
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 Act 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) Defining "central fill pharmacy";

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 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.

17 SECTION 2. Section 329-1, Hawaii Revised Statutes, is
18 amended as follows:



1 1. By adding eight new definitions to be appropriately
2 inserted and to read:

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

5 (1) Street address, city, and state;

6 (2) Tax map key number; or

7 (3) The description of a physical location.

8 "Central fill pharmacy" means a pharmacy located in the
9 State that is registered pursuant to section 329-32 to prepare
10 controlled substance orders for dispensing to the ultimate user
11 pursuant to a valid prescription transmitted to it by a
12 registered pharmacy.

13 "Detoxification treatment" means the dispensing, for a
14 specific period of time, of a narcotic drug or narcotic drugs in
15 decreasing doses to an individual to alleviate adverse
16 physiological or psychological effects incident to withdrawal
17 from the continuous or sustained use of a narcotic drug and as a
18 method of bringing the individual to a narcotic drug-free state
19 within a specified period of time. There are two types of
20 detoxification treatments: short-term detoxification treatment
21 and long-term detoxification treatment;



1 (1) Short-term detoxification treatment is for a period
2 not in excess of thirty days; and

3 (2) Long-term detoxification treatment is for a period
4 more than thirty days but not in excess of one hundred
5 eighty days.

6 "Maintenance treatment" means the dispensing of a narcotic
7 drug in the treatment of an individual for dependence upon
8 heroin or other morphine-like drug, for a period in excess of
9 twenty-one days.

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

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

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

19 "Prescription" means an order for medication, which is
20 dispensed to or for an ultimate user. "Prescription" shall not
21 include an order for medication that is dispensed for immediate
22 administration to the ultimate user, such as a chart order to



1 dispense a drug to a bed patient for immediate administration in
2 a hospital."

3 2. By amending the definitions of "identification number"
4 and "practitioner" to read:

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

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



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 state identification card, or military identification,
5 the patient's social security number;

6 (4) If the patient is less than eighteen years of age and
7 has none of the identification referred to in
8 paragraph (1), (2), or (3), the unique number on the
9 valid driver's license, state identification card,
10 military identification, or passport of the patient's
11 parent or 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 (1), (2), or (3) [~~of the~~
15 animal's owner].

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 3. 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

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

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

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

[~~(B)~~] (C) Within [~~seventy-two hours~~] seven days after
authorizing an emergency oral prescription, the
prescribing practitioner shall cause a written
prescription for the emergency quantity
prescribed to be delivered to the dispensing
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~~
6 shall] be postmarked within the [~~seventy-two hour~~
7 seven-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);

22 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) A schedule II controlled substance prescription shall:

7 (1) Be filled within three days following the date the
8 prescription was issued to the patient; and

9 (2) Be supplied to a patient only if the prescription has
10 been filled and held by the pharmacy for not more than
11 seven days.

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

17 (1) The transfer shall be communicated directly between
18 two licensed pharmacists, and the transferring
19 pharmacist shall:

20 (A) Write or otherwise place the word "VOID" on the
21 face of the invalidated prescription;

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

1 prescription number from which the
2 prescription information was transferred;
3 and

4 (vi) The name of transferor pharmacist;

5 (3) Both the original and transferred prescription [~~must~~]
6 shall be maintained for a period of five years from
7 the date of last refill; [~~and~~]

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

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

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

18 (d) A pharmacy and an authorized central fill pharmacy may
19 share information for initial and refill prescriptions of
20 schedule III, IV, or V controlled substances. The following
21 requirements shall apply:

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

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

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

16 and

17 (2) The central fill pharmacy receiving the transmitted
18 prescription shall:

19 (A) Keep for five years a copy of a prescription
20 received by facsimile or an electronic record of
21 all the information transmitted by the pharmacy,
22 including the name, address, and DEA registration



1 number of the pharmacy transmitting the
2 prescription;

