

SB 585

LINDA LINGLE
GOVERNOR



LILLIAN B. KOLLER, ESQ.
DIRECTOR

HENRY OLIVA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 9, 2009

MEMORANDUM

TO: Honorable David Y. Ige, Chair
Senate Committee on Health

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 585 – RELATING TO REMOTE DISPENSING**

Hearing: Monday, February 9, 2009, 2:45 PM
Conference Room 016, State Capitol

PURPOSE: The purpose of this bill is to allow persons in remote areas that have no pharmacy to obtain prescription drugs through telepharmacy at a dispensing pharmacy, even if they have health insurance.

DEPARTMENT'S POSITION: The Department of Human Services supports this bill to enhance access to prescription medications on Neighbor Islands.

Because of Hawaii's unique geography and population distribution, certain areas have limited access to prescription medications. Every Island has at least one pharmacy but, unfortunately, individuals living in underserved or remote areas have limited access to medications and pharmacy services. Beginning a remote dispensing pilot for areas with limited pharmacy access seems in the interest of patients with potential

benefits exceeding potential harms. Increasing access to prescription medications is an important step to improving health outcomes.

All persons should have access to the remote dispensing pharmacy, understanding that their cost-share may vary based on their health insurer's contractual relationship with the pharmacy responsible for overseeing the remote dispensing pharmacy, or they may pay out-of-pocket if not insured.

A remote dispensing pharmacy should have all protections to ensure patients receive the appropriate medication, dose, and supply. Patients should also have the ability to receive counseling, which should be offered at the time of dispensing. In addition, the medications, particularly narcotics, should be secured and monitored.

Remote dispensing pharmacy policy should not negatively impact a provider's ability to dispense medications in underserved areas, and mail order pharmacy should be available and perhaps encouraged for medications for chronic conditions.

Thank you for the opportunity to comment on this bill.

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
A BILL FOR AN ACT RELATING TO
REMOTE DISPENSING PHARMACIES
Clayton A. Frank, Director
Department of Public Safety

Senate Committee on Health
Senator David Y. Ige, Chair
Senator Josh Green, M.D., Vice Chair

Tuesday, February 9, 2009, 2:45 pm
State Capitol, Room 016

Senator Ige, Senator Green, and Members of the Committee:

The Department of Public Safety (PSD) acknowledges there may be a need for remote dispensing pharmacies that have the ability to dispense controlled substances to patients without health insurance on islands without a pharmacy or in remote areas such as Hana, Maui. PSD notes that this measure lacks language restricting remote dispensing pharmacy units in close proximity to each other, which may present problems in the future. PSD also notes that as written, Senate Bill 585 has numerous grammatical errors. The Department would also like to suggest the following amendments to Senate Bill 585, to read as follows. On page 4, lines 6 through 11:

"(d) Remote dispensing pharmacies shall not provide medications to patients with health insurance coverage except for patients covered by QUEST[-]

except on islands without a pharmacy or in remote areas where there are no pharmacies within 5 miles of an existing pharmacy. A remote dispensing pharmacy established under 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 five miles of an existing pharmacy, however, it will no longer be authorized to dispense controlled substances."

On page 8, lines 8 through 11 should be amended to read as follows:

"(j) [~~Controlled~~] Except on islands without a pharmacy, or in remote areas that are not within five miles of an existing pharmacy, controlled substances shall not be dispensed from any remote dispensing machine or remote dispensing pharmacy."

Thank you for the opportunity to testify on this matter.

**PRESENTATION OF THE
BOARD OF PHARMACY**

TO THE SENATE COMMITTEE ON HEALTH

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Monday, February 9, 2009
2:45 p.m.

**TESTIMONY ON SENATE BILL NO. 585, RELATING TO REMOTE
DISPENSING.**

TO THE HONORABLE DAVID Y. IGE, 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 Senate Bill No. 585, which permits residents in rural and remote areas to have access to remote dispensing pharmacies for the purpose of obtaining prescription medications, including controlled substances, regardless of the type of medical insurance that they may have.

I would like to preface my comments by informing the Committee that the Board has not yet reviewed this bill, which is scheduled for discussion at the Board's next meeting on February 19, 2009. It is at this meeting that all proposed legislation regarding amendments to Chapter 461, Hawaii Revised Statutes ("HRS"), is slated to be addressed in a public forum to which all interested parties have been invited.

