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## A BILL FOR AN ACT

RELATING TO ELECTRONIC PRESCRIPTIONS.

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

1           SECTION 1. On March 31, 2010, the Drug Enforcement  
2 Administration published in the Federal Register its rule  
3 "Electronic Prescriptions for Controlled Substances", which  
4 became effective on June 1, 2010, and which revises the Drug  
5 Enforcement Administration's regulations to provide  
6 practitioners with the option of writing prescriptions for  
7 controlled substances electronically. The regulations also  
8 permit pharmacies to receive, dispense, and archive these  
9 electronic prescriptions for controlled substances. These new  
10 regulations do not mandate that practitioners prescribe  
11 controlled substances using only electronic prescriptions nor do  
12 these new regulations require pharmacies to accept only  
13 electronic prescriptions for controlled substances for  
14 dispensing. The use of electronic prescriptions for controlled  
15 substances is voluntary on the part of the practitioners and  
16 pharmacies. Electronic prescriptions for controlled substances  
17 may be conveyed electronically; provided that the electronic



1 prescription and the pharmacy application meet the Drug  
2 Enforcement Administration's and state's requirements.

3 Practitioners are still able to write and must manually  
4 sign prescriptions for controlled substances in Schedule II,  
5 III, IV, and V and may convey valid written prescriptions for  
6 controlled substances via facsimile to pharmacies for Schedule  
7 III, IV, and V. Orally-ordered prescriptions remain valid for  
8 Schedule III, IV, and V and under emergency provisions for  
9 Schedule II prescriptions.

10 By allowing practitioners to electronically prescribe  
11 controlled substances and to convey the prescription directly to  
12 the pharmacy of the patient's choice, it will provide  
13 practitioners with a safer, more secure, and timely means to  
14 prescribe controlled substances in addition to the conventional  
15 means of prescribing controlled substances.

16 The purpose of this Act is to amend the Uniform Controlled  
17 Substances Act in chapter 329, Hawaii Revised Statutes, by:

- 18 (1) Adding definitions to section 329-1, Hawaii Revised  
19 Statutes, to be consistent with federal law;
- 20 (2) Clarifying the conditions for the transmittal of  
21 prescriptions electronically; and



1 (3) Adding and clarifying new violations of prohibited  
2 acts.

3 SECTION 2. Section 329-1, Hawaii Revised Statutes, is  
4 amended by adding three new definitions to be appropriately  
5 inserted and to read as follows:

6 "Electronic prescription" means a prescription that is  
7 generated on an electronic prescription application and  
8 transmitted as an electronic data file that complies with all  
9 applicable requirements of Title 21 Code of Federal Regulations  
10 Part 1311 and any additional rules adopted by the department.

11 "Electronic prescription application" means electronic  
12 prescription software either as a stand-alone application or as  
13 a module in an electronic health record application.

14 "Electronic signature" means a method of signing an  
15 electronic message that identifies a particular person as the  
16 source of the message and indicates the person's approval of the  
17 information contained in the message."

18 SECTION 3. Section 329-38, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 **"§329-38 Prescriptions.** (a) No controlled substance in  
21 schedule II may be dispensed without a written prescription of a  
22 practitioner, except:



- 1           (1) In the case of an emergency situation, a pharmacist  
2           may dispense a controlled substance listed in schedule  
3           II upon receiving oral authorization from a  
4           prescribing practitioner; provided that:
- 5           (A) The quantity prescribed and dispensed is limited  
6           to the amount adequate to treat the patient  
7           during the emergency period (dispensing beyond  
8           the emergency period must be pursuant to a  
9           written prescription signed by the prescribing  
10          practitioner);
- 11          (B) If the prescribing practitioner is not known to  
12          the pharmacist, the pharmacist shall make a  
13          reasonable effort to determine that the oral  
14          authorization came from a registered  
15          practitioner, which may include a callback to the  
16          prescribing practitioner using the phone number  
17          in the telephone directory or other good faith  
18          efforts to identify the prescriber; and
- 19          (C) Within seven days after authorizing an emergency  
20          oral prescription, the prescribing practitioner  
21          shall cause a written prescription for the  
22          emergency quantity prescribed to be delivered to