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

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

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

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

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

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

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

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

9 (6) Directions for use; and

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

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

21 ~~[(d)]~~ (f) The effectiveness of a prescription for the
22 purposes of this section shall be determined as follows:



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



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

11 (A) The administering or dispensing directly (but not
12 prescribing) of narcotic drugs listed in any
13 schedule to a narcotic drug-dependent person for
14 "detoxification treatment" or "maintenance
15 treatment" shall be deemed to be "in the course
16 of a practitioner's professional practice or
17 research" so long as the practitioner is
18 registered separately with the department and the
19 federal Drug Enforcement Agency as required by
20 section 329-32(e) and complies with Title 21 Code
21 of Federal Regulations Section 823(g) and any
22 other federal or state regulatory standards



1 relating to treatment qualification, security,
2 records, and unsupervised use of drugs; and
3 (B) Nothing in this section shall prohibit a
4 physician or authorized hospital staff from
5 administering or dispensing, but not prescribing,
6 narcotic drugs in a hospital to maintain or
7 detoxify a person as an incidental adjunct to
8 medical or surgical treatment of conditions other
9 than addiction;

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

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

17 [~~+~~] (g) Prescriptions for controlled substances shall be
18 issued only as follows:

19 (1) All prescriptions for controlled substances shall
20 originate from within the State and be dated as of,
21 and signed on, the day when the prescriptions were
22 issued and shall [~~bear+~~] contain:



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

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

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

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

16 A practitioner may sign a prescription in the same
17 manner as the practitioner would sign a check or legal
18 document (e.g., J.H. Smith or John H. Smith) and shall
19 use both words and figures (e.g., alphabetically and
20 numerically as indications of quantity, such as five
21 (5)), to indicate the amount of controlled substance
22 to be dispensed. Where an oral order is not



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



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

6 (A) The registration number of the hospital or other
7 institution; and

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

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



- 1 (3) An official exempted from registration shall include
2 on all prescriptions issued by the official:
- 3 (A) The official's branch of service or agency (e.g.,
4 "U.S. Army" or "Public Health Service"); and
- 5 (B) The official's service identification number, in
6 lieu of the registration number of the
7 practitioner required by this section. The
8 service identification number for a Public Health
9 Service employee shall be the employee's social
10 security identification number.
- 11 Each prescription shall have the name of the officer
12 stamped, typed, or handprinted on it, as well as the
13 signature of the officer; and
- 14 (4) A physician assistant registered to prescribe
15 controlled substances under the authorization of a
16 supervising physician shall include on all controlled
17 substance prescriptions issued:
- 18 (A) The DEA registration number of the supervising
19 physician; and
- 20 (B) The DEA registration number of the physician
21 assistant.



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

10 [~~f~~] (h) A prescription for controlled substances may
11 only be filled by a pharmacist acting in the usual course of the
12 pharmacist's professional practice and either registered
13 individually or employed in a registered pharmacy, central fill
14 pharmacy, or registered institutional practitioner. A central
15 fill pharmacy authorized to fill prescriptions on behalf of a
16 pharmacy shall have a contractual relationship with the pharmacy
17 that provides for this activity or shall share a common owner
18 with the pharmacy. A central fill pharmacy shall not prepare
19 prescriptions for any controlled substance listed in schedule
20 II.

21 [~~g~~] (i) Partial filling of controlled substance
22 prescriptions shall be determined as follows:



- 1 (1) The partial filling of a prescription for a controlled
2 substance listed in schedule II is permissible if the
3 pharmacist is unable to supply the full quantity
4 called for in a written or emergency oral prescription
5 and the pharmacist makes a notation of the quantity
6 supplied on the face of the written prescription (or
7 written record of the emergency oral prescription).
8 The remaining portion of the prescription may be
9 filled within seventy-two hours of the first partial
10 filling; provided that if the remaining portion is not
11 or cannot be filled within the seventy-two-hour
12 period, the pharmacist shall notify the prescribing
13 individual practitioner. No further quantity shall be
14 supplied beyond seventy-two hours without a new
15 prescription;
- 16 (2) The partial filling of a prescription for a controlled
17 substance listed in schedule III, IV, or V is
18 permissible; provided that:
- 19 (A) Each partial filling is recorded in the same
20 manner as a refilling;

