HAWAII MEDICAL ASSOCIATION
1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

TO:
COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Rep. Angus L.K. McKelvey, Chair
Rep. Justin H. Woodson, Vice Chair

COMMITTEE ON JUDICIARY
Rep. Karl Rhoads, Chair
Rep. Joy A. San Buenaventura, Vice Chair

DATE: Monday, March 02, 2015
TIME: 2:15pm
PLACE: Conference Room 325

FROM: Hawaii Medical Association
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: HB 1176 HD 1

Please find proposed amendments attached

Hawaii Medical Association served on the State Narcotic Task Force. After seeing this measure we shared it HMA members as well as other specialty groups that represent OBYGYNs, Orthopedic Surgeons, Ophthalmologists, Psychiatrists and more. The overwhelming consensus is that this bill cannot be supported in its current form. This bill, as drafted, would make it a **felony** for any medical provider to provide a one week supply of narcotic or non-narcotic pain medication and not also spend a significant amount of time reviewing, explaining, and having their patient sign a "pain contract" which subjects the patient to random pill counts upon request, urine drug testing a minimum of three times per year, and many other highly unnecessary and inappropriate requirements for the **acute** treatment of pain. This bill also makes it a **felony** for a provider to not look up every single patient that they prescribe a narcotic or non-narcotic pain medication in the electronic prescription accountability system. It has been confirmed that **violating any part of Section 329 is a felony, so if this bill it to move forward in any form it must be moved to a different section.**

Our doctor shortage to increased by 20% last year. Please be mindful that surveys show administrative burdens are one of the top reasons that physicians leave the state. New estimates on physician supply and demand peg the current shortage at 890, and that's expected to jump as high as 1,500 by 2020, according to the latest figures from the University of Hawaii John A. Burns School of Medicine's Area Health Education Center. This is devastating for patients and absolutely results in deaths and poor care. We should be focusing on solving this problem together not increasing administrative burdens and threatening physicians with felonies for forgetting to do pain contracts and registering each pain prescription on an electronic tracking system.

Residents cannot log into the electronic prescription accountability system, as they do not have a narcotics identification number yet. Many providers do not have a nurse designated for them to use as a delegate to do additional administrative work such as this mandate. We fear that this means that each attending would have to log into the electronic prescription accountability system for every single pain prescription written by each of the residents they are overseeing. This not only provides no patient benefit but it means that providers will not be able to see as many patients and wait lists will get even longer. It's inappropriate to treat ALL patients like they are chronic pain patients. It is inappropriate to treat ALL patients like they are drug seekers.

Imagine you are a woman that just gave birth and had to have a C - Section. As with all postoperative care, pain mediation is indicated in this situation for a short period of time. It goes without saying that this woman is not a drug seeker. The first conversation this woman would have to have with her doctor would be about a pain contract which would force this women to be subjected to pill counts and drug tests. This is insulting and emotionally traumatizing to the patient and it is uncomfortable for the health care provider.

The HMA would like to provide the following comments in addition to our attachment, which highlights in red necessary changes to this bill. **We would also request that we move this language to a section that would not make violations of the section a felony, that would be very appropriate. The last thing we need to have even more physicians leave the state for fear of getting a felony for forgetting to enter one patient into a prescription drug tracker.**

HMA suggests that the legislature amend the phrase, "chronic pain therapy," to "chronic opioid therapy". While there are many types of therapy for chronic pain, we are attempting to address chronic opioid therapy. We do not believe it is appropriate or the intent of the legislature to require use of drug monitoring for all pain medication. For example this bill currently includes Benzodiazepines (Xanax, Ambien, Ativan).

HMA suggests that the legislature amend the bill to exclude treatment of acute pain and injury from the provision requiring a provider access the database as well as from the section requiring pain contracts.

Many providers operate in a clinical setting in which most patients are new patients, and requiring a query of the electronic prescription accountability system for every prescription for pain treatment is overly burdensome. Again, one of the top reasons physicians leave the state is administrative burden. We take the concerns our members have voiced on this issue very seriously, and it is our duty to relay those concerns to you so we do not worsen our current physician shortage crisis.

