

**LINDA LINGLE**  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**CLAYTON A. FRANK**  
DIRECTOR

**DAVID F. FESTERLING**  
Deputy Director  
Administration

**TOMMY JOHNSON**  
Deputy Director  
Corrections

**JAMES L. PROPOTNICK**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

**TESTIMONY ON SENATE BILL 585 SD2 HD1  
A BILL FOR AN ACT RELATING TO  
RELATING TO REMOTE DISPENSING PHARMACIES  
Clayton A. Frank, Director  
Department of Public Safety**

Committee on Consumer Protection & Commerce  
Representative Robert N. Herkes, Chair  
Representative Glenn Wakai, Vice Chair

Monday, March 23, 2009, 2:15 pm  
State Capitol, Room 325

Representative Herkes and Members of the Committee:

The Department of Public Safety supports Senate Bill 585 SD1 HD1 relating to remote dispensing pharmacies that has the ability to provide medications to patients on islands without a pharmacy and in rural areas regardless of the type of medical insurance that they have. The Department over the past year has worked with different agencies, pharmacies and practitioners in an attempt to solve the problem of providing pharmaceutical medications to include controlled substances to patients on the island of Lanai, but due to statutory limitations was unable to solve this problem. The Department feels that Senate Bill 585 SD2 HD1 has the necessary provisions and safeguards to provide these medications to patients on islands without a pharmacy and in rural areas.

Senate Bill 585 SD2 HD1 would also allow this technology to be utilized in a facility operated by a health maintenance organization regulated pursuant to chapter 432D for the exclusive use of patients serviced at their facilities. The Department feels that by allowing these remote dispensing machines to be utilized in these health maintenance facilities will allow the Department to better assess the successes as well as possible problems before this technology is expanded.

For these reasons the Department supports the passage of Senate Bill SD2 HD1.

Thank you for the opportunity to testify on this matter.

**PRESENTATION OF THE  
BOARD OF PHARMACY**

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND  
COMMERCE

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Monday, March 23, 2009  
2:15 p.m.

**TESTIMONY ON SENATE BILL NO. 585, S.D. 2, H.D. 1, RELATING TO  
REMOTE DISPENSING.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Dr. Elwin Goo, Chair of the Board of Pharmacy ("Board"). I appreciate the opportunity to present testimony on behalf of the Board. The Board supports Senate Bill No. 585, S.D. 2, H.D. 1 that would allow: 1) The utilization of a remote dispensing pharmacy on an island that does not have a permitted pharmacy or in remote areas where there are no pharmacies within a five mile radius of an existing pharmacy; 2) Allow a remote dispensing pharmacy located on an island that does not have a permitted pharmacy or a remote area where there are no pharmacies within a five mile radius to continue to operate in the same location if a pharmacy is subsequently established on the same island or not within a five mile radius of an existing pharmacy; 3) Allow the remote dispensing pharmacy on an island without a pharmacy or in a remote area where there are no pharmacies within a five mile radius to dispense drugs to patients with any health insurance coverage; 4) Allow the dispensing of controlled substances from a remote dispensing pharmacy; and 5) Allow a remote

Testimony on Senate Bill No. 585, S.D. 2, H.D. 1  
March 23, 2009  
Page 2

dispensing pharmacy to be established at facilities operated by a health maintenance organization regulated pursuant to chapter 432D, Hawaii Revised Statutes ("HRS").

The Board however, defers to the Department of Public Safety, Narcotics Enforcement Division, on the dispensing of controlled substances from a remote dispensing pharmacy as they are the appropriate state agency that has the authority over Chapter 329, HRS, the Uniform Controlled Substances Act.

The Board supports the practice of remote dispensing and believes it is technology that should be available throughout the State so all residents of this State can be afforded improved access to prescription medications and pharmacy services to meet their healthcare needs.

Thank you for the opportunity to provide comments on Senate Bill No. 585, S.D. 2, H.D. 1.



# HMSA



Blue Cross  
Blue Shield  
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

March 23, 2009

The Honorable Robert Herkes, Chair  
The Honorable Glenn Wakai, Vice Chair

**Re: SB 585 SD2 HD1 – Relating to Remote Dispensing**

Dear Chair Herkes, Vice Chair Wakai and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of SB 585 SD2 HD1.

This measure would expand the ability of individuals in remote areas to gain access to their prescription medications in their own community. Through the use of state-of-the-art telecommunications technology, pharmacists are able to dispense medications to patients at a distance. Telepharmacy will help expand access to quality health care to primarily rural and medically underserved areas.

Thank you for the opportunity to testify today.

Sincerely,

Jennifer Diesman  
Assistant Vice President  
Government Relations

# **Straub**

888 South King Street • Honolulu, HI 96813

CLINIC & HOSPITAL

(808) 522-4000 • [straubhealth.org](http://straubhealth.org)

**Monday – March 23, 2009, Conference Room 325 – 2:15pm**

**The House Committee on Commerce & Consumer Protection**

To: Representative Robert N. Herkes - Chair  
Representative Glenn Wakai, Vice Chair

Copy: Representative Mele Carroll - Member

From: Shirley Samonte  
Manger, Clinical Operations  
Straub Lanai Family Health Center

**RE: Testimony in Support of SB 585 SD2 HD1  
Relating to Remote Dispensing Pharmacies  
With Proposed clarifying language**

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My name is Shirley Samonte, Manager of Clinical Operations for Straub Lanai Family Health Center. The Straub Lanai Family Health Center is an affiliate of Hawaii Pacific Health (HPH), which is the four-hospital system of Kapi'olani Medical Center for Women & Children, Kapi'olani Medical Center at Pali Momi, Straub Clinic & Hospital, and Wilcox Hospital/Kauai Medical Clinic.