- 1 (B) The total quantity dispensed in all partial
2 fillings does not exceed the total quantity
3 prescribed;
- 4 (C) No dispensing occurs more than three months after
5 the date on which the prescription was issued;
6 and
- 7 (D) The prescription is refilled no more than two
8 times after the initial date of the prescription,
9 unless the prescription is renewed by the
10 practitioner;
- 11 and
- 12 (3) A prescription for a schedule II controlled substance
13 written for a patient in a long-term care facility or
14 for a patient with a medical diagnosis documenting a
15 terminal illness may be filled in partial quantities
16 to include individual dosage units. If there is any
17 question whether a patient may be classified as having
18 a terminal illness, the pharmacist [~~must~~] shall
19 contact the practitioner prior to partially filling
20 the prescription. Both the pharmacist and the
21 prescribing practitioner have a corresponding
22 responsibility to assure that the controlled substance

1 is for a terminally ill patient. The pharmacist
2 [~~must~~] shall record on the prescription whether the
3 patient is "terminally ill" or a "long-term care
4 facility patient". For the purposes of this section,
5 "TI" means terminally ill and "LTCF" means long-term
6 care facility. A prescription that is partially
7 filled and does not contain the notation "TI" or "LTCF
8 patient" shall be deemed to have been filled in
9 violation of this section. For each partial filling,
10 the dispensing pharmacist shall record on the back of
11 the prescription (or on another appropriate record,
12 uniformly maintained, and readily retrievable) the
13 date of the partial filling, quantity dispensed,
14 remaining quantity authorized to be dispensed, and the
15 identification of the dispensing pharmacist. The
16 total quantity of schedule II controlled substances
17 dispensed in all partial fillings [~~must~~] shall not
18 exceed the total quantity prescribed, nor shall a
19 prescription be partially filled more than three times
20 after the initial date of the prescription. Schedule
21 II controlled substance prescriptions for patients in
22 a long-term care facility or patients with a medical



1 diagnosis documenting a terminal illness shall be
2 valid for a period not to exceed thirty days from the
3 issue date unless sooner terminated by the
4 discontinuance of medication.

5 ~~[(h)]~~ (j) A prescription for a schedule II controlled
6 substance may be transmitted by the practitioner or the
7 practitioner's agent to a pharmacy ~~[via]~~ by facsimile equipment;
8 provided that the original written, signed prescription is
9 presented to the pharmacist for review prior to the actual
10 dispensing of the controlled substance, except as noted in
11 subsection ~~[(i), (j), or (k)].~~ (k), (l), or (m). The original
12 prescription shall be maintained in accordance with section
13 329-36. A prescription for a schedule III, IV, or V controlled
14 substance may be transmitted by the practitioner or the
15 practitioner's agent to a pharmacy by facsimile; provided that:

16 (1) The information shall be communicated only between the
17 prescribing practitioner or the prescriber's
18 authorized agent and the pharmacy of the patient's
19 choice;

20 (2) The information shall be communicated in a
21 retrievable, recognizable format acceptable to the
22 intended recipient and shall include the physician's



1 oral code designation and the name of the recipient
2 pharmacy;

3 (3) No electronic system, software, or other intervening
4 mechanism or party shall alter the practitioner's
5 prescription, order entry, selection, or intended
6 selection without the practitioner's approval on a per
7 prescription per order basis. Facsimile prescription
8 information shall not be altered by any system,
9 software, or other intervening mechanism or party
10 prior to receipt by the intended pharmacy;

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

14 (5) Prescribing practitioners and pharmacists shall
15 exercise prudent and professional judgment regarding
16 the accuracy, validity, and authenticity of any
17 facsimile prescription information. The facsimile
18 shall serve as the original written prescription for
19 purposes of this section and shall be maintained in
20 accordance with section 329-36.