Even if access is delegated, the process of accessing the drug monitoring system for all patients prescribed a pain medication will be a significant drain on resources in terms of staffing and delay in disposition. **We argue that when a physician is providing a patient with a prescription for a short course of opioid medication for acute pain, statute should allow the practitioner to decide if a database query is appropriate. Legislating the practice of medicine leads to many unforeseen complications.**

In order for the medical community to support this measure, there must be an addition of an appropriation for training for providers, expanded use, continued improvement of, and continuing funding of the electronic prescription accountability system. Hawaii's electronic prescription

accountability system is an incredibly valuable tool for providers. **We have concerns that improvements suggested in the proposed legislation will not be feasible without proper funding. If this mandate is going to be enforced, is only fair that providers must first be properly trained in order for them to register and utilize the electronic prescription accountability system.**

Thank you for the opportunity to submit testimony. We look forward to continuing to work with stakeholders on this issue. Please find our proposed amendments attached.

HOUSE OF REPRESENTATIVES H.B. NO. 117
TWENTY-EIGHTH LEGISLATURE, 2015 H.D
STATE OF HAWAII

A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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 be appropriately designated and to read as follows: Section 329-1~~,**(Need to find a new section for this legislation as violating any part of 329 is a felony and we do not think it is appropriate to charge a provider with a felony for forgetting to do a pain contract or enter every prescription in the electronic tracking system.)**

"~~§329-A~~ **Narcotics advisory committee; established.** (a) There is established a narcotics advisory committee within the department 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) Four members shall be physicians licensed to prescribe prescription drugs within the scope of the physician's practice in accordance with chapter 453; and

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

provided that all members shall be in good standing.

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

(c) The purpose of the narcotics advisory committee shall be to: (1) Recommend acceptable continuing medical education program topics and curriculum to the department's narcotics enforcement division, which shall qualify for the per cycle credits required by the continuing medical education requirements pursuant to section ~~329-D;~~

(2) Ascertaining whether the State has met community standards of care and specialty standards of care and coordinating with the state medical board if there has been a deviation from standards of care; and

(3) Providing recommendations regarding state-designated pain programs, opioid-use policy, continuing medical education requirements concerning drug prescriptions.

~~§329-B~~ **Continuing medical education program; prescribing practitioners; narcotics.** (a) There shall be established a ~~mandatory~~ voluntary continuing medical education program for prescribing practitioners who prescribe narcotic drugs pursuant to section ~~329-38.~~

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

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

PART II

SECTION 2. ~~Chapter 329, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows: Section 329-1~~**,(Need to find a new section for this legislation as violating any part of 329 is a felony and we do not think it is appropriate to charge a provider with a felony for forgetting to do a pain contract or enter every prescription in the electronic tracking system.)**

"~~§329-~~ **Opioid Pain medication agreement.** (a) An opioid pain medication agreement ~~shall~~ may be executed between a patient and any prescriber of a opioid drug within this State for use as pain medication:

(1) Whenever the patient is determined to have chronic pain and is prescribed an opioid drug for use as pain medication for three months or longer; or

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

(b) The administrator shall develop and make available a template of a pain medication agreement for use in the State. The template for the pain medication agreement shall include, at a minimum, the following:

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

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

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

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

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

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

(7) A statement recommending a single pharmacy and identifying this pharmacy for all patients receiving chronic pain medications; and

(8) A statement advising any patient who violates section 329-46 shall be guilty of a class C felony.

~~(c) For the purposes of this section, "narcotic drug" means all schedule II substances pursuant to section 329-16 and schedule III substances pursuant to section 329-18, including derivatives of hydrocodone, oxycodone, morphine, codeine, hydromorphone, benzodiazepines, and carisoprodol."~~

PART III

~~SECTION 3. Section 329-1, Hawaii Revised Statutes, is amended by adding four new definitions to be appropriately inserted and to read as follows:~~**,(Need to find a new section for this legislation as violating any part of 329 is a felony and we do not think it is appropriate to charge a provider with a felony for forgetting to do a pain contract or enter every prescription in the electronic tracking system.)**

""Chronic ~~pain~~ opioid pain therapy" means at least three months of continuous treatment for chronic pain with opioid pain medication.