1 the dispensing pharmacist. In addition to  
2 conforming to the requirements of this  
3 subsection, the prescription shall have written  
4 on its face "Authorization for Emergency  
5 Dispensing". The written prescription may be  
6 delivered to the pharmacist in person or by mail,  
7 and if by mail, the prescription shall be  
8 postmarked within the seven-day period. Upon  
9 receipt, the dispensing pharmacist shall attach  
10 this prescription to the oral emergency  
11 prescription, which had earlier been reduced to  
12 writing. The pharmacist shall notify the  
13 administrator if the prescribing practitioner  
14 fails to deliver a written prescription to the  
15 pharmacy within the allotted time. Failure of  
16 the pharmacist to do so shall void the authority  
17 conferred by this paragraph to dispense without a  
18 written prescription of a prescribing individual  
19 practitioner. Any practitioner who fails to  
20 deliver a written prescription within the seven-  
21 day period shall be in violation of section 329-  
22 41(a)(1); [✗]



1           (2) When dispensed directly by a practitioner, other than  
2           a pharmacist, to the ultimate user. The practitioner  
3           in dispensing a controlled substance in schedule II  
4           shall affix to the package a label showing:  
5           (A) The date of dispensing;  
6           (B) The name, strength, and quantity of the drug  
7           dispensed;  
8           (C) The dispensing practitioner's name and address;  
9           (D) The name of the patient;  
10          (E) The "use by" date for the drug, which shall be:  
11           (i) The expiration date on the  
12                 [+]manufacturer's[+] or principal labeler's  
13                 container; or  
14           (ii) One year from the date the drug is  
15                 dispensed, whichever is earlier; and  
16          (F) Directions for use, and cautionary statements, if  
17                 any, contained in the prescription or as required  
18                 by law.  
19          A complete and accurate record of all schedule II  
20          controlled substances ordered, administered,  
21          prescribed, and dispensed shall be maintained for five  
22          years. Prescriptions and records of dispensing shall



1 otherwise be retained in conformance with the  
2 requirements of section 329-36. No prescription for a  
3 controlled substance in schedule II may be  
4 refilled[+]; or

5 (3) In the case of an electronic prescription, a  
6 pharmacist may dispense a controlled substance listed  
7 in schedule II upon receiving an electronic  
8 prescription.

9 (b) A schedule II controlled substance prescription shall:

10 (1) Be filled within seven days following the date the  
11 prescription was issued to the patient; and

12 (2) Be supplied to a patient only if the prescription has  
13 been filled and held by the pharmacy for not more than  
14 seven days.

15 (c) The transfer of original prescription information for a  
16 controlled substance listed in schedule III, IV, or V for the  
17 purpose of dispensing is permissible between pharmacies on a one  
18 time basis only. However, pharmacies electronically sharing a  
19 real-time, online database may transfer up to the maximum  
20 refills permitted by law and the prescriber's authorization.  
21 Transfers are subject to the following requirements:



- 1           (1) The transfer shall be communicated directly between  
2                   two licensed pharmacists, and the transferring  
3                   pharmacist shall:
- 4                   (A) Write or otherwise place the word "VOID" on the  
5                           face of the invalidated prescription;
- 6                   (B) Record on the reverse of the invalidated  
7                           prescription the name, address, and [~~DEA~~] Drug  
8                           Enforcement Administration registration number of  
9                           the pharmacy to which it was transferred and the  
10                          name of the pharmacist receiving the prescription  
11                          information; and
- 12                  (C) Record the date of the transfer and the name of  
13                          the pharmacist transferring the information;
- 14           (2) The pharmacist receiving the transferred prescription  
15                   information shall reduce to writing the following:
- 16                   (A) Write or otherwise place the word "transfer" on  
17                           the face of the transferred prescription;
- 18                   (B) Record all information required to be on a  
19                          prescription, including:
- 20                          (i) The date of issuance of original  
21                                  prescription;