Since December 1991, the Straub Lanai Family Health Center has been providing both primary and access to specialized care for the entire Lanai community. The services provided by the Center include the treatment of illness and injury for infants, children, adolescents and adults; periodic physical examinations and preventive health maintenance; Pre-marital and gynecological examinations; Minor surgical procedure; Well-baby and well-child services; and selected specialty consultations available in: cardiology, dermatology, obstetrics/gynecology, ophthalmology, orthopedics, pediatrics, physical therapy, and nephrology. The Straub Lanai Family Health Center provides care to more than 12,000 visits annually.

A common challenge faced by all healthcare providers is providing timely and quality healthcare to communities facing geographic barriers to access. Lanai is a community particularly affected by the inherent diseconomies involved with delivering healthcare to remote areas. With a population base of approximately 3,500 located on an island geography, ensuring that Lanai residents receive timely and adequate care has been the mission of the Straub Lanai Family Health Center.

Meeting the pharmaceutical needs of the Lanai community is no exception to these challenges. There are currently no pharmacies located on the island of Lanai. The Straub Lanai Family Health Center operates a *dispensary* – which means that it is only authorized to provide pharmaceuticals prescribed by Straub Lanai Family Health Center

physicians. Therefore, Lanai residents traveling to Oahu or any of the other neighbor islands with prescriptions ordered by non-Lanai Family Health Center physicians are unable to have their prescriptions filled on Lanai. In instances when non-Straub physicians visit the islands - (dentist, psychiatrist, podiatrist, etc.) to provide care to Lanai residents, their patients are also not able to receive their medications prescribed by these healthcare professionals. In these instances, Straub Lanai Family Health Center staff must assist patients with setting up pharmaceutical accounts with their insurance company's mail order pharmacy. As you can imagine, this creates unnecessary hardship and inconvenience for many Lanai residents. The Straub Lanai Family Health Center receives more than 1,000 of these types of requests every month.

One of the strategies to overcome the challenge of delivering pharmaceuticals to remote areas is to utilize existing technologies such as *remote dispensing*. Remote dispensing allows a licensed pharmacist from another location the ability to dispense pharmaceuticals prescribed by a physician at another location. Last year Act 212 was signed into law with the purpose to improve access to medications and pharmacy services by authorizing the operation of remote pharmaceutical drug dispensing machines in the state. While this bill was a helpful step to address providing pharmaceutical access to many remote populations – by limiting access to remote dispensing only to patients enrolled in Quest and Medicaid – the statute as currently written denies Lanai patients the right to participate since approximately 90% of all Lanai residents are **not** enrolled in either Quest or Medicaid.

SB 585 SD1 will allow Lanai residents, and residents of any other islands that do not have a pharmacy, to participate in Act 212. In order to assure these aims are met we are proposing the following clarifying language on **Page 4/Line 20**:

**“(3) Patients with any type of insurance** residing on an island without a pharmacy or in remote areas where there are no pharmacies within a five mile radius of an existing pharmacy. A remote dispensing pharmacy established pursuant to this subsection may continue to operate in the same location if a pharmacy is subsequently established on the same island as the remote dispensing pharmacy or in the remote area that is not within a five mile radius of an existing pharmacy; provided that the remote dispensing pharmacy shall no longer be authorized to dispense controlled substances.”

Thank you for the opportunity to provide this testimony. We ask that you pass SB 585 SD2 HD1 from this committee.

Testimony of  
Phyllis Dendle  
Director of Government Relations

Before:  
House Committee on Consumer Protection and Commerce  
The Honorable Robert N. Herkes, Chair  
The Honorable Glenn Wakai, Vice Chair

March 23, 2009  
2:15 pm  
Conference Room 325

**SB 585 SD2 HD1 RELATING TO REMOTE DISPENSING PHARMACIES**

Chair Herkes and committee members, thank you for this opportunity to provide testimony on this bill which would provide greater access to medications and pharmacy services through remote dispensing.

**Kaiser Permanente Hawaii strongly supports this bill.**

We support remote dispensing because we think we will see improved compliance with drug therapy if patients have immediate access to their prescriptions. This secure technology will offer access to medication when a pharmacy is unavailable on island or is not open. It will be particularly helpful for our members on Lanai where there is no pharmacy. Currently many have to travel to Maui to get their prescriptions filled.

With a nationwide shortage of pharmacists it is not just geographically isolated locations that would not have a pharmacist or a pharmacy available. Sometimes it is time rather than location that makes it difficult for patients to get their prescriptions.