"Pharmacist delegate" means a pharmacy employee who is selected by a pharmacist to act as the pharmacist's agent and is delegated with the task of accessing the electronic prescription accountability system. The pharmacist shall take full responsibility for any action taken by the pharmacist delegate in their role as the pharmacist delegate.

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

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

~~SECTION 4. Section 329-101, Hawaii Revised Statutes, is amended as follows: Section 329-1~~**,(Need to find a new section for this legislation as violating any part of 329 is a felony and we do not think it is appropriate to charge a provider with a felony for forgetting to do a pain contract or enter every prescription in the electronic tracking system.)**

1. By amending subsection (b) to read:

"(b) The designated state agency shall determine those schedules of controlled substances, classes of controlled substances, and specific controlled substances that are purportedly being misused and abused in the State. Excluding prescriptions for acute pain, prescriptions for less than a 3 months supply of opioid pain therapy, no practitioner may administer, prescribe, or dispense a controlled substance unless the practitioner is registered with the designated state agency to utilize the electronic prescription accountability system. Beginning ~~January 1, 2016~~ January 1, 2017, all practitioners prescribing or dispensing a controlled substance in schedules II through IV, in any quantity, shall use the electronic prescription accountability system. The state shall provide training to practitioners on how to register for and use the electronic prescription accountability system. Each provider must obtain training in how to register and use the electronic prescription accountability

system prior to being subject to this mandate. No identified controlled substances may be dispensed unless information relevant to the dispensation of the substance is reported electronically or by means indicated by the designated state agency to the central repository established under section 329-102, in accordance with rules adopted by the department."

2. By amending subsection (e) to read:

"(e) The system shall provide for the use of a central repository in accordance with section 329-102. Excluding prescriptions for acute pain, prescriptions for less than a 3 months supply of opioid pain therapy, beginning ~~January 1, 2017,~~ January 1, 2018 all practitioners and practitioner delegates shall request patient information from the central repository prior to prescribing or dispensing an opioid medication. ~~controlled substance to a new patient and shall request patient information from the central repository at least three times per year for a patient that receives chronic pain therapy.~~ The operation of the system shall be overseen by the designated state agency. The system shall include provisions to protect the confidentiality of information in the system, in accordance with section 329-104."

SECTION 5. Section 329-104, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

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

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

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

(3) Pharmacists[~~,~~] or pharmacist delegates, employed by a pharmacy registered under section 329-32, who request prescription information about a customer relating to a violation or possible violation of this chapter; [~~or~~]

(4) Other state-authorized governmental prescription-monitoring programs[~~.~~];

(5) The chief medical examiner or licensed physician designee who requests information and certifies the request is for the purpose of investigating the death of a person;

(6) Qualified personnel for the purpose of legitimate research or education; provided that any data that reasonably identifies a specific recipient, prescriber, or dispenser shall be deleted from the information prior to disclosure; provided further that release of the information shall be made pursuant to a written agreement between qualified personnel and the administrator to ensure compliance with this subsection; and

(7) Other entities or individuals authorized by the administrator to assist the program with projects that enhance the electronic prescription accountability system."

PART IV

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

"CHAPTER

OVERDOSE PREVENTION AND EMERGENCY RESPONSE ACT

§ -1 Immunity. (a) The following definitions apply

throughout this section:

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

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

"Opioid-related drug overdose" means a condition including but not limited to extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death resulting from the consumption or use of an opioid, or another substance with which an opioid was combined, or that a layperson would reasonably believe to be an opioid-related drug overdose that requires medical assistance.

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

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

(1) Prescribing or dispensing the opioid antagonist; and

(2) Any outcomes resulting from the eventual administration of the opioid antagonist.