- 1           (ii) The original number of refills authorized on  
2           original prescription;
- 3           (iii) The date of original dispensing;
- 4           (iv) The number of valid refills remaining and  
5           dates and locations of previous refills;
- 6           (v) The pharmacy's name, address, [~~DEA~~] Drug  
7           Enforcement Administration registration  
8           number, and original prescription number  
9           from which the prescription information was  
10          transferred;
- 11          (vi) The name of the transferor pharmacist; and
- 12          (vii) The pharmacy's name, address, and Drug  
13          Enforcement Administration registration  
14          number, along with the prescription number  
15          from which the prescription was originally  
16          filled;
- 17          (3) Both the original and transferred prescription shall  
18          be maintained for a period of five years from the date  
19          of last refill; and
- 20          (4) Any pharmacy electronically accessing a prescription  
21          record shall satisfy all information requirements of a  
22          manual mode prescription transferal.



1 Failure to comply with this subsection shall void the  
2 authority of the pharmacy to transfer prescriptions or receive a  
3 transferred prescription to or from another pharmacy.

4 (d) A pharmacy and an authorized central fill pharmacy may  
5 share information for initial and refill prescriptions of  
6 schedule III, IV, or V controlled substances. The following  
7 requirements shall apply:

8 (1) A pharmacy may electronically transmit, including by  
9 facsimile, prescriptions for controlled substances  
10 listed in schedule III, IV, or V to a central fill  
11 pharmacy. The pharmacy transmitting the prescription  
12 information shall:

13 (A) Ensure that all information required to be on a  
14 prescription pursuant to subsection (g) is  
15 transmitted to the central fill pharmacy either  
16 on the face of the prescription or  
17 electronically; and

18 (B) Keep a record of receipt of the filled  
19 prescription, including the date of receipt, the  
20 method of delivery (private, common, or contract  
21 carrier) and the identity of the pharmacy  
22 employee accepting delivery; and



1           (2) The central fill pharmacy receiving the transmitted  
2           prescription shall:

3           (A) Keep for five years a copy of a prescription  
4           received by facsimile or an electronic record of  
5           all the information transmitted by the pharmacy,  
6           including the name, address, and [DEA] Drug  
7           Enforcement Administration registration number of  
8           the pharmacy transmitting the prescription;

9           (B) Keep a record of the date of receipt of the  
10          transmitted prescription, the name of the  
11          licensed pharmacists filling the prescription,  
12          and the dates the prescription was filled or is  
13          refilled; and

14          (C) Keep a record of the date the filled prescription  
15          was shipped to the pharmacy.

16          (e) No controlled substance in schedule III, IV, or V may  
17          be dispensed without a written, facsimile of a written, [~~or~~]  
18          oral prescription of a practitioner, or receipt of an electronic  
19          prescription, except when a controlled substance is dispensed  
20          directly by a practitioner, other than a pharmacist, to an  
21          ultimate user. The practitioner, in dispensing a controlled



1 substance in schedule III, IV, or V, shall affix to the package  
2 a label showing:

- 3 (1) The date of dispensing;
- 4 (2) The name, strength, and quantity issued of the drug;
- 5 (3) The dispensing practitioner's name and business  
6 address;
- 7 (4) The name of the patient;
- 8 (5) The "use by" date for the drug, which shall be:
  - 9 (A) The expiration date on the manufacturer's or  
10 principal labeler's container; or
  - 11 (B) One year from the date the drug is dispensed,  
12 whichever is earlier;
- 13 (6) Directions for use; and
- 14 (7) Cautionary statements, if any, contained in the  
15 prescription or as required by law.

16 A complete and accurate record of all schedule III, IV, and V  
17 controlled substances administered, prescribed, and dispensed  
18 shall be maintained for five years. Prescriptions and records  
19 of dispensing shall be retained in conformance with the  
20 requirements of section 329-36 unless otherwise provided by law.  
21 Prescriptions may not be filled or refilled more than three  
22 months after the date of the prescription or be refilled more



1 than two times after the date of the prescription, unless the  
2 prescription is renewed by the practitioner.

