THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

S.B. NO. 967 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. Section 329-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, including the following:

(A) Raw opium;

(B) Opium extracts;

(C) Opium fluid;

(D) Powdered opium;

(E) Granulated opium;

(F) Codeine;

(G) Ethylmorphine;

(H) Etorphine hydrochloride;

(I) Hydrocodone;

(J) Hydromorphone;

(K) Metopon;

(L) Morphine;

(M) Oxycodone;

(N) Oxymorphone; [~~and~~]

(O) Thebaine;

(P) Dihydroetorphine;

(Q) Oripavine; and

(R) Tincture of opium.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances,

but not including decocanized coca leaves or extractions which do not contain cocaine or ecgonine; cocaine or any salt or isomer thereof; and

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form that contains the phenanthrene alkaloids of the opium poppy)."

SECTION 2. Section 329-16, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Stimulants. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a danger or probable danger associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

(3) Phenmetrazine and its salts; [~~and~~]

(4) Methylphenidate[~~.~~]; and

(5) Lisdexamfetamine, its salts, isomers, and salts of its isomers."

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

"(g) Any anabolic steroid. The term "anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

(1) Boldenone;

(2) Clostebol (4-Chlorotestosterone);

(3) Dehydrochlormethyltestosterone;

(4) Dihydrotestosterone (4-dihydrotestosterone);

(5) Drostanolone;

(6) Ethylestrenol;

(7) Fluoxymesterone;

(8) Formebolone (Formyldienolone);

(9) Mesterolone;

(10) Methandranone;

(11) Methandriol;

(12) Methandrostenolone (Methandienone);

(13) Methenolone;

(14) Methyltestosterone;

(15) Mibolerone;

(16) Nandrolone;

(17) Norethandrolone;

(18) Oxandrolone;

(19) Oxymesterone;

(20) Oxymetholone;

(21) Stanolone (Dihydrotestosterone);

(22) Stanozolol;

(23) Testolactone;

(24) Testosterone;

(25) Trenbolone; [~~and~~]

(26) 3[beta], 17-dihydroxy-5a-androstane;

(27) 3[alpha], 17[beta]-dihydroxy-5a-androstane;

(28) 5[alpha]-androstan-3, 17-dione;

(29) 1-androstenediol (3[beta], 17[beta]-dihydroxy-5[alpha]-androst-1-ene);

(30) 1-androstenediol (3[alpha], 17[beta]-dihydroxy-5[alpha]-androst-1-ene);

(31) 4-androstenediol (3[beta], 17[beta]-dihydroxy-androst-4-ene);

(32) 5-androstenediol (3[beta], 17[beta]-dihydroxy-androst-5-ene);

(33) 1-androstenedione ([5[alpha]]-androst-1-en-3, 17-dione);

(34) 4-androstenedione (androst-4-en-3, 17-dione);

(35) 5-androstenedione (androst-5-en-3, 17-dione);

(36) Bolasterone (7[alpha], 17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);

(37) Calusterone (7[beta], 17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);

(38) [Delta]1-dihydrotestosterone (a.k.a. '1-testosterone') (17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);

(39) Furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]-furazan);

(40) 13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one;

(41) 4-hydroxytestosterone (4,17[beta]-dihydroxy-androst-4-en-3-one);

(42) 4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxy-estr-4-en-3-one);

(43) Mesterolone (1[alpha]methyl-17[beta]-hydroxy-[5[alpha]]-androstan-3-one);

(44) Methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-dien-3-one);

(45) Methandriol (17[alpha]-methyl-3[beta], 17[beta]-dihydroxyandrost-5-ene);

(46) Methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);

(47) 17[alpha]-methyl-3[beta], 17[beta]-dihydroxy-5a-androstane;

(48) 17[alpha]-methyl-3[alpha], 17[beta]-dihydroxy-5a-androstane;

(49) 17[alpha]-methyl-3[beta], 17[beta]-dihydroxyandrost-4-ene;

(50) 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one);

(51) Methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4, 9(10)-dien-3-one);

(52) Methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4, 9-11-trien-3-one);

(53) 17[alpha]-methyl-[Delta] 1-dihydrotestosterone (17b[beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one) (a.k.a. '17-[alpha]-methyl-1-testosterone');

(54) 19-nor-4-androstenediol (3[beta], 17[beta]-dihydroxyestr-4-ene);

(55) 19-nor-4-androstenediol (3[alpha], 17[beta]-dihydroxyestr-4-ene);

(56) 19-nor-5-androstenediol (3[beta], 17[beta]-dihydroxyestr-5-ene);

(57) 19-nor-5-androstenediol (3[alpha], 17[beta]-dihydroxyestr-5-ene);

(58) 19-nor-4-androstenedione (estr-4-en-3, 17-dione);

(59) 19-nor-5-androstenedione (estr-5-en-3, 17-dione;

(60) Norbolethone (13[beta], 17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one);

(61) Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one);

(62) Normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one);

(63) Stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-androst-1-en-3-one);

(64) Tetrahydrogestrinone (13[beta], 17[alpha]-diethyl-17[beta]-hydroxygon-4, 9, 11-trien-3-one); and

[~~(26)~~] (65) Any salt, ester, or isomer of a drug or substance described or listed in this subsection, if that salt, ester, or isomer promotes muscle growth, except the term "anabolic steroid" does not include an anabolic steroid

which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for nonhuman administration. If any person prescribes, dispenses, or distributes an anabolic steroid intended for administration to nonhuman species for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph."

SECTION 4. Section 329-33, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of public safety shall register an applicant to manufacture, dispense, prescribe, or distribute controlled substances included in sections 329-14, 329-16, 329-18, 329-20, and 329-22 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the department of public safety shall consider the following factors:

(1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable state and local law;

(3) Any convictions of the applicant under any federal and state laws relating to any controlled substance;

(4) Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

(5) Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

(6) Suspension [~~or~~], revocation, or surrender of the applicant's federal registration to manufacture, distribute, prescribe, or dispense controlled substances as authorized by federal law; and

(7) Any other factor relevant to and consistent with the public health and safety."

SECTION 5. Section 329-38, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(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:~~] only. However, pharmacies electronically sharing a real-time,

online database may transfer up to the maximum refills permitted by law and the prescriber's authorization. Transfers are 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[÷] reduce to writing the following:

(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;~~] dates and locations of previous refills;

(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; and

(vii) The pharmacy's name, address, and Drug Enforcement Administration registration number, along with the prescription number from which the prescription was originally filled.

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

[~~(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)~~] (4) 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."

SECTION 6. 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 or rules authorized under section 329-31; 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 1301, 1305, and 1307, adopted pursuant to Title 21, United States Code, 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;

(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~~] in a log book the full name, identification number, identification type, and signature of 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,

identification number, and signature of the individual obtaining the controlled substance;

(7) Who is a practitioner to predate or pre-sign prescriptions to facilitate the obtaining or attempted obtaining of controlled substances; or

(8) Who is a practitioner to facilitate the issuance or distribution of a written prescription or to issue an oral prescription for a controlled substance when not physically in the State."

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

SECTION 8. This Act shall take effect upon July 1, 2050.

Report Title:
Controlled Substances

Description:
Makes Hawaii's controlled substance laws consistent with that of federal law and clarifies sections of chapter 329 relating to controlled substances. Effective 7/1/2050. (SD2)