or  
9 detoxify a person as an incidental adjunct to  
10 medical or surgical treatment of conditions other  
11 than addiction.

12 (4) An individual practitioner [~~may~~] shall not prescribe  
13 or dispense a substance included in schedule II, III,  
14 IV, or V for that individual practitioner's personal  
15 use, except in a medical emergency[~~-~~]; and

16 (5) A pharmacist shall not dispense a substance included in  
17 schedule II, III, IV, or V for the pharmacist's  
18 personal use.

19 [~~+e~~] (h) Prescriptions for controlled substances shall be  
20 issued only as follows:

21 (1) All prescriptions for controlled substances shall  
22 originate from within the State and be dated as of,



1 and signed on, the day when the prescriptions were  
2 issued and shall [~~bear:~~] contain:

3 (A) The [~~full~~] first and last name and address of the  
4 patient; and

5 [~~(B) The name, address, telephone number, and~~  
6 ~~registration number of the practitioner.]~~

7 (B) The drug name, strength, dosage form, quantity  
8 prescribed, and directions for use. Where a  
9 prescription is for gamma hydroxybutyric acid,  
10 methadone, or buprenorphine, the practitioner  
11 shall record the medical need of the patient for  
12 the prescription.

13 The controlled substance prescriptions shall be no  
14 larger than [~~four~~] eight and one-half inches by [~~six~~  
15 ~~and one-half~~] eleven inches and no smaller than [~~four~~]  
16 three inches by [~~five~~] four inches.

17 A practitioner may sign a prescription in the same  
18 manner as the practitioner would sign a check or legal  
19 document (e.g., J.H. Smith or John H. Smith) and shall  
20 use both words and figures (e.g., alphabetically and  
21 numerically as indications of quantity, such as five  
22 (5)), to indicate the amount of controlled substance



1 to be dispensed. Where an oral order is not  
2 permitted, prescriptions shall be written with ink or  
3 indelible pencil or [~~by typewriter~~] typed, [~~and~~] shall  
4 be manually signed by the practitioner[~~+~~], and shall  
5 include the name, address, telephone number, and  
6 registration number of the practitioner. The  
7 prescriptions may be prepared by a secretary or agent  
8 for the signature of the practitioner, but the  
9 prescribing practitioner shall be responsible in case  
10 the prescription does not conform in all essential  
11 respects to this chapter and any rules adopted  
12 pursuant to this chapter. A corresponding liability  
13 shall rest upon a pharmacist who fills a prescription  
14 not prepared in the form prescribed by this  
15 section[~~+~~]. A pharmacist may add a patient's missing  
16 address or change a patient's address on all  
17 controlled substance prescriptions after verifying the  
18 patient's identification and noting the identification  
19 number on the back of the prescription. The  
20 pharmacist shall not make changes to the patient's  
21 name, the controlled substance being prescribed, the



1           quantity of the prescription, the practitioner's DEA  
2           number, or the practitioner's signature.

3           (2) An intern, resident, or foreign-trained physician, or  
4           a physician on the staff of a Department of Veterans  
5           Affairs facility or other facility serving veterans,  
6           exempted from registration under this chapter, shall  
7           include on all prescriptions issued by the physician:

8           (A) The registration number of the hospital or other  
9           institution; and

10          (B) The special internal code number assigned to the  
11          physician by the hospital or other institution in  
12          lieu of the registration number of the  
13          practitioner required by this section.

14          The hospital or other institution shall forward a copy  
15          of this special internal code number list to the  
16          department as often as necessary to update the  
17          department with any additions or deletions. Failure  
18          to comply with this paragraph shall result in the  
19          suspension of that facility's privilege to fill  
20          controlled substance prescriptions at pharmacies  
21          outside of the hospital or other institution. Each  
22          written prescription shall have the name of the



1 physician stamped, typed, or hand-printed on it, as  
2 well as the signature of the physician;

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

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

7 (B) The official's service identification number, in  
8 lieu of the registration number of the  
9 practitioner required by this section. The  
10 service identification number for a Public Health  
11 Service employee shall be the employee's social  
12 security identification number.

13 Each prescription shall have the name of the officer  
14 stamped, typed, or handprinted on it, as well as the  
15 signature of the officer; and

16 (4) A physician assistant registered to prescribe  
17 controlled substances under the authorization of a  
18 supervising physician shall include on all controlled  
19 substance prescriptions issued:

20 (A) The DEA registration number of the supervising  
21 physician; and



1 (B) The DEA registration number of the physician  
2 assistant.

