



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

LATE

ON THE FOLLOWING MEASURE:

S.B. NO. 2392, RELATING TO OPIOID ANTAGONISTS.

BEFORE THE:

SENATE COMMITTEES ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
AND ON JUDICIARY AND LABOR

DATE: Friday, February 12, 2016

TIME: 9:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Jill T. Nagamine, Deputy Attorney General

Chairs Baker and Keith-Agaran and Members of the Committees:

The Department of the Attorney General provides the following comments.

This bill would create a new chapter in the Hawaii Revised Statutes (HRS) that would (1) create immunity for individuals who prescribe, possess, or administer an opioid antagonist such as naloxone hydrochloride during an opioid-related drug overdose, (2) authorize emergency personnel to administer naloxone hydrochloride, (3) require medicaid coverage for naloxone hydrochloride, and (4) exempt pharmacists and pharmacies from licensure and permitting requirements, except for drug storage requirements, for storing and distributing opioid antagonists.

The immunity provision may not go far enough.

The immunity offered by this bill only extends to health care professionals who are authorized to prescribe opioid antagonists. Other professionals who will ultimately assist in the process of getting opioid antagonists to those who need them might need immunity too.

Pharmacists, all first responders, and law enforcement officers may also benefit from immunity.

The pharmacy exemption is unclear.

It is unclear what the pharmacy exemption in section -4(a) at page 6, lines 7-10, means or what would be exempted. If the intention is to exempt people who do not otherwise have to comply with chapter 461, such as harm reduction organizations that might be in the position of assisting individuals at risk of experiencing opioid-related overdoses, like the Community Health Outreach Work Project (CHOW Project), section -4 does not accomplish that. Chapter 461

relates to pharmacists and pharmacies and they both have to be licensed. This section gives no guidance on which license and permit requirements would be exempted, or how that would work.

The Department of Health's responsibilities are unclear.

Section -5 of the bill at page 6, line 18, through page 7, line 3, requires the Department of Health to gather information and report on trends and risk factors related to unintentional drug overdose fatalities occurring each year within the state, but it gives the department of health no method to obtain what is likely to be confidential protected health information. Without some requirement for first responders, physicians, and coroners to report drug overdose deaths to the department it may not be possible for the department to do this.

Section -6 of the bill at page 7, lines 4-20, requires the Department of Health to provide or establish education, training, and projects pertaining to drug overdose response and treatment. Paragraph (1) requires education on drug overdose prevention, recognition, and response, including naloxone hydrochloride administration, but it does not specify who the education is for. Paragraph (3) requires the department to provide or establish naloxone hydrochloride prescription and distribution projects but does not specify what the nature of these projects is or who these projects are for.

Suggested definitions:

"Health care professional" at page 3, line 20, through page 4, line 2, as written, includes people with no authority to prescribe an opioid antagonist. Changing the word order of the definition as follows would solve that problem:

"Health care professional" means a person who is authorized to prescribe an opioid antagonist, including but not limited to a physician, physician assistant under the authority and supervision of a physician, or advanced practice registered nurse.

"Standing order," at page 6, line 12. It would be useful to provide a minimum guideline for what a standing order pertaining to the dispensing, storing, distributing, and use of an opioid antagonist can include.

"Organization," at page 6, line 12. It is important to define this as used in the bill, because the bill would allow an organization, among other things, to dispense an opioid antagonist. Guidance is needed to know what kind of organization can dispense, which

responsible person at the organization can dispense, and whether there are criteria or training required before designating someone at an organization to distribute an opioid antagonist.

Suggested technical changes:

(1) The definitions created in section -1, apply only to section -1, but they are used and needed elsewhere in the new chapter. At page 3, line 19, the word "section" should be changed to "chapter."

(2) If the definition of "health care professional" is revised as suggested above, then section -1(b) at page 4 line 13, through page 5, line 2, needs to be conformed as follows.

Technical changes are included in Ramseyer format:

"(b) Notwithstanding any other law [~~or regulation~~] to the contrary, a health care professional [~~otherwise authorized to prescribe an opioid antagonist~~] may, directly or by standing order, prescribe, dispense, [~~and~~] or distribute an opioid antagonist to an individual at risk of experiencing an opioid-related overdose or to another person in a position to assist an individual at risk of experiencing an opioid-related overdose. Any such [~~prescription~~] prescribing, dispensing, or distributing of an opioid antagonist pursuant to this chapter shall be regarded as being [~~issued~~] for a legitimate medical purpose in the usual course of professional practice."

(3) Because section -1 is entitled "Immunity" but includes the definitions applicable to the chapter, it would be clearer to have separate sections for "Definitions" and "Immunity."

Thank you for the opportunity to comment on this bill.

LATE

HONOLULU EMERGENCY SERVICES DEPARTMENT
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

MARK K. RIGG
DIRECTOR

IAN T.T. SANTEE
DEPUTY DIRECTOR

February 11, 2016

The Honorable Rosalyn H. Baker, Chair
The Honorable Michelle N. Kidani, Vice-Chair
Senate Committee on Commerce, Consumer Protection, and Health

The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Maile S.L. Shimabukuro, Vice-Chair
Senate Committee on Judiciary and Labor
Twenty-Eighth Legislature
Regular Session of 2016

Re: SB2392 Relating to Opioid Antagonists.

Dear Chair, Vice-Chair and Members:

The Honolulu Emergency Services Department, Emergency Medical Services Division (EMS), would like to provide the following comments on SB2392.

EMS assists a multitude of drug overdose patients on a daily basis. Many of these patients could further benefit, if assisted by our fellow first responders prior to EMS arrival. Timely access to an opiate antagonist can dramatically effect a positive patient outcome and is particularly crucial in cases of opiate overdose.