3 (f) The effectiveness of a prescription for the purposes  
4 of this section shall be determined as follows:

5 (1) A prescription for a controlled substance shall be  
6 issued for a legitimate medical purpose by an  
7 individual practitioner acting in the usual course of  
8 the practitioner's professional practice. The  
9 responsibility for the proper prescribing and  
10 dispensing of controlled substances shall be upon the  
11 prescribing practitioner, but a corresponding  
12 responsibility shall rest with the pharmacist who  
13 fills the prescription. An order purporting to be a  
14 prescription issued not in the usual course of  
15 professional treatment or for legitimate and  
16 authorized research shall not be deemed a prescription  
17 within the meaning and intent of this section, and the  
18 person who knowingly fills such a purported  
19 prescription, as well as the person who issues the  
20 prescription, shall be subject to the penalties  
21 provided for violations of this chapter;



- 1           (2) A prescription may not be issued to allow an  
2           individual practitioner to obtain controlled  
3           substances for supplying the individual practitioner  
4           for the purpose of general dispensing to patients;
- 5           (3) A prescription may not be issued for the dispensing of  
6           narcotic drugs listed in any schedule for the purpose  
7           of "detoxification treatment" or "maintenance  
8           treatment" except as follows:
- 9           (A) The administering or dispensing directly (but not  
10           prescribing) of narcotic drugs listed in any  
11           schedule to a narcotic drug-dependent person for  
12           "detoxification treatment" or "maintenance  
13           treatment" shall be deemed to be "in the course  
14           of a practitioner's professional practice or  
15           research" so long as the practitioner is  
16           registered separately with the department and the  
17           federal Drug Enforcement Agency as required by  
18           section 329-32(e) and complies with Title 21 Code  
19           of Federal Regulations section 823(g) and any  
20           other federal or state regulatory standards  
21           relating to treatment qualification, security,  
22           records, and unsupervised use of drugs; and



1 (B) Nothing in this section shall prohibit a  
2 physician or authorized hospital staff from  
3 administering or dispensing, but not prescribing,  
4 narcotic drugs in a hospital to maintain or  
5 detoxify a person as an incidental adjunct to  
6 medical or surgical treatment of conditions other  
7 than addiction;

8 (4) An individual practitioner shall not prescribe or  
9 dispense a substance included in schedule II, III, IV,  
10 or V for that individual practitioner's personal use,  
11 except in a medical emergency; and

12 (5) A pharmacist shall not dispense a substance included  
13 in schedule II, III, IV, or V for the pharmacist's  
14 personal use.

15 (g) Prescriptions for controlled substances shall be  
16 issued only as follows:

17 (1) All prescriptions for controlled substances shall  
18 originate from within the State and be dated as of,  
19 and signed on, the day when the prescriptions were  
20 issued and shall contain:

21 (A) The first and last name and address of the  
22 patient; and



1 (B) The drug name, strength, dosage form, quantity  
2 prescribed, and directions for use. Where a  
3 prescription is for gamma hydroxybutyric acid,  
4 methadone, or buprenorphine, the practitioner  
5 shall record as part of the directions for use,  
6 the medical need of the patient for the  
7 prescription.

8 [The] Except for electronic prescriptions, controlled  
9 substance prescriptions shall be no larger than eight  
10 and one-half inches by eleven inches and no smaller  
11 than three inches by four inches. A practitioner may  
12 sign a prescription in the same manner as the  
13 practitioner would sign a check or legal document  
14 (e.g., J.H. Smith or John H. Smith) and shall use both  
15 words and figures (e.g., alphabetically and  
16 numerically as indications of quantity, such as five  
17 (5)), to indicate the amount of controlled substance  
18 to be dispensed. Where an oral order or electronic  
19 prescription is not permitted, prescriptions shall be  
20 written with ink or indelible pencil or typed, shall  
21 be manually signed by the practitioner, and shall  
22 include the name, address, telephone number, and