For example, increasingly Kaiser Permanente Hawaii is expanding the access to care for patients by extending the hours that clinics are open. In our smaller, more rural clinics such as those in Kahuku, Waimea, and Kapolei, we do not have a pharmacy located at the clinic. As a convenience for our members we have arranged for them to get their medication from local pharmacies. These pharmacies are not open the same hours as the clinic. However, we always have pharmacist at the hospital who could supervise the remote dispensing in these clinics.

With that in mind we especially support the amendments which permit health maintenance organizations regulated under chapter 432D HRS to have remote dispensing in our facilities. This would be used exclusively for our patients getting treatment at our facilities.

We believe this will permit better service and access for KP members that we hope will translate into better medication compliance by patients and ultimately to their improved health.

Thank you for your consideration.



March 21, 2009

Representative Robert N. Herkes  
Chair, House Committee on Consumer Protection & Commerce

**Re: S.B. 585, S.D.2, H.D.1 – Relating to Remote Dispensing**

**Hearing: Monday, March 23, 2009 at 2:15 p.m., Room 325**

Dear Chair Herkes and Members of the Committee on Consumer Protection & Commerce:

I am Mihoko Ito, an attorney with Goodsill Anderson Quinn & Stifel, testifying on behalf of Walgreen Co. (“Walgreens”). Walgreens operates more than 6,600 locations in 49 states, the District of Columbia and Puerto Rico. Walgreens also operates 217 Take Care Health Clinics in 15 states within select Walgreens stores, employing Advance Practice Nurses and Physician Assistants.

Walgreens **supports the intent of S.B. 585, S.D.2, H.D.1**, which authorizes remote dispensing pharmacies to provide medications to patients with health insurance coverage and allows remote dispensing pharmacies to dispense controlled substances. The bill also authorizes remote dispensing pharmacies at Chapter 432D health maintenance organizations for its members, without distance or insurance coverage restrictions.

Walgreens supports the intent of S.B. 585, S.D.2, H.D.1 because it expands access to medications for those living on the remote outer islands, and allows those with health insurance to utilize this technology. However, Walgreens believes that the allowance of remote dispensing without geographical and socioeconomic restrictions on these islands should also be expanded to apply to all islands. Under the present law, Hawai‘i Revised Statutes (“HRS”) § 461-10.5, remote dispensing pharmacies are not permitted within a five mile radius of another pharmacy, with certain exceptions, and can only provide medications to patients covered by QUEST medical coverage.

Walgreens believes that geographical and socioeconomic restrictions for remote dispensing systems hinder access to prescription drugs for Hawai‘i residents, and do nothing to ensure patient safety. HRS § 461-10.5 already contains patient safety provisions so that users will receive access to prescription drugs via a method that is safe and secure, in consultation with a pharmacist. Accordingly, Walgreens respectfully requests that the geographic and socioeconomic restrictions in HRS § 461-10.5 be removed to allow not only remote outer island residents, but all Hawai‘i residents the ability to obtain their prescription drugs in a safe, efficient and convenient manner.

Thank you very much for the opportunity to testify.

*Walgreen Co. Government and Community Relations 104 Wilmot Road, MS 1444 Deerfield, IL 60015  
847-315-4653 FAX 847-315-4417 [www.walgreens.com](http://www.walgreens.com)*

## LĀNA`I WOMEN'S CENTER DBA LĀNA`I COMMUNITY HEALTH CENTER

P. O. Box 630142  
Lāna`i City, HI 96763-0142



Phone: 808-565-9196  
Fax: 808-565-6229  
E-mail: dshaw@wave.hicv.net

Monday, March 23, 2009  
Conference Room 325  
2:15 p.m.

### The House Committee on Consumer Protection & Commerce

To: The Honorable Representative Robert N. Herkes, Chair and  
The Honorable Representative Glenn Wakai, Vice Chair

From: Diana V. Shaw, PhD, MPH, MBA, FACMPE  
Executive Director

RE: Testimony in Strong Support of SB 585, SD 2, HD 1  
Relating to Remote Dispensing

LĀNA`I WOMEN'S CENTER DBA LĀNA`I COMMUNITY HEALTH CENTER (LCHC) strongly urges the passing of HB 655. A common challenge faced by all healthcare providers is providing timely and quality healthcare to communities facing geographic barriers to access. Lāna`i is a community particularly affected by its remoteness and is an underserved population. There are no pharmacies on island. While we have the ability to dispense medicines to our patients, Lāna`i residents traveling to Oahu or any of the other neighbor islands with prescriptions ordered by non-LCHC providers are unable to have their prescriptions filled on Lāna`i. In instances when non-LCHC providers visit the islands - (dentist, psychiatrist, podiatrist, etc.) to provide care to Lāna`i residents, their patients are also not able to receive their medications prescribed by these healthcare professionals. In these instances, LCHC staff assist patients with setting up pharmaceutical accounts with their insurance company's mail order pharmacy. As you can imagine, this creates unnecessary hardship and inconvenience for many Lāna`i residents.

