PROPOSED

HOUSE OF REPRESENTATIVES
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

H.B. NO. 2192 H.D. 2 S.D. 2

A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

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

SECTION 1. The purpose of this Act is to amend chapter 329, Hawaii Revised Statutes, by:

(1) Adding and amending definitions to section 329-1, Hawaii Revised Statutes, to be consistent with federal law;

(2) Defining "central fill pharmacy";

(3) Clarifying the circumstances under which narcotics may be used;

(4) Clarifying the requirements of a controlled substance prescription;

(5) Clarifying the conditions for the transmittal of prescriptions by facsimile equipment;

(6) Adding new violations of prohibited acts; and

(7) Allowing the sharing of controlled substances prescription information with other governmental agencies.

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

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

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

(1) Street address, city, and state;

(2) Tax map key number; or

(3) The description of a physical location.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) If the patient does not have a valid driver's license, state identification card, or military identification, the patient's social security number;

(4) If the patient is less than eighteen years of age and has none of the identification referred to in paragraph (1), (2), or (3), the unique number on the valid driver's license, state identification card, military identification, or passport of the patient's parent or guardian; or

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

"Practitioner" means:

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

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

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

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

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

SECTION 3. Section 329-38, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

or

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

(A) The date of dispensing;

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

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

(D) The name of the patient;

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

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

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

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

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

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

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

(b) A schedule II controlled substance prescription shall:

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

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

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

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

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

(B) Record on the reverse of the invalidated prescription the name, address, and DEA registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information; and

(C) Record the date of the transfer and the name of the pharmacist transferring the information;

(2) The pharmacist receiving the transferred prescription information shall:

(A) Write or otherwise place the word "transfer" on the face of the transferred prescription;

(B) Record all information required to be on a prescription, including:

(i) The date of issuance of original prescription;

(ii) The original number of refills authorized on original prescription;

(iii) The date of original dispensing;

(iv) The number of valid refills remaining and date of last refill;

(v) The pharmacy's name, address, DEA registration number, and original

prescription number from which the prescription information was transferred; and

(vi) The name of transferor pharmacist;

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

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

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

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

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

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

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

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

and

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

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

number of the pharmacy transmitting the prescription;

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

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

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

(1) The date of dispensing;

(2) The name, strength, and quantity issued of the drug;

(3) The dispensing practitioner's name and business address;

(4) The name of the patient;

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

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

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

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

(6) Directions for use; and

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

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

[~~(d)~~] (f) 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 "detoxification treatment" or "maintenance treatment"[~~. Nothing in this section shall prohibit a physician or authorized hospital staff from administering or dispensing 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; and~~] 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 "detoxification treatment" 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;

(4) An individual practitioner [~~may~~] 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) A pharmacist shall not dispense a substance included in schedule II, III, IV, or V for the pharmacist's personal use.

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

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

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

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

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

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

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

permitted, prescriptions shall be written with ink or indelible pencil or [~~by typewriter and~~] typed, shall be manually signed by the practitioner[~~.~~], and shall include the name, address, telephone number, and registration number of the practitioner. The prescriptions may be prepared by a secretary or agent for the signature of the practitioner, but the prescribing practitioner shall be responsible in case the prescription does not conform in all essential respects to this chapter and any rules adopted pursuant to this chapter. A corresponding liability shall rest upon a pharmacist who fills a prescription not prepared in the form prescribed by this section[~~.~~]. A pharmacist may add a patient's missing address or change a patient's address on all controlled substance prescriptions after verifying the patient's identification and noting the identification number on the back of the prescription. The pharmacist shall not make changes to the patient's name, the controlled substance being prescribed, the quantity of the prescription, the practitioner's DEA number, or the practitioner's signature;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The partial filling of a prescription for a controlled substance listed in schedule II is permissible if the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription and the pharmacist makes a notation of the quantity supplied on the face of the written prescription (or written record of the emergency oral prescription). The remaining portion of the prescription may be filled within seventy-two hours of the first partial filling; provided that if the remaining portion is not or cannot be filled within the seventy-two-hour period, the pharmacist shall notify the prescribing individual practitioner. No further quantity shall be supplied beyond seventy-two hours without a new prescription;

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

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

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

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

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

and

(3) A prescription for a schedule II controlled substance written for a patient in a long-term care facility or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist [~~must~~] shall contact the practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance

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

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

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

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

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

oral code designation and the name of the recipient pharmacy;

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

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

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

[~~(i)~~] (k) A prescription prepared in accordance with subsection [~~(c)~~] (g) written for a narcotic listed in schedule

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

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

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

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

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

"(a) It is unlawful for any person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) By the alteration of a prescription by the addition of future refills;

(4) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter;

(5) To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance;

(6) To misapply or divert to the person's own use or other unauthorized or illegal use or to take, make away with, or secrete, with intent to misapply or divert to the person's own use or other unauthorized or illegal use, any controlled substance that shall have come into the person's possession or under the person's

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

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

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

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

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

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

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

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

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

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

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

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

PROPOSED

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)