1 registration number of the practitioner. The  
2 prescriptions may be prepared by a secretary or agent  
3 for the signature of the practitioner, but the  
4 prescribing practitioner shall be responsible in case  
5 the prescription does not conform in all essential  
6 respects to this chapter and any rules adopted  
7 pursuant to this chapter. In receiving an oral  
8 prescription from a practitioner, a pharmacist shall  
9 promptly reduce the oral prescription to writing,  
10 which shall include the following information: the  
11 drug name, strength, dosage form, quantity prescribed  
12 in figures only, and directions for use; the date the  
13 oral prescription was received; the full name, [DEA]  
14 Drug Enforcement Administration registration number,  
15 and oral code number of the practitioner; and the name  
16 and address of the person for whom the controlled  
17 substance was prescribed or the name of the owner of  
18 the animal for which the controlled substance was  
19 prescribed.

20 A corresponding liability shall rest upon a  
21 pharmacist who fills a prescription not prepared in  
22 the form prescribed by this section. A pharmacist may



1 add a patient's missing address or change a patient's  
2 address on all controlled substance prescriptions  
3 after verifying the patient's identification and  
4 noting the identification number on the back of the  
5 prescription[-] document on file. The pharmacist  
6 shall not make changes to the patient's name, the  
7 controlled substance being prescribed, the quantity of  
8 the prescription, the practitioner's [~~DEA~~] Drug  
9 Enforcement Administration number, the practitioner's  
10 name, the practitioner's electronic signature, or the  
11 practitioner's signature;

- 12 (2) An intern, resident, or foreign-trained physician, or  
13 a physician on the staff of a Department of Veterans  
14 Affairs facility or other facility serving veterans,  
15 exempted from registration under this chapter, shall  
16 include on all prescriptions issued by the physician:
- 17 (A) The registration number of the hospital or other  
18 institution; and
- 19 (B) The special internal code number assigned to the  
20 physician by the hospital or other institution in  
21 lieu of the registration number of the  
22 practitioner required by this section.



1           The hospital or other institution shall forward a copy  
2           of this special internal code number list to the  
3           department as often as necessary to update the  
4           department with any additions or deletions. Failure  
5           to comply with this paragraph shall result in the  
6           suspension of that facility's privilege to fill  
7           controlled substance prescriptions at pharmacies  
8           outside of the hospital or other institution. Each  
9           written prescription shall have the name of the  
10          physician stamped, typed, or hand-printed on it, as  
11          well as the signature of the physician;

12         (3) An official exempted from registration shall include  
13          on all prescriptions issued by the official:

14           (A) The official's branch of service or agency (e.g.,  
15           "U.S. Army" or "Public Health Service"); and

16           (B) The official's service identification number, in  
17           lieu of the registration number of the  
18           practitioner required by this section. The  
19           service identification number for a Public Health  
20           Service employee shall be the employee's social  
21           security or other government issued  
22           identification number.



1 Each prescription shall have the name of the officer  
2 stamped, typed, or handprinted on it, as well as the  
3 signature of the officer; and

4 (4) A physician assistant registered to prescribe  
5 controlled substances under the authorization of a  
6 supervising physician shall include on all controlled  
7 substance prescriptions issued:

8 (A) The [~~DEA~~] Drug Enforcement Administration  
9 registration number of the supervising physician;  
10 and

11 (B) The [~~DEA~~] Drug Enforcement Administration  
12 registration number of the physician assistant.

13 Each written controlled substance prescription issued  
14 shall include the printed, stamped, typed, or hand-  
15 printed name, address, and phone number of both the  
16 supervising physician and physician assistant, and  
17 shall be signed by the physician assistant. The  
18 medical record of each written controlled substance  
19 prescription issued by a physician assistant shall be  
20 reviewed and initialed by the physician assistant's  
21 supervising physician within seven working days.