LCHC is working with a neighbor island pharmacy to install a remote dispensing pharmacy kiosk. Currently, this will allow a licensed pharmacist from another location the ability to dispense pharmaceuticals prescribed by a physician at another location – made possible by last year's Act 212 signed into law with the purpose to improve access to medications and pharmacy services by authorizing the operation of remote pharmaceutical drug dispensing machines in the state. As the law currently stands, the remote kiosk will be helpful in addressing the pharmaceutical needs patients enrolled in Quest and Medicaid – a help approximately 90% of all Lanai residents are not enrolled in either Quest or Medicaid! Additionally, the current law does not allow for the dispensing of narcotics.

HB 585, SD2 will allow Lāna`i residents, and residents of any other islands that do not have a pharmacy, to participate in Act 212. Thank you for the opportunity to provide this testimony. I strongly urge you to pass SB 585, SD2, HD1 from this committee.

*E Ola nō Lāna`i*

LIFE, HEALTH, and WELL-BEING FOR LĀNA`I



HAWAII ALLIANCE FOR RETIRED AMERICANS (HARA)  
AN AFFILIATE OF THE ALLIANCE FOR RETIRED AMERICANS  
C/O AFSCME, 888 MILILANI STREET, SUITE 101  
HONOLULU, HAWAII 96813

TO: House Committee on Consumer Protection and Commerce

March 21, 2009  
Fax 5866221

FROM: Bruce McCullough  
HARA Legislative Committee, Chair

FOR: Committee on CPC  
Rep. Robert N. Herkes, Chair  
Rep. Glenn Wakai, Vice Chair

RE: SB 585, SD 2, HD1 Relating to Remote Dispensing Pharmacies

DATE: Monday March 23, 2009

TIME: 2:15 PM

PLACE: RM. 325

I am submitting testimony on behalf of the Hawaii Alliance for Retired Americans (HARA). HARA represents over 21,000 retirees, members of numerous organizations and individuals. HARA is a chapter of the Alliance of Retired Americans (ARA), a national advocate for seniors and retirees with over three (3) million members.

HARA is in strong support of this proposed legislation.

This bill is very important for residents living in remote areas of our State that do not have pharmacies. For example, it is my understand that the island of Lanai has no pharmacy. Imagine the hardship this creates for these residents. A remote dispensing pharmacy would be wonderful for these consumers.



HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Robert N. Herkes, Chair

Rep. Glenn Wakai, Vice Chair

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Rep. Ken Ito	Rep. Clift Tsuji
Rep. Jon Riki	Rep. Barbara C. Marumoto
Karamatsu	Rep. Cynthia Thielen
Rep. Sylvia Luke	
Rep. Angus L.K. McKelvey	

DATE: Monday, March 23, 2009

TIME: 2:15 p.m.

PLACE: Conference Room 325  
State Capitol  
415 South Beretania Street

**SB 585, SD2, HD1  
RELATING TO REMOTE DISPENSING**

Good afternoon Chair Herkes and members of this committee:

I am Brian Carter and the owner of the Lihue Professional Pharmacy, LLC.

Since opening in 2007 we have requested a contract from Kaiser. I called Kaiser many times to initiate a contract because of our location here in the Kauai Medical Clinic adjacent to the Emergency room and Wilcox Memorial hospital. I informed Kaiser that their patients at the hospital being discharged as well as patients being released from the emergency room would have to pay cash for their medication or travel 1/4 mile to Wal-Mart to receive their medication. (Wal-Mart does not carry a large inventory of schedule 2 medication as we do. So, many times patients must travel further to Longs or end up returning back to Lihue Professional) I was told by Penny at Kaiser that, after an administrative review, there was no need for a contract at our pharmacy. Penny stated that Kaiser felt there was sufficient pharmacy coverage in our area. Not having a contract with Kaiser has caused repeated problems for patients released from

the hospital. When told by the pharmacy that they must pay sometimes hundreds of dollars or push their wheelchair or go by crutches to Wal-Mart patients are very upset. We have communicated this to Penny and Sheila at the Kaiser pharmacy helpdesk but they say that the contracting department has made the decision not to contract with us regardless of the inconvenience to it's members. The remote pharmacy is not necessary on the Island of Kauai.

**Aloha,**  
**Brian Carter RPh.**  
**Lihue Professional Pharmacy PIC**

HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Robert N. Herkes, Chair  
Rep. Glenn Wakai, Vice Chair

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DATE: Monday, March 23, 2009  
TIME: 2:15 p.m.  
PLACE: Conference Room 325  
State Capitol  
415 South Beretania Street

**SB 585, SD2, HD1  
RELATING TO REMOTE DISPENSING**

Good afternoon Chair Herkes and members of the Committee on Consumer Protection.

My Name is Les Krenk and I am a community pharmacist and own numerous pharmacies on the Island of Maui and am experience in owning and operating pharmacies.. **Along with 15 other independently owned community pharmacies across the state I am writing to urge this committee to accept our proposed bill to provide more time for community dialog.**

Initially SB585 was introduced to provide the ability to utilize remote dispensing on islands without a pharmacy such as Lanai. On initial examination this would seem a viable option for the provision of these services. We support the testimony of the Department of Public Services that if a Kiosk is put into operation, it must be closed down once a traditional pharmacy is in place. **Attached is a proposed draft which will include this language.**

SB585 was amended on the recommendation of Kaiser Foundation to allow for the operation of these remote dispensing kiosks without the restrictions wisely placed in the original bill from 2008.

