

DAVID Y. IGE  
GOVERNOR



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

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**Jodie F. Maesaka-Hirata**  
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Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 2915 SENATE DRAFT 2, HOUSE DRAFT 1  
RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT

By

Nolan P. Espinda, Director

House Committee on Finance  
Representative Sylvia Luke, Chair  
Representative Scott Y. Nishimoto, Vice Chair

Wednesday, March 30, 2016, 3:00 p.m.  
State Capitol, Conference Room 308

Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

The Department of Public Safety (PSD) **supports** Senate Bill (SB) 2915, Senate Draft (SD) 2, House Draft (HD) 1. The Department recognizes the Legislature's intent in amending certain of the bill's provisions and has no objections.

Thank you for the opportunity to testify on this measure.

Jill Yoshicedo, DVM  
Kailua Animal Clinic  
111 Hekili St. Ste 104  
Kailua HI 96734  
(808) 263-8863

March 28, 2016

Committee on Finance  
Representative Sylvia Luke, Chair  
Representative Scott Y. Nishimoto, Vice Chair

RE: SB 2915, SD 2, HD 1 Relating to the Uniform Controlled Substances Act

Dear Committee on Finance,

As a veterinarian actively practicing in Hawaii for the past 7 years, I am in support of SB2915 SD2 HD1 and its exemption of veterinarians from the mandatory electronic reporting requirement of the HRS 329 Uniform Controlled Substances Act. This exemption is appropriate due to the current electronic reporting system failing to allow veterinarians to comply with the Uniform Controlled Substance Act reporting requirements and the relatively miniscule amount of controlled substances veterinarians release to the public. SB2915 SD2 HD1 would relieve the current restriction preventing many veterinarians from dispensing controlled substances and allow us to continue using these essential drugs within our practice in treating seizure patients, providing euthanasia to terminally ill or suffering pets, and providing appropriate pain relief.

Veterinarians have been struggling for the past few years with the electronic reporting system requirement regarding dispensing controlled substances; many of us have not been able to effectively comply with the requirement due to system errors and inconsistencies as the system is set up for the human, not veterinary, medical field. The current electronic reporting system does not recognize many of the controlled substances veterinarians commonly use, and requests information impertinent to the veterinary-client-[animal] patient prescribing relationship. Additionally, the electronic system is difficult to use and error-prone, and technical support is often unavailable or unhelpful. Attempting to use the current system takes an unacceptable amount of the practitioner's time; the majority of Hawaii's veterinarians are very small businesses that do not have extra time or staff to deal with a reporting system that may take hours each week to file even a single controlled drug use event.

In dealing with the current HRS 329 Uniform Controlled Substances Act electronic reporting system requirement regarding dispensing controlled substances, my clinic has

not been able to effectively comply with the requirement due to the above stated issues with the reporting system. Because of this, we have been restricted to dispense only the controlled substance medications that are recognized by the electronic reporting system. In cases where other controlled substances are needed for appropriate treatment, we have had to instead write prescriptions for these medications to be filled at an outside pharmacy, which is an inconvenience to our clients as well as a loss of business revenue.

Furthermore, placing this reporting burden on veterinarians is unjustifiable as controlled substance use in the veterinary field has a miniscule impact on the issue of controlled drug abuse in humans. Within the veterinary field, the majority of controlled drug use is within the hospital and administered by the veterinarian directly to the patient. Please note that veterinarians already log all controlled substance use for federal DEA requirements.

Please SUPPORT SB2915 SD2 HD1 and its exemption of veterinarians from these reporting requirements, at least until a functioning and effective reporting system is in place that would allow us to comply with the law.

Thank you for the opportunity to submit testimony, and your consideration of the unintended consequences of the Uniform Controlled Substances Act on the veterinary medical field. Please contact me if I can be of further assistance.

Jill Yoshicedo, DVM  
Hawaii Veterinary Medical Association  
President-Elect

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 28, 2016 10:45 PM  
**To:** FINTestimony  
**Cc:** AKOE002@hawaii.rr.com  
**Subject:** Submitted testimony for SB2915 on Mar 30, 2016 15:00PM

**SB2915**

Submitted on: 3/28/2016

Testimony for FIN on Mar 30, 2016 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Eric Ako DVM	Hawaii Veterinary Medical Association	Support	No

Comments: Honorable Chair Representative Luke, Vice Chair Representative Nishimoto, and members of the Committee on Finance, The Hawaii Veterinary Medical Association is very much in support of SB2915. We support efforts to eliminate diversion and drug abuse. We are also very appreciative of the exemption for veterinarians from mandatory electronic reporting as that system is inappropriate for our profession. We are ready and available to provide substantiation for our exemption, if you so require. Respectfully yours, Eric Ako DVM Executive Vice President, HVMA

