

JAN 29 2015

A BILL FOR AN ACT

RELATING TO PAIN MANAGEMENT.

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

PART I

SECTION 1. Chapter 329, Hawaii Revised Statutes, is amended by adding two new sections to part I to be appropriately designated and to read as follows:

"§329-A Narcotics enforcement and prescription drug monitoring advisory committee; established. (a) There is established a narcotics enforcement and prescription drug monitoring advisory committee within the department of health for administrative purposes. The committee shall be composed of five members appointed by the governor in accordance with section 26-34. Of the five members:

(1) One member shall be a physician licensed in accordance with chapter 453, specializing in pain medicine;

(2) One member shall be a physician licensed in accordance with chapter 453, specializing in family medicine;

(3) One member shall be a physician licensed in accordance with chapter 453, specializing in internal medicine;



1 (4) One member shall be a physician licensed in accordance
2 with chapter 453 or a psychologist licensed in
3 accordance with chapter 465, specializing in substance
4 use and addiction; and

5 (5) One member shall be a registered pharmacist, as
6 defined in section 461-1.

7 (b) All members shall serve for a term of four years. Any
8 vacancies occurring in the membership of the committee shall be
9 filled for the remainder of the unexpired term in the same
10 manner as the original appointments.

11 (c) The purpose of the narcotics enforcement and
12 prescription drug monitoring advisory committee shall be to
13 advise and assist the department of public safety narcotics
14 enforcement division by:

15 (1) Monitoring and reviewing statewide statistics
16 regarding drug prescriptions, including patient and
17 provider information;

18 (2) Identifying the top 20 per cent of all drug
19 prescribers based on the number of prescription drugs
20 prescribed and the total number of pills dispensed;



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- 1 (3) Ascertaining whether the State has met community
- 2 standards of care and specialty standards of care and
- 3 coordinating with the state medical board if there has
- 4 been a deviation from standards of care; and
- 5 (4) Providing recommendations regarding state-designated
- 6 pain programs, opioid-use policy, continuing medical
- 7 education requirements concerning drug prescriptions,
- 8 and the Hawaii drug take-back and education initiative
- 9 program established in section 329-B.

10 **§329-B Hawaii drug take-back and education initiative;**
 11 **established.** There shall be established within the department
 12 of public safety the Hawaii drug take-back and education
 13 initiative. The objectives of the Hawaii drug take-back and
 14 education initiative shall include the following:

- 15 (1) Organization of the safe return and disposal of drugs
- 16 through a drug take-back event, which shall meet the
- 17 requirements of federal law, each quarter;
- 18 (2) Development of strategic partnership recommendations
- 19 to incentivize the return and disposal of drugs;
- 20 (3) Initiatives, in collaboration with the department of
- 21 health and the narcotics enforcement and prescription



1 drug monitoring advisory committee, to expand and
2 coordinate education programs, partnerships, and
3 federal grants; and

4 (4) Integration of recommendations from the narcotics
5 enforcement and prescription drug monitoring advisory
6 committee established in section 329-A."

7 PART II

8 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
9 amended by adding two new sections to be appropriately
10 designated and to read as follows:

11 "§329-C Narcotics advisory committee; established. (a)

12 There is established a narcotics advisory committee within the
13 department for administrative purposes. The committee shall be
14 composed of five members appointed by the governor in accordance
15 with section 26-34. Of the five members:

16 (1) Four members shall be physicians licensed to prescribe
17 prescription drugs within the scope of the physician's
18 practice in accordance with chapter 453; and

19 (2) One member shall be a registered pharmacist, as
20 defined in section 461-1;

21 provided that all members shall be in good standing.



1 (b) All members shall serve a term of years. Any
2 vacancies occurring in the membership of the committee shall be
3 filled for the remainder of the unexpired term in the same
4 manner as the original appointments.

5 (c) The purpose of the narcotics advisory committee shall
6 be to recommend acceptable continuing medical education program
7 topics and curriculum to the department's narcotics enforcement
8 division, which shall qualify for the per cycle credits required
9 by the continuing medical education requirements pursuant to
10 section 329-D.

11 §329-D Continuing medical education program; prescribing
12 practitioners; narcotics. (a) There shall be established a
13 mandatory continuing medical education program for prescribing
14 practitioners who prescribe narcotic drugs pursuant to section
15 329-38.