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

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

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

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

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

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

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

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

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

(1) Education on drug overdose prevention, recognition, and response, including naloxone administration;

(2) Training on drug overdose prevention, recognition, and response, including naloxone administration, for patients receiving opioids and their families and caregivers;

(3) Naloxone hydrochloride prescription and distribution projects; and

(4) Education and training projects on drug overdose response and treatment, including naloxone administration, for emergency services and law enforcement personnel, including volunteer fire and emergency services personnel."

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

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

PART V

SECTION 8. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 2050.

woodson2-Rachel

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 27, 2015 10:53 AM
To: CPCtestimony
Cc: byronizuka@gmail.com
Subject: Submitted testimony for HB1176 on Mar 2, 2015 14:15PM

HB1176
Submitted on: 2/27/2015
Testimony for CPC/JUD on Mar 2, 2015 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Byron Izuka, MD	Hawaii Orthopaedic Association	Oppose	No

Comments: As I understand it, the spirit of HB 1176 is to address patients with chronic pain conditions and the physicians who care for them, presumably with the intent of preventing such patients from being able to "doctor shop" for their pain medications. If so, I am in favor of this intent. What I am unclear about is exactly how this proposal will impact physicians like myself who care primarily for patients with acute injuries/surgeries which are temporary in nature. I would NOT like to see legislation that would require me or my staff to perform additional administrative tasks that do not result in improved care for the vast majority of the patients that we treat. In its current format this Bill appears to be too far reaching and I predict it will be overly burdensome and costly for most practitioners to follow. With additional refinements, however, I do think it can be made even better. I am happy to discuss this further if you think it worthwhile. Thanks, Byron -- Byron H. Izuka, M.D. Director of Orthopedic Research and Associate Professor - UH Division of Orthopaedic Surgery Immediate Past President - Hawaii Orthopaedic Association Secretary/Treasurer - Medical Executive Committee, Kapi'olani Medical Center for Women and Children Chair - Utilization Management Committee, Kapi'olani Medical Center for Women and Children Children's Orthopaedics of Hawaii Leeward Office (New Address): Mary Savio Medical Plaza 98-1247 Ka'ahumanu Street, Suite 122 Aiea, HI 96701 Phone: (808) 485-8985 Fax: (808) 485-8986 Town Office: Kapi'olani Medical Center 1319 Punahou Street, Suite 620 Honolulu, HI 96826 Phone: (808) 485-8985 Fax: (808) 485-8986

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Government Relations

Testimony of Phyllis Dendle
Director, Government Relations

Before:
House Committee on Consumer Protection & Commerce
The Honorable Angus L.K. McKelvey, Chair
The Honorable Justin H. Woodson, Vice Chair

House Committee on Judiciary
The Honorable Karl Rhoads, Chair
The Honorable Joy A. San Buenaventura, Vice Chair

March 2, 2015
2:15 pm
Conference Room 325

Re: HB 1176 HD1 RELATING TO CONSUMER PROTECTION

Chairs and committee members: thank you for this opportunity to provide testimony on this bill regarding new enhanced protections for the use of narcotics.

Kaiser Permanente supports the intent of this bill but offers amendments.

Kaiser Permanente was happy to participate on the task force that recommended these changes in the law. We endorse the intent of this measure; however, we cannot support its passage without the changes we recommend here.

Page 4 Line 18: Replace the current number (3) on lines 18-20 with the following: "Consent to random urine drug testing at least once a year if 40 mg or less morphine equivalent daily dose or at least three times per year if over 40 mg morphine equivalent daily dose."

Page 5 Lines 1: Remove (4) and renumber the remaining list. Insurers already cover urine drug testing.

Page 5 Line 8: Replace "three grams of acetaminophen" with "four grams of acetaminophen". Four is the correct amount based on clinical guidelines.