The Board, when it meets, will need to entertain the following concerns with the bill:

- (1) The language in the bill which refers to "remote areas, such as Hana, Maui, where there is no pharmacy..." will have to be examined. I believe the Board will have to determine if this language is too limiting and should consider other scenarios so that all residents of this State may be afforded access to their prescription medications.
- (2) Also, it is not clear how this new language might affect other current requirements applicable to remote dispensing pharmacies.

Lastly, as this bill allows for controlled substances to be dispensed from a remote dispensing pharmacy, the Board defers to the Department of Public Safety, Narcotics Enforcement Division, on the matter of dispensing of controlled substances.

Thank you for the opportunity to provide comments on Senate Bill No. 585.

HMSA



Blue Cross
Blue Shield
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

February 9, 2009

The Honorable David Ige, Chair
The Honorable Josh Green M.D., Vice Chair

Senate Committee on Health

Re: SB 585 – Relating to Remote Dispensing

Dear Chair Ige, Vice Chair Green and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 585 which expands the scope and use of remote pharmacies in Hawaii.

This measure would expand the ability of individuals in remote areas such as Hana, Maui 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,

A handwritten signature in cursive script that reads "Jennifer Diesman".

Jennifer Diesman
Assistant Vice President
Government Relations

Testimony of
Phyllis Dendle
Director of Government Affairs

Senate Committee on Health
The Honorable David Y. Ige, Chair
The Honorable Josh Green M.D., Vice Chair

February 9, 2009
2:45pm
Conference Room 016

SB 585 RELATING TO REMOTE DISPENSING PHARMACIES

Chair Ige 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 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 request that you 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. These proposed amendments to the law follow.

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.

We urge you to pass this bill with the suggested amendment and thank you for your consideration.

[§461-10.5] Remote dispensing pharmacy; operations. *[Section repealed January 1, 2013. L 2008, c 212, §7.]* (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 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 to authorized personnel only;
 - (2) Be connected via live computer link, video link, and audio link to the responsible pharmacy and shall use 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 340B of the Public Health Service Act, Title 42 United States Code 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.
 - (3) This subsection shall not apply to any remote dispensing pharmacy established in a facility operated by a health maintenance organization regulated under article 432D for the exclusive use of patients served at that facility.
- (d) Remote dispensing pharmacies shall not provide medications to patients with health insurance coverage except for patients covered by QUEST

[.] and patients served at a facility operated by a health maintenance organization regulated under article 432D.

(e) The remote dispensing technician shall offer each patient the option of receiving counseling by a pharmacist at the responsible pharmacy for all prescriptions.

(f) A pharmacist at the responsible pharmacy shall approve each prescription before it is dispensed to the patient.

(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, per prescription;
- (4) A scanner and printer that, upon releasing the unit-of-use container from the remote dispensing machine, the container is scanned to confirm it is the correct container, and with that confirmation, the printer will print 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 that:
 - (A) Ensure the safe and effective dispensing of pharmaceutical products;
 - (B) Ensure the remote dispensing pharmacy and the remote dispensing machine is operating safely, accurately, and securely; and
 - (C) Define 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 and employed by the responsible pharmacy has secured access to the drugs in the remote dispensing machine;
- (3) Access to the medications 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.
- (1) This subsection shall not apply to any remote dispensing pharmacy established in a facility operated by a health maintenance organization regulated under article 432D for the exclusive use of patients served at that facility.
- (k) Drugs dispensed from the remote dispensing machine shall be dispensed as packaged, with no changes to the drug, its strength, or its unit quantity, except for the addition of water for reconstitution of dry powder drugs.
- (l) Prescription labels for the product dispensed from the remote dispensing machine shall only be generated at the remote dispensing pharmacy.
- (m) Records of prescriptions filled at the remote dispensing pharmacy shall be maintained at the responsible pharmacy and shall be distinguishable from those records filled at the responsible pharmacy. All responsible pharmacies shall maintain, on-site at the remote dispensing pharmacy and have available for inspection at all times, records and documentation of the following:
- (1) All prescriptions dispensed at the remote dispensing pharmacy;
- (2) All inventory movement at the remote dispensing pharmacy; and
- (3) A policies and procedures manual of the remote dispensing pharmacy.
- (n) No health insurance provider group, hospital, or medical service plan regulated under article 431:10A or 432:1 shall operate a remote dispensing pharmacy.
- (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; 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).