16 (b) A prescribing practitioner shall earn four credits
17 every two year cycle to maintain the prescribing practitioner's
18 Drug Enforcement Administration license; provided that the
19 credit requirements shall be incorporated into the license
20 certification process via the Drug Enforcement Administration's
21 registration renewal website.



1 (c) Acceptable continuing medical education program topics
2 and curriculum shall be determined by the department's narcotics
3 enforcement division, in consultation with the narcotics
4 advisory committee pursuant to section 329-C."

5 PART III

6 SECTION 3. Chapter 329, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§329- Pain medication agreement. (a) A pain
10 medication agreement shall be executed between a patient and any
11 prescriber of a narcotic drug within this State for use as pain
12 medication:

13 (1) Whenever the patient is determined to have chronic
14 pain and is prescribed a narcotic drug for use as pain
15 medication for three months or longer; or

16 (2) Any time the patient is prescribed a narcotic drug for
17 use as pain medication in the patient's first
18 encounter with the prescriber.

19 (b) The administrator shall develop and make available a
20 template of a pain medication agreement for use in the State.



1 The template for the pain medication agreement shall include, at
2 a minimum, the following:

3 (1) Informed consent to treat the patient with scheduled
4 medication on a chronic basis greater than three
5 months, excluding hospice, that acknowledges the long-
6 term risks of the chronic use of a narcotic drug as
7 pain medication;

8 (2) Consent to submit to random pill counts upon request
9 by the prescriber;

10 (3) Consent to urine drug testing a minimum of three times
11 per year per clinical standards of care as determined
12 by the prescriber;

13 (4) A list of insurers in the State that offer coverage
14 for urine drug testing;

15 (5) A statement that advises the patient of the risk of
16 injury when exceeding a morphine equianalgesic dose of
17 one hundred twenty per day or combinations of the same
18 with benzodiazepines;

19 (6) A statement that advises the patient of the risk of
20 injury when exceeding three grams of acetaminophen on
21 a daily basis in combination products;



1 (7) A statement recommending a single pharmacy and
2 identifying this pharmacy for all patients receiving
3 chronic pain medications; and
4 (8) A statement advising any patient who violates section
5 329-46 shall be guilty of a class C felony.
6 (c) For the purposes of this section, "narcotic drug"
7 means all schedule II substances pursuant to section 329-16 and
8 schedule III substances pursuant to section 329-18, including
9 derivatives of hydrocodone, oxycodone, morphine, codeine,
10 hydromorphone, benzodiazepines, and carisoprodol."

PART IV

12 SECTION 4. Section 329-1, Hawaii Revised Statutes, is
13 amended by adding four new definitions to be appropriately
14 inserted and to read as follows:

15 "Chronic pain therapy" means at least three months of
16 continuous treatment for chronic pain.

17 "Pharmacist delegate" means a pharmacy employee who is
18 selected by a pharmacist to act as the pharmacist's agent and is
19 delegated with the task of accessing the electronic prescription
20 accountability system. The pharmacist shall take full



1 responsibility for any action taken by the pharmacist delegate
2 in their role as the pharmacist delegate.

3 "Practitioner" means a physician, dentist, veterinarian,
4 advanced practice registered nurse with prescriptive authority,
5 or physician assistant.

6 "Practitioner delegate" means an agent or employee of a
7 practitioner who is delegated with the task of accessing the
8 electronic prescription accountability system. The practitioner
9 shall take full responsibility for any action taken by the
10 practitioner delegate in their role as the practitioner
11 delegate."

12 SECTION 5. Section 329-101, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By amending subsection (b) to read:

15 "(b) The designated state agency shall determine those
16 schedules of controlled substances, classes of controlled
17 substances, and specific controlled substances that are
18 purportedly being misused and abused in the State. No
19 practitioner may administer, prescribe, or dispense a controlled
20 substance unless the practitioner is registered with the
21 designated state agency to utilize the electronic prescription



1 accountability system. Beginning January 1, 2016, all
2 practitioners prescribing or dispensing a controlled substance
3 in schedules II through IV, in any quantity, shall use the
4 electronic prescription accountability system. No identified
5 controlled substances may be dispensed unless information
6 relevant to the dispensation of the substance is reported
7 electronically or by means indicated by the designated state
8 agency to the central repository established under section 329-
9 102, in accordance with rules adopted by the department."