Page 5 Lines 13-14: Remove (8). The contract referenced is between the patient and the physician and should not include the possible arrest of a patient. This is not appropriate for medical care. While we recognize the seriousness of narcotics misuse and abuse, the physician can manage the

711 Kapiolani Blvd
Honolulu, Hawaii 96813
Telephone: 808-432-5210
Facsimile: 808-432-5906
Mobile: 808-754-7007
E-mail: phyllis.dendle@kp.org

patient's behavior better without judicial interaction and is always free to stop prescribing narcotics if they are harmful for the patient.

Page 6 lines 13-15- Definition of "Practitioner" should match the definition already in 329 HRS. This one does not. This is the current definition in 329-1 HRS:

> "Practitioner" means:
>
> (1) A physician, dentist, veterinarian, scientific investigator, or other person licensed and registered under section 329-32 to distribute, dispense, or conduct research with respect to a controlled substance in the course of professional practice or research in this State;
>
> (2) An advanced practice registered nurse with prescriptive authority licensed and registered under section 329-32 to prescribe and administer controlled substances in the course of professional practice in this State; and
>
> (3) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this State.

We appreciate your consideration and urge the committees to pass this bill with these amendments. Thank you.

Testimony of
Gary Slovin / Mihoko Ito
on behalf of
Walgreens

DATE: February 28, 2015

TO: Representative Angus L.K. McKelvey, Chair
Committee on Consumer Protection and Commerce

Representative Karl Rhoads, Chair
Committee on Judiciary

Submitted Via CPCtestimony@capitol.hawaii.gov

RE: **H.B. 1176, HD1 – Relating to Consumer Protection**
Hearing: Monday, March 2, 2015, 2:15 p.m.
Conference Room: 325

Dear Chair McKelvey, Chair Rhoads and Members of the Joint Committees,

We submit these comments on behalf of Walgreen Co. ("Walgreens"). Walgreens operates more than 8,200 locations in all 50 states, the District of Columbia and Puerto Rico. In Hawai`i, Walgreens now has 20 stores on the islands of Oahu, Maui and Hawai`i.

Walgreens **supports** the intent of S.B. 1176, HD1, which proposes various measures to address the issue of narcotic prescription drug abuse. The bill proposes to 1) establish a take-back and education initiative, 2) establish a narcotics advisory committee, 3) require a pain medication agreement to be executed between a patient and prescriber, 4) require practitioners to register to use the electronic prescription monitoring system, and 5) authorize health care providers to prescribe naloxone in the event of an opioid overdose.

Walgreens participated in and is in full support of the working group that convened to discuss systemic improvements to curbing the overuse of prescription narcotic drugs. The proposals contained in this bill help to establish several alternatives aimed at curbing the

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Gary M. Slovin
Mihoko E. Ito
Tiffany N. Yajima
C. Mike Kido

999 Bishop Street, Suite 1400
Honolulu, HI 96813
(808) 539-0840

overuse of prescription narcotics. Walgreens especially appreciates that this measure would allow for greater participation of practitioners in monitoring patients who need to manage chronic pain, and work to educate the public through a drug take back program.

Walgreens would respectfully request that two amendments be made to the measure as follows:

Part II (Pain medication agreement): This section requires a pain medication agreement to be executed between a patient and any prescriber of a narcotic drug, where the patient is either determined to have chronic pain or is being prescribed pain medication by a prescriber for the first time. Walgreens would, respectfully request that a technical amendment be made to this measure. In the requirements for the pain medication agreement, the agreement must include a statement recommending a single pharmacy to be used for all patients receiving chronic pain medications (page 5, lines 10-12). Walgreens suggests that this be amended to clarify that a patient would be permitted to use the different stores within a pharmacy network like Walgreens. To be consistent with other language in Chapter 329, we would recommend the following language:

> (5) A statement recommending a single pharmacy ***or a single network of pharmacies electronically sharing a real-time, online database,*** and identifying this pharmacy ***or network of pharmacies*** for all patients receiving chronic pain medications; and

Because a pharmacy network keeps detailed records on patients across their network, this would clarify that a patient could go to any pharmacy within the network and still satisfy prescription monitoring concerns.