This amended bill will allow for the dispensing of medications in any "facility" operated by an HMO to both their members and family members. Additionally the sunset provision has also been removed to allow this radical change in the practice of pharmacy law permanent status.

**Our organization has taken the liberty of proposing changes to the bill to the original intent of the law that the remote pharmacy shall disband if a licensed pharmacy opens on the Island or within a 5 mile radius. Please see changes in italics at Section 2, (d), (3) and Section 5.**

Please consider our proposed draft attached to my testimony..

**PROPOSED HD2 BY HAWAII COMMUNITY PHARMACISTS ORGANIZATION**

**Report Title:**

Remote Dispensing Pharmacy; Health Insurance; Prescription Drugs; Remote Areas

**Description:**

Authorizes remote dispensing pharmacies to provide medications to patients with health insurance coverage; allows remote dispensing pharmacies to dispense controlled substances. Effective July 1, 2020. (SB585 HD1)

THE SENATE  
TWENTY-FIFTH LEGISLATURE, 2009  
STATE OF HAWAII

**S.B. NO.** 585  
S.D. 2  
H.D. 1  
**Proposed**  
H. D. 2

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# A BILL FOR AN ACT

RELATING TO REMOTE DISPENSING.

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

SECTION 1. The legislature finds that many individuals living in underserved or remote areas need improved access to medications and pharmacy services. Without access to a pharmacy, individuals face tremendous barriers to obtaining basic, much-needed medications.

The purpose of this Act is to permit residents on rural islands and in remote areas to have access to a remote dispensing pharmacy for the purpose of obtaining medications regardless of the type of medical insurance that they have.

SECTION 2. Section 461-10.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a), (b), (c), and (d) to read:

"(a) A remote dispensing pharmacy shall be under the direct supervision of the registered pharmacist in charge of the responsible pharmacy who shall:

- (1) Ensure that the remote dispensing pharmacy is in compliance with all laws and rules governing the practice of pharmacy and remote dispensing;
- (2) Ensure that the remote dispensing pharmacy is appropriately staffed by a qualified remote dispensing technician; and
- (3) Be responsible for the integrity of the drugs in the remote dispensing machine and ensure that drugs for the remote dispensing machine are provided to the remote dispensing pharmacy only from the responsible pharmacy.

(b) [~~Physical set-up.~~] A remote dispensing pharmacy shall:

- (1) Be effectively secured to prevent unauthorized access at all times [~~, and entry to the remote dispensing pharmacy shall be limited~~] and limit entry to authorized personnel only;

- (2) Be connected via live computer link, video link, and audio link to the responsible pharmacy [~~and shall use~~] through the information technology system of the responsible pharmacy;
  - (3) Conspicuously display at the remote dispensing machine:
    - (A) A copy of the license of the responsible pharmacy; and
    - (B) A copy of the license of the pharmacist in charge of the responsible pharmacy; and
  - (4) Have a confidential area available for communication between the patient and the pharmacist at the responsible pharmacy.
- (c) No remote dispensing pharmacy shall operate within a five mile radius of any pharmacy as defined under section 461-1; provided that:
- (1) This subsection shall not apply to any remote dispensing pharmacy established prior to July 3, 2008 that has previously dispensed and will continue to dispense only prescription medications acquired pursuant to [~~section~~] Section 340B of the Public Health Service Act, Title 42 United States Code [~~section~~] Section 256b; [~~and~~]

(2) If an appropriately designated pharmacy, as defined in section 461-1, is established within a five mile radius of an existing remote dispensing pharmacy exempted by this subsection, all appropriate measures shall be taken to encourage the relocation of the existing remote dispensing machine within the newly established pharmacy[-];  
and

(3) This subsection shall not apply to any remote dispensing pharmacy established in a facility operated by a health maintenance organization regulated pursuant to chapter 432D for the exclusive use of patients served at the facility.

(d) Remote dispensing pharmacies shall not provide medications to patients with health insurance coverage, except for [~~patients~~]:

(1) Patients covered by QUEST[-];

(2) Patients served at a facility operated by a health maintenance organization regulated pursuant to chapter 432D; or

(3) Patients residing on an island without a pharmacy or in remote areas without an existing pharmacy within a five mile radius. A remote dispensing pharmacy established pursuant to this subsection



may continue to operate in the same *location; if*  
a pharmacy is subsequently established on the  
same island as the remote dispensing pharmacy or  
in the remote area without an existing pharmacy  
within a five mile radius *the remote pharmacy*  
*shall discontinue dispensing of any drugs*  
*including controlled substances;*

2. By amending subsections (g), (h), (i), and (j) to read:

"(g) Each remote dispensing machine shall be operated by only one responsible pharmacy. A responsible pharmacy may operate [~~through~~] more than one remote dispensing machine.