21 ~~(i)~~ (k) A prescription prepared in accordance with
22 ~~(e)~~ (g) written for a narcotic listed in schedule



1 II to be compounded for the direct administration to a patient
2 by parenteral, intravenous, intramuscular, subcutaneous, or
3 intraspinal infusion, but does not extend to the dispensing of
4 oral dosage units of controlled substances, may be transmitted
5 by the practitioner or the practitioner's agent to the pharmacy
6 by facsimile. The pharmacist shall note on the face of the
7 facsimile prescription in red ink "Home Infusion/IV" and this
8 facsimile shall serve as the original written prescription for
9 purposes of this section and it shall be maintained in
10 accordance with section 329-36.

11 ~~[(f)]~~ (l) A prescription prepared in accordance with
12 subsection ~~[(e)]~~ (g) written for a schedule II ~~[, III, IV, or V]~~
13 substance for a patient enrolled in a hospice care program
14 certified or paid for by medicare under Title XVIII or a hospice
15 program that is licensed by the State may be transmitted by the
16 practitioner or the practitioner's agent to the dispensing
17 pharmacy by facsimile. The practitioner or practitioner's agent
18 shall note on the prescription that the patient is a hospice
19 patient. The pharmacist shall note on the face of the facsimile
20 prescription in red ink "HOSPICE" and this facsimile shall serve
21 as the original written prescription for purposes of this



1 section and it shall be maintained in accordance with section
2 329-36.

3 ~~[(k)]~~ (m) A prescription prepared in accordance with
4 subsection ~~[(e)]~~ (g) written for a schedule II~~[, III, IV, or V]~~
5 controlled substance for a resident of a state-licensed long-
6 term care facility may be transmitted by the practitioner or the
7 practitioner's agent to the dispensing pharmacy by facsimile.
8 The pharmacist shall note on the face of the facsimile
9 prescription in red ink "LTCF" and this facsimile shall serve as
10 the original written prescription for purposes of this section
11 and it shall be maintained in accordance with section 329-36."

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

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

15 (1) Who is subject to part III to distribute, administer,
16 prescribe, or dispense a controlled substance in
17 violation of section 329-38; however, a licensed
18 manufacturer or wholesaler may sell or dispense a
19 controlled substance to a master of a transpacific
20 ship or a person in charge of a transpacific aircraft
21 upon which no physician is regularly employed, for the
22 actual medical needs of persons on board such ship or



1 aircraft when not in port; provided schedule I or II
2 controlled substances shall be sold to the master of
3 such ship or person in charge of such aircraft only in
4 accordance with the provisions set forth in 21 Code of
5 Federal Regulations, [~~sections~~] Sections 1301, 1305,
6 and 1307, adopted pursuant to Title 21, United States
7 Code, [~~section~~] Section 821;

8 (2) Who is a registrant to manufacture a controlled
9 substance not authorized by the registrant's
10 registration or to distribute or dispense a controlled
11 substance not authorized by the registrant's
12 registration to another registrant or another
13 authorized person;

14 (3) To refuse or fail to make available, keep, or furnish
15 any record, notification, order form, prescription,
16 statement, invoice, or information in patient charts
17 relating to the administration, dispensing, or
18 prescribing of controlled substances;

19 (4) To refuse any lawful entry into any premises for any
20 inspection authorized by this chapter;

21 (5) Knowingly to keep or maintain any store, shop,
22 warehouse, dwelling, building, vehicle, boat,



1 aircraft, or other structure or place for the purpose
2 of using these substances or which is used for keeping
3 or selling them in violation of this chapter or
4 chapter 712, part IV; or

5 (6) Who is a practitioner or pharmacist to dispense a
6 controlled substance to any individual not known to
7 the practitioner or pharmacist, without first
8 obtaining proper identification and documenting, by
9 signature on a log book kept by the practitioner or
10 pharmacist, the identity of and the type of
11 identification presented by the individual obtaining
12 the controlled substance. If the individual does not
13 have any form of proper identification, the pharmacist
14 shall verify the validity of the prescription and
15 identity of the patient with the prescriber, or their
16 authorized agent, before dispensing the controlled
17 substance. For the purpose of this section, "proper
18 identification" means government-issued identification
19 containing the photograph, printed name, and signature
20 of the individual obtaining the controlled substance."