1           (h) A prescription for controlled substances may only be  
2 filled by a pharmacist acting in the usual course of the  
3 pharmacist's professional practice and either registered  
4 individually or employed in a registered pharmacy, central fill  
5 pharmacy, or registered institutional practitioner. A central  
6 fill pharmacy authorized to fill prescriptions on behalf of a  
7 pharmacy shall have a contractual relationship with the pharmacy  
8 that provides for this activity or shall share a common owner  
9 with the pharmacy. A central fill pharmacy shall not prepare  
10 prescriptions for any controlled substance listed in schedule  
11 II.

12           (i) Partial filling of controlled substance prescriptions  
13 shall be determined as follows:

14           (1) The partial filling of a prescription for a controlled  
15 substance listed in schedule II is permissible if the  
16 pharmacist is unable to supply the full quantity  
17 called for in a written, electronic prescription, or  
18 emergency oral prescription and the pharmacist makes a  
19 notation of the quantity supplied on the face of the  
20 written prescription (or written record of the  
21 electronic prescription or emergency oral  
22 prescription). The remaining portion of the



1 prescription may be filled within seventy-two hours of  
2 the first partial filling; provided that if the  
3 remaining portion is not or cannot be filled within  
4 the seventy-two-hour period, the pharmacist shall  
5 notify the prescribing individual practitioner. No  
6 further quantity shall be supplied beyond seventy-two  
7 hours without a new prescription;

8 (2) The partial filling of a prescription for a controlled  
9 substance listed in schedule III, IV, or V is  
10 permissible; provided that:

11 (A) Each partial filling is recorded in the same  
12 manner as a refilling;

13 (B) The total quantity dispensed in all partial  
14 fillings does not exceed the total quantity  
15 prescribed;

16 (C) No dispensing occurs more than three months after  
17 the date on which the prescription was issued;  
18 and

19 (D) The prescription is refilled no more than two  
20 times after the initial date of the prescription,  
21 unless the prescription is renewed by the  
22 practitioner; and



1           (3) A prescription for a schedule II controlled substance  
2           ~~[written]~~ issued for a patient in a long-term care  
3           facility or for a patient with a medical diagnosis  
4           documenting a terminal illness may be filled in  
5           partial quantities to include individual dosage units.  
6           If there is any question whether a patient may be  
7           classified as having a terminal illness, the  
8           pharmacist shall contact the practitioner prior to  
9           partially filling the prescription. Both the  
10          pharmacist and the prescribing practitioner have a  
11          corresponding responsibility to assure that the  
12          controlled substance is for a terminally ill patient.  
13          The pharmacist shall record on the prescription  
14          document on file whether the patient is "terminally  
15          ill" or a "long-term care facility patient". For the  
16          purposes of this section, "TI" means terminally ill  
17          and "LTCF" means long-term care facility. A  
18          prescription that is partially filled and does not  
19          contain the notation "TI" or "LTCF patient" shall be  
20          deemed to have been filled in violation of this  
21          section. For each partial filling, the dispensing  
22          pharmacist shall record on the back of the



1 prescription (or on another appropriate record,  
2 uniformly maintained, and readily retrievable) the  
3 date of the partial filling, quantity dispensed,  
4 remaining quantity authorized to be dispensed, and the  
5 identification of the dispensing pharmacist. The  
6 total quantity of schedule II controlled substances  
7 dispensed in all partial fillings shall not exceed the  
8 total quantity prescribed, nor shall a prescription be  
9 partially filled more than three times after the  
10 initial date of the prescription. Schedule II  
11 controlled substance prescriptions for patients in a  
12 long-term care facility or patients with a medical  
13 diagnosis documenting a terminal illness shall be  
14 valid for a period not to exceed thirty days from the  
15 issue date unless sooner terminated by the  
16 discontinuance of medication.