Part III (Electronic prescription monitoring): The definition of "practitioner" in this section (page 6, lines 13-15), conflicts with the existing law in HRS 329-1, which already defines practitioners. We would respectfully request that the Committee amend this definition, to ensure that the bill captures the intent of the working group, which was to impose the registration requirement only on prescribers. Pharmacists should be excluded from the requirement because they are already registered with the prescription drug monitoring program to report data for the system to use.

We believe that that the Department of Public Safety Narcotics Enforcement Division has proposed language to make these clarifying amendments, and are in support of the department's amendments.

Thank you very much for the opportunity to submit testimony on this measure.

THE QUEEN'S HEALTH SYSTEMS

To: Chair Angus L.K. McKelvey
Vice Chair Justin H. Woodson
House Committee on Consumer Protection and Commerce

Chair Karl Rhoads
Vice Chair Joy A. San Buenaventura
House Committee on Judiciary

From: Daniel Fischberg, MD, PhD
Medical Director, Pain and Palliative Care Department
The Queen's Medical Center

Re: HB 1176, Relating to Consumer Protection
Hearing—March 2, 2015 at 2:15 PM

The Queen's Health Systems would like to provide amendments to HB 1176. While we support the intent of this legislation, we have reservations about this bill as written. We believe that the amendments outlined below will help to better reflect the realities of patient care while maintaining the intent of this legislation to reduce abuse or misuse of opioids for chronic pain.

First, we would like to offer amendments to Part II. We would ask that your committee remove the requirement that prescribers must complete a pain medication agreement during a first encounter with a patient.

Many patients are prescribed narcotic drugs for use as a pain medication after an emergency or acute period of care. This provision could delay the provision of care in emergency departments and create an unnecessary burden on providers who prescribe a short course of pain medication after setting a broken arm, for example. Already, providers are working on tight schedules; this requirement would likely take away from integral provider-patient interactions. Moreover, this change would not limit the ability of providers to complete a pain medication agreement with a patient in the first encounter. Our suggested amendment is:

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

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

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

We would also ask that you adopt amendments regarding the requirements for urine drug testing in this legislation (page 4, lines 18-20 and page 5, lines 1-2) by making them consistent with the consent requirement for pill counts (page 4, lines 16-17.) This amendment would maintain urine drug testing as a tool that physicians could use when managing a patient on chronic pain therapy while recognizing that each patient must be treated on an individualized, case-by-case basis. Not all patients will need to undergo urine drug testing. This amendment would allow physicians and patients the flexibility necessary for personalized care. Our suggested amendment is:

(3) Consent to urine drug testing ~~a minimum of three times per year per clinical standards of care as determined~~ by the prescriber;
~~(4) A list of insurers in the State that offer coverage for urine drug testing;~~

Second, we would like to offer amendments to Part III. We would recommend that the requirement that practitioners "check" the electronic prescription accountability system three times a year (page 8, lines 2-8) be modified so as to provide more direction and clarification about what this "check" is meant to achieve. There is no clear delineation about what the practitioner should be checking for. Moreover, this requirement has the potential to give practitioners "cover" by allowing him or her to continue problematic prescription practices while still following the exact terms of the law.

This provision does not allow the flexibility that practitioners need in handling a wide variety of patient cases and needs. For example, what if a practitioner sees a patient for four months, after which time that patient elects hospice care or passes away from their illness? If the practitioner did not check the system three times within those four months, would he be penalized? In order to give this provision more clarity, we would suggest that the "three times a year" language be replaced with a provision requiring that practitioners use and refer to the system in a manner consistent with recommendations made by the narcotics enforcement and prescription drug monitory advisory committee, as established by this bill. We would also suggest amendments to this section to exclude emergency or urgent care providers, as the requirement to check the system could result in delayed care. Our suggested amendment is:

"(e) The system shall provide for the use of a central repository in accordance with section 329-102. Beginning January 1, 2017, all practitioners and practitioner delegates shall request patient information from the central repository prior to prescribing or dispensing a controlled substance to a new patient who requires the use of a narcotic drug as pain medication; provided that an exception be made for practitioners or practitioner delegates who prescribe a narcotic drug as a pain medication for a patient receiving emergency or acute care services. Practitioners and practitioner delegates must use and refer to the electronic prescription accountability system in a manner consistent with recommendations made by the narcotics enforcement and prescription drug monitoring advisory committee to monitor patient use of a prescription opioid medication as pain medication for chronic pain therapy ~~and shall request patient information from the central repository at least three times per year for a patient that receives chronic pain therapy~~."

