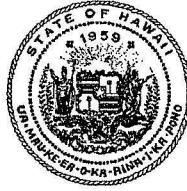


LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
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Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 2776
A BILL FOR AN ACT RELATING TO
CONTROLLED SUBSTANCES
Clayton A. Frank, Director
Department of Public Safety

House Committee on Health
Representative Josh Green, Chair
Representative John Mizuno, Vice Chair

Monday, February 4, 2008, 9:30 a.m.
State Capitol, Room 329

Representative Green and Members of the Committee:

The Department of Public Safety strongly supports House Bill 2776 that if passed, would provide the division with the tools necessary to help prevent the improper prescribing of pharmaceutical controlled substances in the State.

Section 1 of House Bill 2776 would allow the department to use an additional method to administratively correct minor infractions committed at pharmacies or by physicians. Section 1 of this bill would also afford the division the ability to work with the violator and prescribe the necessary action to correct the violation as well as specify a procedure for a registrant to contest the violation.

On Page 2 lines 17 through 19 the Department is requesting that the proposed definition of "Bona fide practitioner-patient relationship" be amended to reflect the definition adopted by the Hawaii Board of Medical Examiners.

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""Designated member of the physician's health care team" means a person authorized by the physician who is also authorized by State law to prescribe prescription drugs, shall include physician assistants, advanced practice registered nurses with prescriptive authority, and a covering physician."

This new definition would set minimum guidelines such as taking a medical history from the patient, listening to the patient's complaint and a requirement that the practitioner or a designated member of his health care team examine the patient prior to administering, prescribing or dispensing a controlled substance.

Section 3 and 4 of House Bill 2776 would better clarify the requirements for an oral prescription issued to a pharmacy and the record keeping requirements for all controlled substance prescriptions.

The Department would request that no amendment be made to page 9, line 8, and that it be returned to the original statutory language to read as follows "pharmacy by facsimile; provided that:"

Section 4 of House Bill 2776 would clarify that it is a violation of State law to pre-sign blank prescriptions to facilitate the fraudulent obtaining of controlled substances and adds a penalty for a practitioner who administers, prescribes or dispenses a controlled substance without a medical reason determined after a good faith prior examination of the patient. This new violation is necessary to deter and address the violation of a practitioner who is acting as a drug dealer and administering, prescribing or dispensing controlled substances over the internet or without a medical reason as determined after a physical or psychological examination by the practitioner or his health care team. Across the nation, law enforcement is attempting to deal

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with another type of drug dealer: the unscrupulous practitioner who conducts internet, telephonic, mail or just does not conduct any type of examination with the patient prior to prescribing large amounts of controlled substances, many of which end up sold on the street.

The Department is requesting that on page 15, lines 12 through 17 be amended to read as follow:

"[(b)] (c) Any person who violates this section is guilty of a class C felony."

The Department feels that by adding the enhanced penalty utilizing Section 712 part IV it may make prosecution of this offence more difficult. The Department is therefore requesting that it be left a Class C Felony to be consistent with other penalties designated in this chapter.

Section 5 of House Bill 2776 proposes to add the offence knowingly or intentionally administering or prescribing a controlled substance with a fictitious, revoked, suspended or expired or certificate issued to another person. This new violation is necessary to address an individual that knowingly or intentionally utilizes a controlled substance certificate of another practitioner.

Section 6 of House Bill 2776 amends section 329-52 relating to Administrative Inspections and Warrants of controlled substance registrants. The new language being proposed is similar to that used by State Food and Drug inspectors and would better allow the department to safeguard the public. Section 6 also deletes the language relating to administrative inspection warrants due to the fact that the department utilizes search warrants for the seizure of records and property and has not utilized administrative inspection warrants for well over fifteen years.

In summary the Department of Public Safety strongly supports passage of House Bill 2776. Thank you for the opportunity to testify on this matter.

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Testimony of
Phyllis Dendle
Director of Government Affairs

Before:
House Committee on Health
The Honorable Josh Green M.D., Chair
The Honorable John Mizuno, Vice Chair

Monday, February 4, 2007
9:30 am
Conference Room 329

HB 2776 RELATING TO CONTROLLED SUBSTANCES

Chair Green and committee members, thank you for this opportunity to provide testimony on HB 2776 making amendments to Chapter 329 regarding the dispensing of pharmaceuticals.

Kaiser Permanente supports this bill.

The amendments in this bill are the product of the cooperative effort of pharmacists who work in both health care and commercial settings and state agencies involved in regulating the dispensing of pharmaceuticals and the actions of pharmacists. They affect several sections of 329 HRS.

The amendments clarify what is a physician-patient relationship and how an oral or fax prescription is documented. The bill also describes required behavior of practitioners who prescribe by prohibiting predated or presigned prescriptions and requiring a physician-patient relationship for prescribing controlled substances. It also amends the section of the law describing how the narcotics enforcement division conducts inspections of pharmacies and what the penalties are for violating this chapter.

These amendments provide better protection for Hawaii residents while supporting the efficiency of pharmacies and the work of the narcotics enforcement division,

We urge you to pass this bill and thank you for your consideration.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:

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February 2, 2008

TO: Representative Josh Green
Chair, Committee on Health
Hawaii State Capitol, Room 327
Via Email: HLTtestimony@Capitol.hawaii.gov

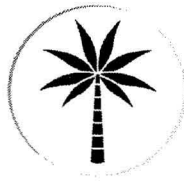
FROM: Christopher G. Pablo, Esq.

RE: H.B. No. 2776 – Relating to Controlled Substances
Hearing Date: Monday, February 4, 2008 at 9:30 a.m.

Dear Chair Green and Members of the Committee on Health:

I am Christopher Pablo testifying on behalf of Walgreen Company (“Walgreens”), a Deerfield, Illinois based corporation operating more than 6,000 stores in 49 states and Puerto Rico.

Our client, Walgreens, has an interest in HB 2776, but has not had an opportunity to review the proposed legislation. We will offer our comments once we have had an opportunity to hear their views.



H A W A I I
P H A R M A C I S T S
A S S O C I A T I O N

Testimony of:
Jerry Smead, RPh
Chair, Government Affairs Committee
Hawaii Pharmacists Association

Before:
Committee on Health
The Honorable Josh Green, MD, Chair
The Honorable John Mizuno, Vice-Chair

February 4, 2008
Conference Room 329
State Capitol

RE: HB 2776 Relating to Controlled Substances

Thank you for this opportunity to provide testimony on HB2776, that prohibits pre-signed and pre-dated prescriptions and clarifies how the Narcotics Enforcement Division administrator shall conduct inspections at pharmacies.

The Hawaii Pharmacists Association (HPhA) supports HB 2776. HPhA collaborated with the Narcotics Enforcement Division, the Board of Pharmacy and various pharmacists, pharmacies and pharmacy organizations to prepare a draft of this bill, prior to the last legislative session. This bill eases the pharmacy labor burden associated with oral prescriptions, and places further controls in the prescribing of controlled substances thus preventing controlled substances diversion and fraudulent controlled substances prescriptions. HPhA also supports NED inspections of pharmacies to ensure compliance to rules and regulations.

The Hawaii Pharmacists Association requests your support of this bill and encourage its passage through this committee and this Legislative Session.

Thank you for your consideration.