(h) The remote dispensing machine shall have the following features to ensure that it is appropriately secure at all times and that all transactions are properly documented:

- (1) Secure double-locked cabinets;
- (2) Bar-coding or similar technology that effectively recognizes the product;
- (3) A cabinet that delivers only one bar-coded unit-of-use container per [~~dispense~~] dispensation, per prescription;

- (4) A scanner and printer that, upon releasing the unit-of-use container from the remote dispensing machine, [~~the container is scanned~~] scans the container to confirm it is the correct container, and [~~with that confirmation, the printer will print~~] if confirmed, prints a patient-specific label that has a bar code which is scanned to confirm it is the correct label for the prescription; and
- (5) A video component that allows the patient to have a "face-to-face" consultation with the pharmacist at the responsible pharmacy.
  - (i) A pharmacist shall be in charge of the remote dispensing machine and shall ensure that:
    - (1) Written policies and procedures are developed [~~prior to using the machine~~] before the machine is used that:
      - (A) Ensure the safe and effective dispensing of pharmaceutical products;
      - (B) Ensure that the remote dispensing pharmacy and the remote dispensing machine [~~is~~] are operating safely, accurately, and securely; and

- (C) Define the conditions for access to the remote dispensing machine and to medications contained within or associated with the machine, including policies that assign, discontinue, or change access to the remote dispensing machine and medications;
- (2) A pharmacist licensed in this [~~State~~] state and employed by the responsible pharmacy has secured access to the drugs in the remote dispensing machine;
- (3) Access to the [~~medications~~] drugs in the remote dispensing machine complies with state and federal laws, rules, and regulations;
- (4) No prescription drug is dispensed at the remote dispensing pharmacy until a pharmacist at the responsible pharmacy has verified the finished prescription;
- (5) Only one prescription is dispensed and labeled from the remote dispensing machine at a time;
- (6) All prescriptions dispensed have a label affixed to the final drug container that meets the requirements set forth in section 328-16 and includes the address of the remote dispensing pharmacy;

- (7) If a patient refuses the prescription drug at the time it is dispensed, the prescription drug is locked in a secured cabinet;
- (8) There is proper inventory control at the remote dispensing pharmacy and only a registered pharmacist or a remote dispensing technician assigned by the pharmacist in charge of the responsible pharmacy shall stock the remote dispensing machine;
- (9) A reconciliation of the physical inventory of the remote dispensing pharmacy is conducted at least annually;
- (10) All personnel who operate the remote dispensing machine at the remote dispensing pharmacy are properly trained. Training shall ensure the competence and ability of all personnel who operate any component of the remote dispensing machine and the remote dispensing pharmacy. Documentation of training shall be kept by the responsible pharmacy; and
- (11) The remote dispensing machine is stocked accurately and in accordance with established written policies and procedures. The pharmacist

shall check the accuracy of the product supplied for stocking the remote dispensing machine.

(j) Controlled substances shall not be dispensed from any remote dispensing machine or remote dispensing pharmacy~~[-]~~, except:

- (1) On islands without a pharmacy, or in remote areas without an existing pharmacy within a five mile radius; and
- (2) In a facility operated by a health maintenance organization regulated pursuant to chapter 432D for the exclusive use of patients served at the facility."

3. By amending subsection (o) to read:

"(o) This section shall not apply to:

- (1) Mobile medical clinics~~[-]~~; provided that no such clinic shall operate in counties with a population less than ~~[100,000]~~ one hundred thousand persons; or
- (2) Federally qualified health centers~~[-]~~; provided that no remote dispensing pharmacy shall operate within a five mile radius of any pharmacy as defined under section 461-1, except for those federally qualified health centers that are

exempt under [~~section 461-10.5(e)(2).~~] subsection  
(c) (1).

As used in this subsection, "mobile medical clinic" means a motor vehicle retrofitted for exclusive use as a medical office or clinic for medical services licensed under chapter 321."

SECTION 3. Act 212, Session Laws of Hawaii 2008, is amended by amending section 7 to read as follows:

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

**SECTION 5. This Act shall take effect on July 1, 2020**  
**and shall be repealed on January 2, 2013.**

HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Robert N. Herkes, Chair  
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DATE: Monday, March 23, 2009  
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PLACE: Conference Room 325  
State Capitol  
415 South Beretania Street

**SB 585, SD2, HD1  
RELATING TO REMOTE DISPENSING**

Good afternoon Chair Herkes and members of the Committee on Consumer Protection.

My Name is Kevin Glick, and I am a community pharmacist with 27 years experience in owning and operating pharmacies. Currently I own two community pharmacies on Kauai. **Along with 15 other independently owned community pharmacies across the state I am writing to urge this committee to accept our proposed bill to provide more time for community dialog.**

Initially SB585 was introduced to provide the ability to utilize remote dispensing on islands without a pharmacy such as Lanai. On initial examination this would seem a viable option for the provision of these services. We support the testimony of the Department of Public Services that if a Kiosk is put into operation, it must be closed down once a traditional pharmacy is in place. **Attached is a proposed draft which will include this language.**

The Kiosk is not required to have a pharmacist physically present, has a very restricted selection of medications with a limited inventory. It is for this reason the bill passed in 2008 had a 5 mile restriction for the placement of remote dispensing kiosks, in order to afford an opportunity for the establishment of a traditional pharmacy practice to provide for the complete needs of a resident population in a community.

SB585 was amended on the recommendation of Kaiser Foundation to allow for the operation of these remote dispensing kiosks without the restrictions wisely placed in the original bill from 2008.