10 2. By amending subsection (e) to read:

11 "(e) The system shall provide for the use of a central
12 repository in accordance with section 329-102. Beginning
13 January 1, 2017, all practitioners and practitioner delegates
14 shall request patient information from the central repository
15 prior to prescribing or dispensing a controlled substance to a
16 new patient and shall request patient information from the
17 central repository at least three times per year for a patient
18 that receives chronic pain therapy. The operation of the system
19 shall be overseen by the designated state agency. The system
20 shall include provisions to protect the confidentiality of
21 information in the system, in accordance with section 329-104."



1 SECTION 6. Section 329-104, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) This section shall not prevent the disclosure, at the
4 discretion of the administrator, of investigative information
5 to:

6 (1) Law enforcement officers, investigative agents of
7 federal, state, or county law enforcement or
8 regulatory agencies, United States attorneys, county
9 prosecuting attorneys, or the attorney general;
10 provided that the administrator has reasonable grounds
11 to believe that the disclosure of any information
12 collected under this part is in furtherance of an
13 ongoing criminal or regulatory investigation or
14 prosecution;

15 (2) Registrants authorized under chapters 448, 453, and
16 463E who are registered to administer, prescribe, or
17 dispense controlled substances[+] and practitioner
18 delegates; provided that the information disclosed
19 relates only to the registrant's own patient;

20 (3) Pharmacists[+] or pharmacist delegates, employed by a
21 pharmacy registered under section 329-32, who request



- 1 prescription information about a customer relating to
2 a violation or possible violation of this chapter;
3 [~~or~~]
- 4 (4) Other state-authorized governmental prescription-
5 monitoring programs [-];
- 6 (5) The chief medical examiner or licensed physician
7 designee who requests information and certifies the
8 request is for the purpose of investigating the death
9 of a person;
- 10 (6) Qualified personnel for the purpose of legitimate
11 research or education; provided that any data that
12 reasonably identifies a specific recipient,
13 prescriber, or dispenser shall be deleted from the
14 information prior to disclosure; provided further that
15 release of the information shall be made pursuant to a
16 written agreement between qualified personnel and the
17 administrator to ensure compliance with this
18 subsection; and
- 19 (7) Other entities or individuals authorized by the
20 administrator to assist the program with projects that



1 enhance the electronic prescription accountability
2 system."

3 PART V

4 SECTION 7. The Hawaii Revised Statutes is amended by
5 adding a new chapter to be appropriately designated and to read
6 as follows:

7 "CHAPTER
8 OVERDOSE PREVENTION AND EMERGENCY RESPONSE ACT

9 § -1 Immunity. (a) The following definitions apply
10 throughout this section:

11 "Health care professional" includes but is not limited to a
12 physician, physician assistant, or nurse practitioner who is
13 authorized to prescribe an opioid antagonist.

14 "Opioid antagonist" means any drug that binds to opioid
15 receptors and blocks or disinhibits the effects of opioids
16 acting on those receptors.

17 "Opioid-related drug overdose" means a condition including
18 but not limited to extreme physical illness, decreased level of
19 consciousness, respiratory depression, coma, or death resulting
20 from the consumption or use of an opioid, or another substance
21 with which an opioid was combined, or that a layperson would



1 reasonably believe to be an opioid-related drug overdose that
2 requires medical assistance.

3 (b) Notwithstanding any other law or regulation, a health
4 care professional otherwise authorized to prescribe an opioid
5 antagonist may, directly or by standing order, prescribe,
6 dispense, and distribute an opioid antagonist to an individual
7 at risk of experiencing an opioid-related drug overdose or to a
8 family member, friend, or other person in a position to assist
9 an individual at risk of experiencing an opioid-related drug
10 overdose. Any such prescription shall be regarded as being
11 issued for a legitimate medical purpose in the usual course of
12 professional practice.

13 (c) A health care professional who, acting in good faith
14 and with reasonable care, prescribes or dispenses an opioid
15 antagonist shall not be subject to any criminal or civil
16 liability or any professional disciplinary action for:

- 17 (1) Prescribing or dispensing the opioid antagonist; and
18 (2) Any outcomes resulting from the eventual
19 administration of the opioid antagonist.

20 (d) Notwithstanding any other law or regulation, any
21 person may lawfully possess an opioid antagonist.



1 (e) A person who, acting in good faith and with reasonable
2 care, administers an opioid antagonist to another person whom
3 the person believes to be suffering an opioid-related drug
4 overdose shall be immune from criminal prosecution, sanction
5 under any professional licensing statute, and civil liability,
6 for acts or omissions resulting from the act.