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. [L 2008, c 212, §2]



February 7, 2009

Senator David Ige
Chair, Senate Committee on Health

**Re: S.B. 585 – Relating to Remote Dispensing Pharmacies
Hearing on Monday, February 9, 2009 at 2:45 am, Room 016**

I am Mihoko Ito, an attorney with Goodwill Anderson Quinn & Stifel, testifying on behalf of Walgreens. Walgreens operates more than 6,000 locations in 49 states including Puerto Rico and utilizes leading-edge technology to ensure the safety and well-being of its patients. The use of technology not only enhances safety, but also provides access to necessary medications for patients living in remote areas. Walgreens is in agreement with the mission statement of the National Association of Boards of Pharmacy which states the purpose of their work is “protecting the public health”.

Walgreens **supports the intent of** Senate Bill 585 it expands access for Hawaii residents to necessary medications, but proposes such access should be expanded to apply equally to residents of all islands. The purpose of S.B. 585 is allow persons in remote areas that have no pharmacy to obtain prescription drugs through at a remote dispensing pharmacy, even if they have health insurance.

Walgreens supports the intent of S.B. 585 because it expands access to medications for those living on the remote neighbor 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 neighbor 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 submit testimony on this measure.

*Walgreen Co. Government and Community Relations 104 Wilmot Road, MS 1444 Deerfield, IL 60015
847-315-4653 FAX 847-315-4417 www.walgreens.com*



Oahu
680 Iwilei Road, Suite 575
Honolulu, HI 96817
Tel: (808) 537-8888
Fax: (808) 537-5971
lung@ala-hawaii.org

Kauai
2992 Umi Street
Lihue, HI 96766
Tel: (808) 245-4142
Fax: (808) 245-8488
alahkauai@ala-hawaii.org

MauI
95 MahalanI Street,
Suite # 28-1A
Wailuku, HI 96793
Tel: (808) 244-5110
Fax: (808) 242-8041
alahmaul@ala-hawaii.org

Hawaii
39 Ululani Street
Hilo, HI 96720
Tel: (808) 935-1208
Fax: (808) 935-7474
alahhi@ala-hawaii.org

Website:
www.ala-hawaii.org

E-mail:
lung@ala-hawaii.org

Lung HelpLine
1-800- LUNG-USA
(586-4872)

BOARD OF DIRECTORS

Karen J. Lee
President

Wendy Akita
Sherri Bulkley
Cathy Foy-Mahi
David Ing
Malcolm T. Koga
Joseph S. Pina, M.D.
Rosa Ann Poyzer, RN
Douglas Q.L. Yee
Sterling Q.L. Yee

TO: Senate Committee on Health

**FOR: Hearing scheduled for 2:45 pm
Monday February 9, 2009**

**RE: TESTIMONY IN STRONG SUPPORT SB 528 Relating to
Tobacco**

Chair Ige, Vice Chair Green and Committee Members:

The American Lung Association of Hawaii strongly supports SB 528, which extends without time limit the requirement for retailers who sell tobacco to obtain a retail tobacco permit from the Department of Taxation.

Removal of the provision in the existing law that sunsets the permit requirement in July 2009 would ensure continuation of an important element in the ongoing effort to regulate and control tobacco use among Hawaii's minors. Although the percentage of frequent smokers among high school students is declining (and stands presently at approximately 9.7 percent), surveys indicate nearly 7 out of 10 high school students in Hawaii have tried smoking.

The most recent statistic available from the Hawaii Department of Health reveal that "1 in 6 Hawaii high school underage smokers who bought their last pack of cigarettes in a store were neither asked to show ID nor refused sale, according to a student survey."

Clearly, improved regulation and monitoring of tobacco retail sales is required to help stem the illegal sale of tobacco products to minors. ALA of Hawaii believes adoption of SB 528 will be an important step in achieving that goal.

Respectively submitted,

Jean Evans, MPH
Executive Director
American Lung Association of Hawaii

Improving Life

One Breath at a Time

Founded in 1904, the

American Lung Association
includes affiliated associations
throughout the U.S.