We would also like to offer an amendment clarifying that chronic pain therapy means continuous treatment for chronic pain with prescription opioid medication. Our suggested amendment is as follows:

> ""Chronic pain therapy" means at least three months of continuous treatment for chronic pain with prescription opioid medication."

We would also recommend that your committee make amendments in Part III to replace the term "central repository" with "electronic prescription accountability system" for consistency.

We share your commitment to reducing accidental opioid fatalities and problematic prescription of these dangerous drugs and support the intent of HB 1176 with reservations. We would ask that your committee include the amendments suggested in this testimony to provide greater clarity and flexibility for providers and patients alike.

Thank you for your time and attention to this important matter.

woodson2-Rachel

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 28, 2015 3:58 PM
To: CPCtestimony
Cc: anthony_orozco@yahoo.com
Subject: *Submitted testimony for HB1176 on Mar 2, 2015 14:15PM*

HB1176
Submitted on: 2/28/2015
Testimony for CPC/JUD on Mar 2, 2015 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Anthony Orozco	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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woodson2-Rachel

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From: mailinglist@capitol.hawaii.gov
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Cc: docwong@docwong.net
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HB1176
Submitted on: 3/1/2015
Testimony for CPC/JUD on Mar 2, 2015 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
William Wong	Individual	Oppose	No

Comments: This bill as drafted would make it a felony for any medical provider to provide a one week supply of narcotic or non-narcotic pain medication and not also spend a significant amount of time reviewing, explaining, and having their patient sign a “pain contract” which subjects the patient to random pill counts upon request, urine drug testing a minimum of three times per year, and many other highly unnecessary and inappropriate requirements for the acute treatment of pain. This bill also makes it a felony for a provider to not look up every single patient that they prescribe a narcotic or non-narcotic pain medication in the electronic prescription accountability system. Residents cannot log into the electronic prescription accountability system as they do not have a narcotics identification number yet. Many providers do not have a nurse designated for them to use as a delegate to do additional administrative work, such as this mandate. We fear that this means that each attending would have to log into the electronic prescription accountability system for every single pain prescription written by each of the residents they are overseeing. This not only provides no patient benefit but it means that providers will not be able to see as many patients and wait list will get even longer. It’s inappropriate to treat ALL patients like they are chronic pain patients. It is inappropriate to treat ALL patients like they are drug seekers. Please hold this bill.

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DAVID Y. IGE
GOVERNOR

LATE TESTIMONY

NOLAN P. ESPINDA
DIRECTOR

CATHY ROSS
DEPUTY DIRECTOR
ADMINISTRATION

DEPUTY DIRECTOR
CORRECTIONS

SHAWN H. TSUHA
DEPUTY DIRECTOR
LAW ENFORCEMENT

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

No. _____

TESTIMONY ON HOUSE BILL (HB) 1176 HOUSE DRAFT (HD) 1
RELATING TO CONSUMER PROTECTION
By
Nolan P. Espinda, Director
Department of Public Safety

House Committee on Consumer Protection and Commerce
Representative Angus L.K. McKelvey, Chair
Representative Justin H. Woodson, Vice Chair

House Committee on Judiciary
Representative Karl Rhoads, Chair
Representative Joy A. San Buenaventura, Vice Chair

Monday, March 2, 2015, 2:15 PM
State Capitol, Conference Room 325

Chairs McKelvey and Rhoads, Vice Chairs Woodson and San Buenaventura, and Members of the Committee:

Department of Public Safety (PSD) **supports the intent of** HB 1176 HD1. PSD would like to recommend the following amendments:

On page 3, lines 3 through 8, Part I, Section 1. (b) to read as follows:

"(b) A prescribing practitioner shall earn four credits every two year cycle to maintain the prescribing practitioner's State controlled substance registration certificate; provided that the credit requirements shall be incorporated into the controlled substance registration certification process via the department's registration renewal website."