3 Each written controlled substance prescription issued  
4 shall include the printed, stamped, typed, or hand-  
5 printed name, address, and phone number of both the  
6 supervising physician and physician assistant, and  
7 shall be signed by the physician assistant. The  
8 medical record of each written controlled substance  
9 prescription issued by a physician assistant shall be  
10 reviewed and initialed by the physician assistant's  
11 supervising physician within seven working days.

12 [~~f~~] (i) A prescription for controlled substances may  
13 only be filled by a pharmacist acting in the usual course of the  
14 pharmacist's professional practice and either registered  
15 individually or employed in a registered pharmacy, central fill  
16 pharmacy, or registered institutional practitioner.

17 [~~g~~] (j) Partial filling of controlled substance  
18 prescriptions shall be determined as follows:

- 19 (1) The partial filling of a prescription for a controlled  
20 substance listed in schedule II is permissible if the  
21 pharmacist is unable to supply the full quantity  
22 called for in a written or emergency oral prescription



1 and the pharmacist makes a notation of the quantity  
2 supplied on the face of the written prescription (or  
3 written record of the emergency oral prescription).

4 The remaining portion of the prescription may be  
5 filled within seventy-two hours of the first partial  
6 filling; provided that if the remaining portion is not  
7 or cannot be filled within the seventy-two-hour  
8 period, the pharmacist shall notify the prescribing  
9 individual practitioner. No further quantity shall be  
10 supplied beyond seventy-two hours without a new  
11 prescription;

12 (2) The partial filling of a prescription for a controlled  
13 substance listed in schedule III, IV, or V is  
14 permissible; provided that:

15 (A) Each partial filling is recorded in the same  
16 manner as a refilling;

17 (B) The total quantity dispensed in all partial  
18 fillings does not exceed the total quantity  
19 prescribed;

20 (C) No dispensing occurs more than three months after  
21 the date on which the prescription was issued;  
22 and





1 (D) The prescription is refilled no more than two  
2 times after the initial date of the prescription,  
3 unless the prescription is renewed by the  
4 practitioner; and

5 (3) A prescription for a schedule II controlled substance  
6 written for a patient in a long-term care facility or  
7 for a patient with a medical diagnosis documenting a  
8 terminal illness may be filled in partial quantities  
9 to include individual dosage units. If there is any  
10 question whether a patient may be classified as having  
11 a terminal illness, the pharmacist must contact the  
12 practitioner prior to partially filling the  
13 prescription. Both the pharmacist and the prescribing  
14 practitioner have a corresponding responsibility to  
15 assure that the controlled substance is for a  
16 terminally ill patient. The pharmacist must record on  
17 the prescription whether the patient is "terminally  
18 ill" or a "long-term care facility patient". For the  
19 purposes of this section, "TI" means terminally ill  
20 and "LTCF" means long-term care facility. A  
21 prescription that is partially filled and does not  
22 contain the notation "TI" or "LTCF patient" shall be



1 deemed to have been filled in violation of this  
2 section. For each partial filling, the dispensing  
3 pharmacist shall record on the back of the  
4 prescription (or on another appropriate record,  
5 uniformly maintained, and readily retrievable) the  
6 date of the partial filling, quantity dispensed,  
7 remaining quantity authorized to be dispensed, and the  
8 identification of the dispensing pharmacist. The  
9 total quantity of schedule II controlled substances  
10 dispensed in all partial fillings must not exceed the  
11 total quantity prescribed, nor shall a prescription be  
12 partially filled more than three times after the  
13 initial date of the prescription. Schedule II  
14 controlled substance prescriptions for patients in a  
15 long-term care facility or patients with a medical  
16 diagnosis documenting a terminal illness shall be  
17 valid for a period not to exceed thirty days from the  
18 issue date unless sooner terminated by the  
19 discontinuance of medication.

20 [~~h~~] (k) A prescription for a schedule II controlled  
21 substance may be transmitted by the practitioner or the  
22 practitioner's agent to a pharmacy [~~via~~] by facsimile equipment;



1 provided that the original written, signed prescription is  
2 presented to the pharmacist for review prior to the actual  
3 dispensing of the controlled substance, except as noted in  
4 subsection [~~(i), (j), or (k).~~] (l), (m), or (n). The original  
5 prescription shall be maintained in accordance with section  
6 329-36. A prescription for a schedule III, IV or V controlled  
7 substance may be transmitted by the practitioner or the  
8 practitioner's agent to a pharmacy by facsimile provided that:

9 (1) The information shall be communicated only between the  
10 prescribing practitioner or the prescriber's  
11 authorized agent and the pharmacy of the patient's  
12 choice;

13 (2) The information shall be communicated in a  
14 retrievable, recognizable format acceptable to the  
15 intended recipient and shall include the physician's  
16 oral code designation and the name of the recipient  
17 pharmacy;

