
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. According to the American College of
2 Physicians, internal medicine section, most pain from disease
3 and chronic conditions can be controlled or even eliminated.
4 For example, even advanced pain can be controlled in 90 to 99
5 per cent of cases. In nine out of ten cases, physicians can
6 control pain by using pills alone without having to use
7 injections, operations, or other methods. In those few cases in
8 which pain from disease and chronic conditions cannot be
9 eliminated completely, it can be reduced so that the person can
10 live with the pain from day-to-day and still accomplish
11 activities that are important to the person. The American
12 College of Physicians further states that:

13 (1) The person with advanced pain from disease and chronic
14 conditions has a right to effective pain control;

15 (2) Part of the job of a caregiver is to ensure effective
16 pain control;



1 (3) Pain control takes time to achieve, so persistence is
2 vital;

3 (4) Only the person with pain knows what the pain is like;
4 and

5 (5) Never assume that pain means the underlying medical
6 condition is spreading.

7 Furthermore, a pain initiative in Texas states that, while
8 alternatives to drug treatment such as biofeedback, hypnosis,
9 and acupuncture can be effective for some types of pain:

10 (1) Most pain patients will also require narcotics;

11 (2) Addiction is extremely rare when narcotics are used to
12 treat pain from disease and chronic conditions; and

13 (3) Virtually all pain from disease and chronic conditions
14 can be relieved.

15 A 1999 national pain survey revealed that 50,000,000
16 Americans suffer from chronic pain as a result of chronic
17 disease, disorder, or accident. It was estimated that another
18 25,000,000 people live with acute pain from accidents or
19 surgery. Pain is a silent epidemic that affects the lives of
20 individuals and their families. According to the American
21 Academy of Pain Management, effective pain and symptom



1 management is an ethical obligation for all health care
2 providers and organizations.

3 The 2000 publication, *Pain in America: A Research Report*,
4 showed that, although 80 per cent of Americans feel that pain is
5 a natural part of aging, only 64 per cent would seek medical
6 treatment for intolerable pain. The report also found that 60
7 per cent of Americans believe that pain is "just something you
8 have to live with." The perception of 28 per cent of the
9 population is that there is no effective treatment for pain. It
10 is thus important for individuals, their families, and their
11 caregivers to know that there are many effective treatment
12 options for the management of pain and that people do not have
13 to suffer from chronic, debilitating, intolerable pain.

14 The legislature finds that Hawaii law should permit pain
15 patients to be prescribed appropriate narcotic pain medication.
16 The legislature further finds that pain patients deserve
17 appropriate medical care that relieves the debilitating and
18 intolerable discomforts of pain as much as possible, so that
19 they can lead normal lives to the greatest extent possible and
20 so that their caregivers can be relieved of stress and anxiety
21 in witnessing the ravaging effects of pain on the quality of
22 life of the pain patient in their care.



1 The purpose of this Act is to clarify a pain patient's
2 right to be prescribed controlled substances to relieve pain.

3 SECTION 2. Section 327H-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§~~327H-2~~§~~ **Bill of rights.** (a) The pain patient's
6 bill of rights includes the following:

- 7 (1) A patient who suffers from severe acute pain or severe
8 chronic pain has the option to request or reject the
9 use of any or all modalities to relieve the pain;
- 10 (2) A patient who suffers from severe acute pain or severe
11 chronic pain has the option to choose from appropriate
12 pharmacologic treatment options to relieve severe
13 acute pain or severe chronic pain, including opiate
14 medications, without first having to submit to an
15 invasive medical procedure.