17 (j) A prescription for a schedule II controlled substance  
18 may be transmitted by the practitioner or the practitioner's  
19 agent to a pharmacy by facsimile equipment; provided that the  
20 original written, signed prescription is presented to the  
21 pharmacist for review prior to the actual dispensing of the  
22 controlled substance, except as noted in subsections (k), (l),





1 and (m). The original prescription shall be maintained in  
2 accordance with section 329-36. A prescription for a schedule  
3 III, IV, or V controlled substance may be transmitted by the  
4 practitioner or the practitioner's agent to a pharmacy by  
5 facsimile; provided that:

- 6 (1) The information shall be communicated only between the  
7 prescribing practitioner or the prescriber's  
8 authorized agent and the pharmacy of the patient's  
9 choice. The original prescription shall be maintained  
10 by the practitioner in accordance with section 329-36;
- 11 (2) The information shall be communicated in a  
12 retrievable, recognizable format acceptable to the  
13 intended recipient and shall include the physician's  
14 oral code designation and the name of the recipient  
15 pharmacy;
- 16 (3) No electronic system, software, or other intervening  
17 mechanism or party shall alter the practitioner's  
18 prescription, order entry, selection, or intended  
19 selection without the practitioner's approval on a per  
20 prescription per order basis. Facsimile prescription  
21 information shall not be altered by any system,



1 software, or other intervening mechanism or party  
2 prior to receipt by the intended pharmacy;

3 (4) The prescription information processing system shall  
4 provide for confidentiality safeguards required by  
5 federal or state law; and

6 (5) Prescribing practitioners and pharmacists shall  
7 exercise prudent and professional judgment regarding  
8 the accuracy, validity, and authenticity of any  
9 facsimile prescription information. The facsimile  
10 shall serve as the original written prescription for  
11 purposes of this section and shall be maintained in  
12 accordance with section 329-36.

13 (k) A prescription prepared in accordance with subsection  
14 (g) written for a narcotic listed in schedule II to be  
15 compounded for the direct administration to a patient by  
16 parenteral, intravenous, intramuscular, subcutaneous, or  
17 intraspinal infusion, but does not extend to the dispensing of  
18 oral dosage units of controlled substances, may be transmitted  
19 by the practitioner or the practitioner's agent to the pharmacy  
20 by facsimile. The original prescription shall be maintained by  
21 the practitioner in accordance with section 329-36. The  
22 pharmacist shall note on the face of the facsimile prescription



1 in red ink "Home Infusion/IV" and this facsimile shall serve as  
2 the original written prescription for purposes of this section  
3 and it shall be maintained in accordance with section 329-36.

4 (l) A prescription prepared in accordance with subsection  
5 (g) written for a schedule II substance for a patient enrolled  
6 in a hospice care program certified or paid for by medicare  
7 under Title XVIII or a hospice program that is licensed by the  
8 State may be transmitted by the practitioner or the  
9 practitioner's agent to the dispensing pharmacy by facsimile.

10 The original prescription shall be maintained by the  
11 practitioner in accordance with section 329-36. The  
12 practitioner or practitioner's agent shall note on the  
13 prescription that the patient is a hospice patient. The  
14 pharmacist shall note on the face of the facsimile prescription  
15 in red ink "HOSPICE" and this facsimile shall serve as the  
16 original written prescription for purposes of this section and  
17 it shall be maintained in accordance with section 329-36.

18 (m) A prescription prepared in accordance with subsection  
19 (g) written for a schedule II controlled substance for a  
20 resident of a state-licensed long-term care facility may be  
21 transmitted by the practitioner or the practitioner's agent to  
22 the dispensing pharmacy by facsimile. The original prescription



1 shall be maintained by the practitioner in accordance with  
2 section 329-36. The pharmacist shall note on the face of the  
3 facsimile prescription in red ink "LTCF" and this facsimile  
4 shall serve as the original written prescription for purposes of  
5 this section and it shall be maintained in accordance with  
6 section 329-36.