Allowing **all** first responders the ability to administer an opioid antagonist may reduce opiate overdose mortality and morbidity rates.

We would like to recommend removing the word "licensed" as it introduces **exclusion** unintended by the good intents of the bill. Also include "county lifeguards, police officers, fire fighters and all first responders but not limited to" to the list of providers and respectfully reemphasis an education, prevention, and training section.

Thank you for allowing EMS to provide comment on HB2392.

Sincerely,

A handwritten signature in black ink, appearing to read "Ian T.T. Santee", is written over a white background.

Ian T.T. Santee
Deputy Director

LATE

[§514B-105] Association; limitations on powers.

* * *

(c) No association shall deduct and apply portions of common expense payments received from a unit owner to unpaid late fees, legal fees, fines, and interest (other than amounts remitted by a unit in payment of late fees, legal fees, fines, and interest) unless the board adopts and distributes to all owners a policy stating that:

- (1) Failure to pay late fees, legal fees, fines, and interest may result in the deduction of such late fees, legal fees, fines, and interest from future common expense payments, so long as a delinquency continues to exist; and
- (2) Late fees may be imposed against any future common expense payment that is less than the full amount owed due to the deduction of unpaid late fees, legal fees, fines, and interest from the payment.

Not [REDACTED] 14 days prior to implementing the priority of payment process described above, the association must notify the unit owner of the association's intent to implement the process. The notice must also inform the owner that the owner has the option of paying the amount claimed by the association in full and proceeding to [mediation] arbitration or small claims court under section 514B-146 (c) and (d). The notice must also inform the owner that the owner has _____ days to file a demand for mediation on the disputed amounts or the association can implement the priority of payment process described above.

If the owner fails to file for mediation within _____ days of the date of the notice, the association may implement the priority of payment process described above. If the owner files a demand for mediation within _____ days of the date of the notice, the association must participate in the mediation. Until the association has participated in the mediation, the association shall be prohibited from attempting to collect any of the amounts that can be charged to the owner's account under the priority of payment process described above.

The mediation must be completed within _____ days. If the mediation is not completed within _____ days, the association may proceed with collection of all amounts due from the owner, including amounts processed under the priority of payment process described above.

Nothing in this section shall prohibit the association from proceeding with foreclosure to collect delinquent common expense payments or from enforcing the law or the association's governing documents.

ATE

A the Drug Policy
Action Group

A sister organization of the Drug Policy Forum of Hawai'i
PO Box 83, Honolulu, HI 96810 ~ (808) 853-3231

Hawaii's Voice for Sensible, Compassionate, and Just Drug Policy

TO: SENATE COMMITTEE ON CONSUMER PROTECTION & HEALTH
SENATE COMMITTEE ON JUDICIARY & LABOR

FROM: PAMELA LICHTY, M.P.H., PRESIDENT

DATE: FEBRUARY 12, 2016, ROOM 229

RE: S.B. 2392 RELATING TO OPIOID ANTAGONISTS – **IN SUPPORT**

Good morning Chair Baker, Chair Keith-Agaran, Vice Chairs Kidani and Shimabukuro and members of the Committees. My name is Pam Lichty and I'm President of the Drug Policy Action Group (DPAG), the government affairs arm of the Drug Policy Forum of Hawaii.

We strongly support SB 2392 with its potential for saving lives.

Let me begin by thanking you for hearing this important bill today and for passing a medical amnesty law, also known as a Good Samaritan law, last Session. This measure today to expand access to opioid antagonists is a necessary addition to that excellent first step. As we move towards a compassionate, evidence-based, public health approach to drug control, this type of measure is literally a way to save lives.

I'm sure you will have heard from other testifiers, about the opioid epidemic that is ravaging many communities across the nation. The Hawaii numbers are delineated in the bill itself.

Naloxone, the drug most often used to reverse overdose, is now recommended by virtually all public health authorities including the Surgeon General of the U.S. Many of the overdose victims are patients, sometimes elderly people who have taken too much of their prescribed medicine. It behooves us to suspend any moral judgments we may harbor about those who use misuse drugs or alcohol and instead look at the best ways to save lives.

This issue is personal to me since I lost a nephew to an overdose death fifteen years ago. I was visiting his mother when Phillip Seymour Hoffman's death vividly brought back that terrible time to my family and me.

His death and those of so many others underscores the urgency of getting this type of bill in place immediately to prevent more of such tragedies.

I urge this committee to move out S.B. 2392 to WAM today so that this important and necessary discussion can continue. Again thank you for hearing this measure and for giving us the opportunity to testify.

LATE

baker1 - Chris

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 11, 2016 8:17 PM
To: CPH Testimony
Cc: ssmhawaii@aol.com
Subject: Submitted testimony for SB2392 on Feb 12, 2016 09:00AM

SB2392

Submitted on: 2/11/2016

Testimony for CPH/JDL on Feb 12, 2016 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Scott J Miscovich MD	State Narcotic Policy Steering Working Group	Support	No

Comments: To Senator Rosalyn H. Baker, Chair Senator Michelle N. Kidani, Vice Chair Senator Gilbert S.C. Keith-Agaran, Chair Senator Maile S.L. Shimabukuro, Vice Chair AS Chairman of the State Narcotic Policy Working Group, I strongly support this lifesaving bill. Our committee is composed over 30 healthcare leaders throughout the state. A measure supporting Naloxone was unanimously supported by the committee. This measure is the number one measure we felt had the best opportunity to immediate save lives in Hawaii. Please pass this important legislation.

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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baker1 - Chris

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To: CPH Testimony
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SB2392

Submitted on: 2/11/2016

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