16 For purposes of this paragraph, "invasive medical
17 procedure" means surgery, destruction of a nerve or
18 other body tissue by manipulation, or the implantation
19 of a drug delivery system or device;

- 20 (3) A patient's physician may refuse to prescribe opiate
21 medication for a patient who requests a treatment for
22 severe acute pain or severe chronic pain. However,



1 that physician may inform the patient of physicians
2 who are qualified to treat severe acute pain and
3 severe chronic pain employing methods that include the
4 use of opiates;

5 (4) A physician who uses opiate therapy to relieve severe
6 acute pain or severe chronic pain may prescribe a
7 dosage deemed medically necessary to relieve the pain;

8 (5) A patient may voluntarily request that the patient's
9 physician provide an identifying notice of the
10 prescription for purposes of emergency treatment or
11 law enforcement identification; and

12 (6) With regard to pain patients, the application of this
13 section shall be guided by the medical principle that
14 physical tolerance and dependence are normal
15 consequences of sustained use of opiate medication,
16 distinguishable from psychological dependency or
17 addiction that bears no relationship to pain
18 experienced by a patient. For the purposes of this
19 section, psychological dependency shall be
20 characterized by a patient's compulsion to take a drug
21 notwithstanding the fact that the patient knows the
22 harmful and destructive effect of the drug on the



1 patient. The distinction is one of treatment of pain
 2 as opposed to feeding a psychological need. A patient
 3 who suffers severe acute pain or severe chronic pain
 4 secondary to a diagnosis in any form of disease and
 5 chronic conditions may be entitled to receive a
 6 prescription of opiate medication for the treatment of
 7 the pain, if requested by that patient; provided that:

8 (A) The particular opiate is appropriate to the
 9 treatment of that pain; and

10 (B) The patient is not addicted to the opiate. For
 11 the purposes of this subparagraph, the term
 12 "addicted" refers to a psychological dependence,
 13 rather than a progressive physical tolerance for
 14 the opiate to relieve the pain; provided that the
 15 term does not include a narcotic-dependent person
 16 as defined in section 329-40.

17 ~~(+6)~~ (b) Nothing in this section shall be construed to:

18 ~~(+A)~~ (1) Expand the authorized scope of practice of
 19 any licensed physician;

20 ~~(+B)~~ (2) Limit any reporting or disciplinary
 21 provisions applicable to licensed physicians and
 22 surgeons who violate prescribing practices; and

1 ~~[(C)]~~ (3) Prohibit the discipline or prosecution of a
2 licensed physician for:

3 ~~[(i)]~~ (A) Failing to maintain complete, accurate,
4 and current records that document the
5 physical examination and medical history of
6 a patient, the basis for the clinical
7 diagnosis of a patient, and the treatment
8 plan for a patient;

9 ~~[(ii)]~~ (B) Writing false or fictitious
10 prescriptions for controlled substances
11 scheduled in the Federal Comprehensive Drug
12 Abuse Prevention and Control Act of 1970, 21
13 ~~[U.S.C.]~~ United States Code 801 et seq. or
14 in chapter 329;

15 ~~[(iii)]~~ (C) Prescribing, administering, or
16 dispensing pharmaceuticals in violation of
17 the provisions of the Federal Comprehensive
18 Drug Abuse Prevention and Control Act of
19 1970, 21 ~~[U.S.C.]~~ United States Code 801 et
20 seq. or of chapter 329;



1 [~~(iv)~~] (D) Diverting medications prescribed for a
2 patient to the licensed physician's own
3 personal use; and

4 [~~(v)~~] (E) Causing, or assisting in causing, the
5 suicide, euthanasia, or mercy killing of any
6 individual; provided that it is not
7 "causing, or assisting in causing, the
8 suicide, euthanasia, or mercy killing of any
9 individual" to prescribe, dispense, or
10 administer medical treatment for the purpose
11 of treating severe acute pain or severe
12 chronic pain, even if the medical treatment
13 may increase the risk of death, so long as
14 the medical treatment is not also furnished
15 for the purpose of causing, or the purpose
16 of assisting in causing, death for any
17 reason."

18 SECTION 3. Section 329-38, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) A schedule II controlled substance prescription
21 shall:



- 1 (1) Be filled within [~~three~~] seven days following the date
2 the prescription was issued to the patient; and
3 (2) Be supplied to a patient only if the prescription has
4 been filled and held by the pharmacy for not more than
5 seven days."

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2020.



Report Title:

Controlled Substances; Pain Patient's Bill of Rights

Description:

Amends the Patient's Bill of Rights to clarify a pain patient's right to be prescribed controlled substances to relieve pain. Extends the time limit in which prescriptions for schedule II controlled substances must be filled. (SB2157 HD2)