This amended bill will allow for the dispensing of medications in any "facility" operated by an HMO to both their members and family members. Additionally the sunset provision has also been removed to allow this radical change in the practice of pharmacy law permanent status.

We know there is currently an access problem for Kaiser members who need medications in remote areas of both Oahu and the outer islands. In truth with the exception of Hana on Maui, Kalulapapa and Lanai, all substantial population areas are well served by pharmacies, both independently owned and medium to large chain stores such as Longs and Wal-Mart. Currently Kaiser has contracts with the majority of these pharmacies offering their members the widest possible range of hours of operation and selection of medications, both as part of Kaisers small restricted formulary as well as other frequently needed medications not available in Kaiser owned pharmacies. So in the event a physician orders a medication not on the Kaiser drug list, it will most likely be available from one of these contracted community pharmacies. Also please note that the hours of operation currently available to Kaiser members under this arrangement far exceeds what would be available with their proposed remote dispensing model.

It is untrue that the remote dispensing system is comparable in safety and quality to the care rendered in a traditional pharmacy. The assertion is made that the "video" link adequately provides for the observation and interaction between the patient and a pharmacist in a booth perhaps a hundred miles away. Even on its surface the statement is dangerous. For example:

- Can a pharmacist smell ketones on a diabetic's breath through a video link?
- If a person has a prescription refillable for a year for a blood thinner such as Coumadin, will the video image be clear enough to transmit minute bleeding in the patients eyes, or in the folds of their arms?
- These are but two examples of the observations made on a daily ongoing basis as part of a pharmacists profession. Through direct patient interaction during our clerkships, externships and internships with the



assistance of learned clinicians pharmacists are taught the professional aspects of patient care. The minimum acceptable period for this training is 2000 directly observed hours before licensure as a pharmacist is granted.

**Our organization has taken the liberty of proposing changes to the bill to the original intent of the law that the remote pharmacy shall disband if a licensed pharmacy opens on the Island or within a 5 mile radius. Please see changes in italics at Section 2, (d), (3) and Section 5.**

Please consider our proposed draft.

**PROPOSED HD2 BY HAWAII COMMUNITY PHARMACISTS ORGANIZATION**

**Report Title:**

Remote Dispensing Pharmacy; Health Insurance; Prescription Drugs; Remote Areas

**Description:**

Authorizes remote dispensing pharmacies to provide medications to patients with health insurance coverage; allows remote dispensing pharmacies to dispense controlled substances. Effective July 1, 2020. (SB585 HD1)

THE SENATE  
TWENTY-FIFTH LEGISLATURE, 2009  
STATE OF HAWAII

**S.B. NO.** 585  
S.D. 2  
H.D. 1  
**Proposed**  
H. D. 2

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# A BILL FOR AN ACT

RELATING TO REMOTE DISPENSING.

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

SECTION 1. The legislature finds that many individuals living in underserved or remote areas need improved access to medications and pharmacy services. Without access to a pharmacy, individuals face tremendous barriers to obtaining basic, much-needed medications.

The purpose of this Act is to permit residents on rural islands and in remote areas to have access to a remote dispensing pharmacy for the purpose of obtaining medications regardless of the type of medical insurance that they have.

SECTION 2. Section 461-10.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a), (b), (c), and (d) to read:

"(a) A remote dispensing pharmacy shall be under the direct supervision of the registered pharmacist in charge of the responsible pharmacy who shall:

- (1) Ensure that the remote dispensing pharmacy is in compliance with all laws and rules governing the practice of pharmacy and remote dispensing;
- (2) Ensure that the remote dispensing pharmacy is appropriately staffed by a qualified remote dispensing technician; and
- (3) Be responsible for the integrity of the drugs in the remote dispensing machine and ensure that drugs for the remote dispensing machine are provided to the remote dispensing pharmacy only from the responsible pharmacy.

(b) [~~Physical set-up.~~] A remote dispensing pharmacy shall:

- (1) Be effectively secured to prevent unauthorized access at all times [~~, and entry to the remote dispensing pharmacy shall be limited~~] and limit entry to authorized personnel only;

- (2) Be connected via live computer link, video link, and audio link to the responsible pharmacy [~~and shall use~~] through the information technology system of the responsible pharmacy;
  - (3) Conspicuously display at the remote dispensing machine:
    - (A) A copy of the license of the responsible pharmacy; and
    - (B) A copy of the license of the pharmacist in charge of the responsible pharmacy; and
  - (4) Have a confidential area available for communication between the patient and the pharmacist at the responsible pharmacy.
- (c) No remote dispensing pharmacy shall operate within a five mile radius of any pharmacy as defined under section 461-1; provided that:
- (1) This subsection shall not apply to any remote dispensing pharmacy established prior to July 3, 2008 that has previously dispensed and will continue to dispense only prescription medications acquired pursuant to [~~section~~] Section 340B of the Public Health Service Act, Title 42 United States Code [~~section~~] Section 256b; [~~and~~]

(2) If an appropriately designated pharmacy, as defined in section 461-1, is established within a five mile radius of an existing remote dispensing pharmacy exempted by this subsection, all appropriate measures shall be taken to encourage the relocation of the existing remote dispensing machine within the newly established pharmacy[-]; and

(3) This subsection shall not apply to any remote dispensing pharmacy established in a facility operated by a health maintenance organization regulated pursuant to chapter 432D for the exclusive use of patients served at the facility.