Part II proposes to require the PSD's Narcotics Enforcement Division's Administrator develop and make available, a template of a pain medication agreement for use by all practitioners in the State. PSD defers to the Department of the Attorney General, on the legality of the physician - patient agreement.

On page 5, lines 13 to 14, Part II, Section 2. (b) (8), add Section 329-42, HRS (prohibited acts committed by the patient) to the list of violations to read as follows: "(8) A statement advising any patient who violates section 329-42 and 329-46 shall be guilty of a class C felony."

Part III proposes to require all practitioners who administer, prescribe, or dispense controlled substances in Schedules II through IV to register to use the electronic prescription accountability system by January 1, 2016. HB 1176 HD1 adds new definitions to allow access to the electronic prescription accountability system to "practitioner delegates, pharmacist delegates, the chief medical examiner and researchers and other entities or individuals authorized by the administrator to assist the program with projects which enhance the electronic prescription accountability system."

On page 7, Part III, Section 4, address the issue of the definition of "Practitioner" that should be utilized in Section 329, Part VIII. Electronic Prescription Accountability System, to read as follows:

"§329-101 Reporting of dispensation of controlled substances; electronic prescription accountability system; requirements; penalty. (a) A controlled substance electronic accountability prescription system shall be established within six months of June 18, 1996. For the purpose of this Part the definition of "practitioner" shall be as follows.

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

The PSD's Narcotics Enforcement Division's Electronic Prescription Accountability System has been in operation since 1993, and has evolved over the years to require all pharmacies and dispensing practitioners to submit prescription data into an electronic database. The program is capable of providing practitioners with a prescription history for anyone who is prescribed controlled substances in Schedules II to IV. This allows practitioners and pharmacists the ability to retrieve the prescription history of patients to avoid over-prescription and assist in providing them the most appropriate care, especially where controlled substance abuse is suspected. In addition, emergency room physicians are able to check the database to evaluate patients who periodically visit their facilities seeking controlled substances. The issue has always been

that even though this is a highly effective evaluation tool, practitioners have not been utilizing the electronic prescription accountability system, possibly due to time limitations, or they may lack awareness of the program. This results in substance abusers continuing to fraudulently obtain prescriptions from multiple physicians and/or fraudulent obtaining prescription drugs undetected.

If passed, this measure will provide practitioners and their delegates a very powerful tool to make better, more informed treatment decisions, allowing them to provide the most appropriate medical care for their patients. Ultimately, all Hawaii citizens will benefit from the use of the electronic prescription accountability system through improved medical care and in reductions in the abuse and diversion of controlled substance prescription drugs.

HB1176 HD1 as written dose not appropriate any resources or funding for the expansion of the department's electronic prescription monitoring program. PSD requests that HB 1176 HD1 be amended to appropriate funding for the expansion of its electronic prescription monitoring program by adding the following to Section 7 of this bill:

"There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2015-2016 and the same sum or so much thereof as may be necessary for fiscal year 2016-2017 for expansion of the department of public safety's electronic prescription accountability system as described in Section 329-101 and Section 329-104, Hawaii Revised Statutes, pursuant to Part III of this Act. The sums appropriated shall be expended by the department of public safety for the purposes of this part."

HB 1176 HD1, if passed, will provide practitioners and their delegates a very powerful tool to make better and more informed treatment decisions, allowing them to provide the most appropriate medical care for their patients. Ultimately, all Hawaii citizens will benefit from the use of the electronic prescription accountability system by receiving improved medical care and by reductions in the abuse and diversion of controlled substance prescription drugs.

Thank you for the opportunity to testify in support of this important bill.