7 § -2 Naloxone hydrochloride administration; emergency
8 personnel. By January 1, 2016, every emergency medical
9 technician licensed and registered in Hawaii shall be authorized
10 to administer an opioid antagonist as clinically indicated.

11 § -3 Medicaid coverage. The department of human
12 services shall ensure that naloxone hydrochloride for outpatient
13 use is covered by the medicaid prescription drug program on the
14 same basis as other covered drugs.

15 § -4 Naloxone hydrochloride; pharmacy exemption. (a)
16 Prescription orders for naloxone hydrochloride are exempt from
17 the pharmacy license requirements and pharmacy permit
18 requirements of chapter 461.

19 (b) Notwithstanding any other law or regulation, a person
20 or organization acting under a standing order issued by a health
21 care professional licensed under chapter 453 who is otherwise



1 authorized to prescribe an opioid antagonist may store an opioid
2 antagonist without being subject to the provisions of chapter
3 328 except part VII of chapter 328, and may dispense an opioid
4 antagonist so long as such activities are undertaken without
5 charge or compensation.

6 § -5 Unintentional drug overdose; reporting. The
7 department of health shall ascertain, document, and publish an
8 annual report on the number of, trends in, patterns in, and risk
9 factors related to unintentional drug overdose fatalities
10 occurring each year within the State. The report shall provide
11 information on interventions that would be effective in reducing
12 the rate of fatal or nonfatal drug overdose.

13 § -6 Drug overdose recognition, prevention, and
14 response. The department of health shall provide or establish
15 the following:

- 16 (1) Education on drug overdose prevention, recognition,
17 and response, including naloxone administration;
18 (2) Training on drug overdose prevention, recognition, and
19 response, including naloxone administration, for
20 patients receiving opioids and their families and
21 caregivers;



- 1 (3) Naloxone hydrochloride prescription and distribution
- 2 projects; and
- 3 (4) Education and training projects on drug overdose
- 4 response and treatment, including naloxone
- 5 administration, for emergency services and law
- 6 enforcement personnel, including volunteer fire and
- 7 emergency services personnel."

8 SECTION 8. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$ or so
10 much thereof as may be necessary for fiscal year 2015-2016 and
11 the same sum or so much thereof as may be necessary for fiscal
12 year 2016-2017 for drug overdose recognition, prevention, and
13 response, including the distribution and administration of
14 naloxone hydrochloride, as described in section -6, Hawaii
15 Revised Statutes, pursuant to section 7 of this Act.

16 The sums appropriated shall be expended by the department
17 of health for the purposes of this part.

18 PART VI

19 SECTION 9. In codifying the new sections added by sections
20 1 and 2 of this Act, the revisor of statutes shall substitute



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1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 10. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 11. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 12. This Act shall take effect on July 1, 2015.

9

INTRODUCED BY: Josh Green



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Report Title:

Pain Management; Narcotics Enforcement; Continuing Medical Education; Pain Medication Agreement; Uniform Controlled Substances Act; Medical Immunity; Appropriation

Description:

Part I: Establishes the Hawaii drug take-back and education initiative and the narcotics enforcement and prescription drug monitoring advisory committee. Part II: Establishes the narcotics advisory committee to recommend topics and curriculum for the continuing medical education program. Establishes requirements for a continuing medical education program for prescribing practitioners that prescribe narcotic drugs. Part III: Requires a pain medication agreement to be executed between a patient and any prescriber of a narcotic drug within the State for use as pain medication under certain conditions. Requires the administrator of the narcotics enforcement division to develop and make available a template of the agreement. Part IV: Requires practitioners to register to use the electronic prescription accountability system (EPAS) to administer, prescribe, or dispense a controlled substance. Requires all practitioners prescribing or dispensing certain controlled substances to use EPAS beginning 1/1/2016. Requires all practitioners and practitioner delegates to request patient information from the central repository prior to prescribing or dispensing a controlled substance to a new patient and any patient receiving chronic pain therapy beginning 1/1/2017. Provides pharmacist delegates and practitioner delegates with access to EPAS and in certain situations, expands access to investigative information in EPAS to include law enforcement officers and investigative agents of regulatory agencies and various individuals. Part V: Creates immunity for individuals who prescribe, possess, or administer an opioid antagonist during an opioid-related drug overdose. Authorizes emergency personnel to administer naloxone hydrochloride. Requires medicaid coverage for naloxone hydrochloride. Exempts pharmacists and pharmacies from certain licensure and permitting requirements. Appropriates funds for drug overdose recognition, prevention, and response.

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