18 (3) No electronic system, software, or other intervening  
19 mechanism or party shall alter the practitioner's  
20 prescription, order entry, selection, or intended  
21 selection without the practitioner's approval on a per  
22 prescription per order basis. Facsimile prescription



1 information shall not be altered by any system,  
2 software, or other intervening mechanism or party  
3 prior to receipt by the intended pharmacy;

4 (4) The prescription information processing system shall  
5 provide for confidentiality safeguards required by  
6 federal or state law; and

7 (5) Prescribing practitioners and pharmacists shall  
8 exercise prudent and professional judgment regarding  
9 the accuracy, validity, and authenticity of any  
10 facsimile prescription information. The facsimile  
11 shall serve as the original written prescription for  
12 purposes of this section and shall be maintained in  
13 accordance with section 329-36.

14 [~~(i)~~] (1) A prescription prepared in accordance with  
15 subsection [~~(e)~~] (h) written for a narcotic listed in schedule  
16 II to be compounded for the direct administration to a patient  
17 by parenteral, intravenous, intramuscular, subcutaneous, or  
18 intraspinal infusion, but does not extend to the dispensing of  
19 oral dosage units of controlled substances, may be transmitted  
20 by the practitioner or the practitioner's agent to the pharmacy  
21 by facsimile. The pharmacist shall note on the face of the  
22 facsimile prescription in red ink "Home Infusion/IV" and this



1 facsimile shall serve as the original written prescription for  
2 purposes of this section and it shall be maintained in  
3 accordance with section 329-36.

4 ~~[(j)]~~ (m) A prescription prepared in accordance with  
5 subsection ~~[(e)]~~ (h) written for a schedule II~~[, III, IV, or V]~~  
6 substance for a patient enrolled in a hospice care program  
7 certified or paid for by medicare under Title XVIII or a hospice  
8 program that is licensed by the State may be transmitted by the  
9 practitioner or the practitioner's agent to the dispensing  
10 pharmacy by facsimile. The practitioner or practitioner's agent  
11 shall note on the prescription that the patient is a hospice  
12 patient. The pharmacist shall note on the face of the facsimile  
13 prescription in red ink "HOSPICE" and this facsimile shall serve  
14 as the original written prescription for purposes of this  
15 section and it shall be maintained in accordance with section  
16 329-36.

17 ~~[(k)]~~ (n) A prescription prepared in accordance with  
18 subsection ~~[(e)]~~ (h) written for a schedule II~~[, III, IV, or V]~~  
19 controlled substance for a resident of a state-licensed long-  
20 term care facility may be transmitted by the practitioner or the  
21 practitioner's agent to the dispensing pharmacy by facsimile.  
22 The pharmacist shall note on the face of the facsimile



1 prescription in red ink "LTCF" and this facsimile shall serve as  
2 the original written prescription for purposes of this section  
3 and it shall be maintained in accordance with section 329-36."

4 SECTION 5. Section 329-41, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

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

7 (1) Who is subject to part III to distribute, administer,  
8 prescribe, or dispense a controlled substance in  
9 violation of section 329-38; however, a licensed  
10 manufacturer or wholesaler may sell or dispense a  
11 controlled substance to a master of a transpacific  
12 ship or a person in charge of a transpacific aircraft  
13 upon which no physician is regularly employed, for the  
14 actual medical needs of persons on board such ship or  
15 aircraft when not in port; provided schedule I or II  
16 controlled substances shall be sold to the master of  
17 such ship or person in charge of such aircraft only in  
18 accordance with the provisions set forth in 21 Code of  
19 Federal Regulations, sections 1301, 1305, and 1307,  
20 adopted pursuant to Title 21, United States Code,  
21 section 821;



- 1           (2) Who is a registrant to manufacture a controlled  
2           substance not authorized by the registrant's  
3           registration or to distribute or dispense a controlled  
4           substance not authorized by the registrant's  
5           registration to another registrant or another  
6           authorized person;
- 7           (3) To refuse or fail to make available, keep, or furnish  
8           any record, notification, order form, prescription,  
9           statement, invoice, or information in patient charts  
10          relating to the administration, dispensing, or  
11          prescribing of controlled substances;
- 12          (4) To refuse any lawful entry into any premises for any  
13          inspection authorized by this chapter;
- 14          (5) Knowingly to keep or maintain any store, shop,  
15          warehouse, dwelling, building, vehicle, boat,  
16          aircraft, or other structure or place for the purpose  
17          of using these substances or which is used for keeping  
18          or selling them in violation of this chapter or  
19          chapter 712, part IV; or
- 20          (6) Who is a practitioner or pharmacist to dispense a  
21          controlled substance to any individual not known to  
22          the practitioner or pharmacist, without first



1           obtaining proper identification and documenting, by  
2           signature on a log book kept by the practitioner or  
3           pharmacist, the identity of and the type of  
4           identification presented by the individual obtaining  
5           the controlled substance. If the individual does not  
6           have any form of proper identification, the pharmacist  
7           shall verify the validity of the prescription and  
8           identity of the patient with the prescriber, or their  
9           authorized agent, before dispensing the controlled  
10          substance. For the purpose of this section, "proper  
11          identification" means government-issued identification  
12          containing the photograph, printed name, and signature  
13          of the individual obtaining the controlled substance."