7 (n) An electronic prescription for a schedule II, III, IV,  
8 or V controlled substance may be electronically transmitted by  
9 the practitioner to a pharmacy; provided that:

10 (1) The information shall be communicated only between the  
11 prescribing practitioner and the pharmacy of the  
12 patient's choice. The electronic prescription shall  
13 be maintained by the practitioner in accordance with  
14 section 329-36;

15 (2) The information shall be communicated in a  
16 retrievable, recognizable format acceptable to the  
17 intended recipient;

18 (3) No electronic system, software, or other intervening  
19 mechanism or party shall alter the practitioner's  
20 prescription, order entry, selection, or intended  
21 selection without the practitioner's approval on a  
22 per-prescription, per-order basis. Transmitted ,



1           prescription information shall not be altered by any  
2           electronic system, software, or other intervening  
3           mechanism or party prior to receipt by the intended  
4           pharmacy;

5           (4) The prescription information processing system shall  
6           provide for confidentiality safeguards required by any  
7           applicable federal or state law; and

8           (5) Prescribing practitioners and pharmacists shall  
9           exercise prudent and professional judgment regarding  
10           the accuracy, validity, and authenticity of any  
11           electronic prescription information."

12           SECTION 4. Section 329-42, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14           "(a) It is unlawful for any person knowingly or  
15 intentionally:

16           (1) To distribute as a registrant a controlled substance  
17           classified in schedule I or II, except pursuant to an  
18           order form as required by section 329-37;

19           (2) To use in the course of the manufacture, distribution,  
20           administration, or prescribing of a controlled  
21           substance a registration number that is fictitious,



1           revoked, suspended, expired, or issued to another  
2           person;

3           (3) To obtain or attempt to obtain any controlled  
4           substance or procure or attempt to procure the  
5           administration of any controlled substance:

6           (A) By fraud, deceit, misrepresentation,  
7           embezzlement, theft;

8           (B) By the forgery or alteration of a prescription or  
9           of any written order;

10          (C) By furnishing fraudulent medical information or  
11          the concealment of a material fact;

12          (D) By the use of a false name, patient  
13          identification number, or the giving of false  
14          address;

15          (E) By the unauthorized use of a [~~physician's~~]  
16          practitioner's oral call-in number; [~~or~~]

17          (F) By the alteration of a prescription by the  
18          addition of future refills;

19          (G) By the unauthorized use of a practitioner's  
20          electronic prescription application; or

21          (H) By the unauthorized transmission of an electronic  
22          prescription;



- 1           (4) To furnish false or fraudulent material information  
2           in, or omit any material information from, any  
3           application, report, or other document required to be  
4           kept or filed under this chapter, or any record  
5           required to be kept by this chapter;
- 6           (5) To make, distribute, or possess any punch, die, plate,  
7           stone, or other thing designed to print, imprint, or  
8           reproduce the trademark, trade name, or other  
9           identifying mark, imprint, or device of another or any  
10          likeness of any of the foregoing upon any drug or  
11          container or labeling thereof so as to render the drug  
12          a counterfeit substance;
- 13          (6) To misapply or divert to the person's own use or other  
14          unauthorized or illegal use or to take, make away  
15          with, or secrete, with intent to misapply or divert to  
16          the person's own use or other unauthorized or illegal  
17          use, any controlled substance that shall have come  
18          into the person's possession or under the person's  
19          care as a registrant or as an employee of a registrant  
20          who is authorized to possess controlled substances or  
21          has access to controlled substances by virtue of the  
22          person's employment; or



1 (7) To make, distribute, possess, or sell any prescription  
2 form, whether blank, faxed, computer generated,  
3 photocopied, electronically transmitted, or reproduced  
4 in any other manner without the authorization of the  
5 licensed practitioner."

6 SECTION 5. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.

9

INTRODUCED BY: *Nella A. Ruetti*

JAN 19 2013





# H.B. NO. 651

**Report Title:**

Electronic Prescriptions; Controlled Substances; Drug  
Enforcement Administration

**Description:**

Amends the Uniform Controlled Substances Act in Chapter 329,  
Hawaii Revised Statutes, by adding definitions consistent with  
federal law, clarifying the conditions for electronic  
transmittal of prescriptions, and adding and clarifying  
violations of prohibited acts.

*The summary description of legislation appearing on this page is for informational purposes only and is  
not legislation or evidence of legislative intent.*