21 SECTION 5. Section 329-42, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) It is unlawful for any person knowingly or
2 intentionally:

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

6 (2) To use in the course of the manufacture or
7 distribution of a controlled substance a registration
8 number that is fictitious, revoked, suspended, or
9 issued to another person;

10 (3) To obtain or attempt to obtain any controlled
11 substance or procure or attempt to procure the
12 administration of any controlled substance:

13 (A) By fraud, deceit, misrepresentation,
14 embezzlement, theft;

15 (B) By the forgery or alteration of a prescription or
16 of any written order;

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

19 (D) By the use of a false name, patient
20 identification number, or the giving of false
21 address;



- 1 (E) By the unauthorized use of a physician's oral
- 2 call-in number; or
- 3 (F) By the alteration of a prescription by the
- 4 addition of future refills;
- 5 (4) To furnish false or fraudulent material information
- 6 in, or omit any material information from, any
- 7 application, report, or other document required to be
- 8 kept or filed under this chapter, or any record
- 9 required to be kept by this chapter;
- 10 (5) To make, distribute, or possess any punch, die, plate,
- 11 stone, or other thing designed to print, imprint, or
- 12 reproduce the trademark, trade name, or other
- 13 identifying mark, imprint, or device of another or any
- 14 likeness of any of the foregoing upon any drug or
- 15 container or labeling thereof so as to render the drug
- 16 a counterfeit substance;
- 17 (6) To misapply or divert to the person's own use or other
- 18 unauthorized or illegal use or to take, make away
- 19 with, or secrete, with intent to misapply or divert to
- 20 the person's own use or other unauthorized or illegal
- 21 use, any controlled substance that shall have come
- 22 into the person's possession or under the person's

1 care as a registrant or as an employee of a registrant
2 who is authorized to possess controlled substances or
3 has access to controlled substances by virtue of the
4 person's employment; or

5 (7) To make, distribute, possess, or sell any prescription
6 form, whether blank, faxed, computer generated,
7 photocopied, or reproduced in any other manner without
8 the authorization of the licensed practitioner."

9 SECTION 6. Section 329-104, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) This section shall not prevent the disclosure, at the
12 discretion of the administrator, of investigative information
13 to:

14 (1) Law enforcement officers, investigative agents of
15 federal, state, or county law enforcement agencies,
16 prosecuting attorneys, or the attorney general;
17 provided that the administrator has reasonable grounds
18 to believe that the disclosure of any information
19 collected under this part is in furtherance of an
20 ongoing criminal investigation or prosecution;

21 (2) Registrants authorized under chapters 448, 453, 460,
22 and 463E who are registered to administer, prescribe,



1 or dispense controlled substances; provided that the
2 information disclosed relates only to the registrant's
3 own patient; [~~or~~]

4 (3) Pharmacists, employed by a pharmacy registered under
5 section 329-32, who request prescription information
6 about a customer relating to a violation or possible
7 violation of this chapter[~~-~~]; or

8 (4) Other state-authorized governmental prescription-
9 monitoring programs.

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

16 SECTION 7. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect upon its approval.



Report Title:

Controlled Substances

Description:

Clarifies requirements for emergency call-in Schedule II prescriptions, the use of facsimile and telephonic prescriptions, and the use of narcotics to treat addiction. Allows the use of central fill pharmacies and limited information sharing. Adds new definitions. (SD2)