(d) Remote dispensing pharmacies shall not provide medications to patients with health insurance coverage, except for [patients]:

(1) Patients covered by QUEST[-];

(2) Patients served at a facility operated by a health maintenance organization regulated pursuant to chapter 432D; or

(3) Patients residing on an island without a pharmacy or in remote areas without an existing pharmacy within a five mile radius. A remote dispensing pharmacy established pursuant to this subsection

may continue to operate in the same **location; if**  
a pharmacy is subsequently established on the  
same island as the remote dispensing pharmacy or  
in the remote area without an existing pharmacy  
within a five mile radius **the remote pharmacy**  
**shall discontinue dispensing of any drugs**  
**including controlled substances;**

2. By amending subsections (g), (h), (i), and (j) to read:

"(g) Each remote dispensing machine shall be operated by only one responsible pharmacy. A responsible pharmacy may operate [~~through~~] more than one remote dispensing machine.

(h) The remote dispensing machine shall have the following features to ensure that it is appropriately secure at all times and that all transactions are properly documented:

- (1) Secure double-locked cabinets;
- (2) Bar-coding or similar technology that effectively recognizes the product;
- (3) A cabinet that delivers only one bar-coded unit-of-use container per [~~dispense,~~] dispensation, per prescription;

- (4) A scanner and printer that, upon releasing the unit-of-use container from the remote dispensing machine, [~~the container is scanned~~] scans the container to confirm it is the correct container, and [~~with that confirmation, the printer will print~~] if confirmed, prints a patient-specific label that has a bar code which is scanned to confirm it is the correct label for the prescription; and
- (5) A video component that allows the patient to have a "face-to-face" consultation with the pharmacist at the responsible pharmacy.
- (i) A pharmacist shall be in charge of the remote dispensing machine and shall ensure that:
- (1) Written policies and procedures are developed [~~prior to using the machine~~] before the machine is used that:
- (A) Ensure the safe and effective dispensing of pharmaceutical products;
- (B) Ensure that the remote dispensing pharmacy and the remote dispensing machine [~~is~~] are operating safely, accurately, and securely; and

- (C) Define the conditions for access to the remote dispensing machine and to medications contained within or associated with the machine, including policies that assign, discontinue, or change access to the remote dispensing machine and medications;
- (2) A pharmacist licensed in this [~~State~~] state and employed by the responsible pharmacy has secured access to the drugs in the remote dispensing machine;
- (3) Access to the [~~medications~~] drugs in the remote dispensing machine complies with state and federal laws, rules, and regulations;
- (4) No prescription drug is dispensed at the remote dispensing pharmacy until a pharmacist at the responsible pharmacy has verified the finished prescription;
- (5) Only one prescription is dispensed and labeled from the remote dispensing machine at a time;
- (6) All prescriptions dispensed have a label affixed to the final drug container that meets the requirements set forth in section 328-16 and includes the address of the remote dispensing pharmacy;



- (7) If a patient refuses the prescription drug at the time it is dispensed, the prescription drug is locked in a secured cabinet;
- (8) There is proper inventory control at the remote dispensing pharmacy and only a registered pharmacist or a remote dispensing technician assigned by the pharmacist in charge of the responsible pharmacy shall stock the remote dispensing machine;
- (9) A reconciliation of the physical inventory of the remote dispensing pharmacy is conducted at least annually;
- (10) All personnel who operate the remote dispensing machine at the remote dispensing pharmacy are properly trained. Training shall ensure the competence and ability of all personnel who operate any component of the remote dispensing machine and the remote dispensing pharmacy. Documentation of training shall be kept by the responsible pharmacy; and
- (11) The remote dispensing machine is stocked accurately and in accordance with established written policies and procedures. The pharmacist

shall check the accuracy of the product supplied for stocking the remote dispensing machine.

(j) Controlled substances shall not be dispensed from any remote dispensing machine or remote dispensing pharmacy~~[-]~~, except:

- (1) On islands without a pharmacy, or in remote areas without an existing pharmacy within a five mile radius; and
- (2) In a facility operated by a health maintenance organization regulated pursuant to chapter 432D for the exclusive use of patients served at the facility."

3. By amending subsection (o) to read:

"(o) This section shall not apply to:

- (1) Mobile medical clinics~~[-]~~; provided that no such clinic shall operate in counties with a population less than [~~100,000~~] one hundred thousand persons; or
- (2) Federally qualified health centers~~[-]~~; provided that no remote dispensing pharmacy shall operate within a five mile radius of any pharmacy as defined under section 461-1, except for those federally qualified health centers that are

exempt under [~~section 461-10.5(c)(2).~~] subsection  
(c) (1).

As used in this subsection, "mobile medical clinic" means a motor vehicle retrofitted for exclusive use as a medical office or clinic for medical services licensed under chapter 321."

SECTION 3. Act 212, Session Laws of Hawaii 2008, is amended by amending section 7 to read as follows:

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

**SECTION 5. This Act shall take effect on July 1, 2020**  
**and shall be repealed on January 2, 2013.**