14          SECTION 6. Section 329-42, Hawaii Revised Statutes, is  
15          amended by amending subsection (a) to read as follows:

16          "(a) It is unlawful for any person knowingly or  
17          intentionally:

18               (1) To distribute as a registrant a controlled substance  
19               classified in schedule I or II, except pursuant to an  
20               order form as required by section 329-37;

21               (2) To use in the course of the manufacture or  
22               distribution of a controlled substance a registration





1           number that is fictitious, revoked, suspended, or  
2           issued to another person;

3           (3) To obtain or attempt to obtain any controlled  
4           substance or procure or attempt to procure the  
5           administration of any controlled substance:

6           (A) By fraud, deceit, misrepresentation,  
7           embezzlement, theft;

8           (B) By the forgery or alteration of a prescription or  
9           of any written order;

10          (C) By furnishing fraudulent medical information or  
11          the concealment of a material fact; [~~or~~]

12          (D) By the use of a false name, patient  
13          identification number, or the giving of false  
14          address;

15          (E) By the unauthorized use of a physician's oral  
16          call-in number; or

17          (F) By the alteration of a prescription by the  
18          addition of future refills.

19          (4) To furnish false or fraudulent material information  
20          in, or omit any material information from, any  
21          application, report, or other document required to be



- 1           kept or filed under this chapter, or any record  
2           required to be kept by this chapter;
- 3           (5) To make, distribute, or possess any punch, die, plate,  
4           stone, or other thing designed to print, imprint, or  
5           reproduce the trademark, trade name, or other  
6           identifying mark, imprint, or device of another or any  
7           likeness of any of the foregoing upon any drug or  
8           container or labeling thereof so as to render the drug  
9           a counterfeit substance;
- 10          (6) To misapply or divert to the person's own use or other  
11          unauthorized or illegal use or to take, make away  
12          with, or secrete, with intent to misapply or divert to  
13          the person's own use or other unauthorized or illegal  
14          use, any controlled substance that shall have come  
15          into the person's possession or under the person's  
16          care as a registrant or as an employee of a registrant  
17          who is authorized to possess controlled substances or  
18          has access to controlled substances by virtue of the  
19          person's employment; or
- 20          (7) To make, distribute, possess, or sell any prescription  
21          form, whether blank, faxed, computer generated,



1           photocopied, or reproduced in any other manner without  
2           the authorization of the licensed practitioner."

3           SECTION 7. Section 329-104, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5           "(c) This section shall not prevent the disclosure, at the  
6 discretion of the administrator, of investigative information  
7 to:

8           (1) Law enforcement officers, investigative agents of  
9           federal, state, or county law enforcement agencies,  
10          prosecuting attorneys, or the attorney general;  
11          provided that the administrator has reasonable grounds  
12          to believe that the disclosure of any information  
13          collected under this part is in furtherance of an  
14          ongoing criminal investigation or prosecution;

15          (2) Registrants authorized under chapters 448, 453, 460,  
16          and 463E who are registered to administer, prescribe,  
17          or dispense controlled substances; provided that the  
18          information disclosed relates only to the registrant's  
19          own patient; or

20          (3) Pharmacists, employed by a pharmacy registered under  
21          section 329-32, who request prescription information



1 about a customer relating to a violation or possible  
2 violation of this chapter[-]; and

3 (4) Other state governmental prescription-monitoring  
4 programs.

5 Information disclosed to a registrant, [~~or~~] pharmacist, or  
6 authorized government agency under this section shall be  
7 transmitted [~~by certified mail or a similar means requiring the~~  
8 ~~registrant's or pharmacist's signature, respectively, for~~  
9 ~~delivery of the information.~~] by a secure means determined by  
10 the designated agency."

11 SECTION 8. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 9. This Act shall take effect upon its approval.  
14

INTRODUCED BY:

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JAN 23 2006



HB2192

**Report Title:**

Controlled Substances

**Description:**

Clarifies the requirements for emergency call-in Schedule II prescriptions, the use of facsimile and telephonic prescriptions, and the appropriate use of narcotics to treat addiction. Creates central fill pharmacies. Allows limited information sharing. Adds new definitions.