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 29, 2016 8:51 AM  
**To:** FINTestimony  
**Cc:** drlmrhodes@gmail.com  
**Subject:** \*Submitted testimony for SB2915 on Mar 30, 2016 15:00PM\*

**SB2915**

Submitted on: 3/29/2016

Testimony for FIN on Mar 30, 2016 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Laurel	HVMA	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 28, 2016 11:40 PM  
**To:** FINTestimony  
**Cc:** kaukamina@aol.com  
**Subject:** Submitted testimony for SB2915 on Mar 30, 2016 15:00PM

**SB2915**

Submitted on: 3/28/2016

Testimony for FIN on Mar 30, 2016 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alfred J. Mina, DVM	Maika'i Veterinary Clinic	Support	No

Comments: I support SB2915, exempting veterinarians from all electronic controlled drug reporting requirements.

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**Testimony of  
Gary M. Slovin / Mihoko E. Ito  
on behalf of  
Walgreen Company**

DATE: March 29, 2016

TO: Representative Sylvia Luke  
Chair, Committee on Finance  
[FINtestimony@capitol.hawaii.gov](mailto:FINtestimony@capitol.hawaii.gov)

RE: **S.B. 2915, S.D.2, H.D.1 – Relating to the Uniform Controlled  
Substances Act**  
**Hearing Date: Wednesday, March 30, 2016 at 3:00 p.m.**  
**Conference Room: 308**

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Dear Chair Luke and Members of the Committee on Finance:

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

S.B.2915, S.D.2, H.D.1 updates HRS Chapter 329 to make it consistent with the federal controlled substances rules. Among other things, it also requires pharmacies to register to use the electronic prescription accountability system, and clarifies that individuals reverse distribution with controlled substances must register with the department of public safety and follow appropriate controlled substance statutes and rules.

Walgreens supports the intent of S.B. 2915, S.D.2, H.D.1, but has concerns with respect to certain provisions in the bill and suggests amendments, as follows:

1. **Reverse distribution.** Regarding the provisions which allow the department to enact rules regarding “reverse distribution,” also known as drug take back

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

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

(Sections 6-11 of the bill), we would respectfully request that references to reverse distribution refer back to the federal law on drug take back (Title 21, CFR Part 1317) to ensure that any state drug take back programs will mirror and comply with federal law.

2. **Controlled substance 30 day supply (Section 12, page 26, line 3-5).** This bill amends HRS 329-38, to prohibit all schedule II narcotic controlled substances from being dispensed for more than a 30 day supply. We believe that adding this provision creates the need for clarity with respect existing federal law under Title 21, CFR Part 1306, regarding the issuance of multiple prescriptions.

We have been in discussion with the subject matter committees and the Department of Public Safety regarding these issues, and would request that the defective date in this measure be retained to allow for continued discussion.

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



Senate Committee on SB 2915

March 29, 2015

Dear Honorable Sirs and Ladies,

Please support SB 2915 SD2 HD 1

I appreciate the problem of the increase of addictions to opioid drugs by our children and general public. This is a people and MD problem. Access to these drugs are too easy, and too many physicians are prescribing them without giving their patients other options.

Veterinarians on the other hand, rarely if ever.... send pet owners with drugs that the owners can abuse. I primarily use injectable drugs for Euthanasia, and use herbs and acupuncture for pain management.

Please keep the veterinarian's time free to see their patients, and not spend more time on the computer filling out forms.

I appreciate you consideration on this matter.

Sincerely,

Ihor Basko, DVM, CVA  
All Creatures Great & Small  
Veterinary Services  
Kapaa, Hawaii  
808-822-4229



TESTIMONY ON SENATE BILL 2915 SD2 HD1  
RELATING TO THE UNIFORM CONTROLLED SUBSTANCE ACT

by  
Keith Kamita

COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair  
Rep. Scott Y. Nishimoto, Vice Chair

Wednesday, March 30, 2016, 3:00 PM  
State Capitol, Conference Room 308

Chair Luke, Vice Chair Nishimoto and Members of the Committee:

I strongly support Senate Bill 2915 SD2 HD1 which is the Department of Public Safety's Narcotics Enforcement Division's vehicle for proposing updates to Hawaii's Uniform Controlled Substance Act, Chapter 329, Hawaii Revised Statutes, to be consistent with changes in Federal law, as required by Section 329-11, HRS and deletes definitions no longer utilized under federal law.

HRS Section 329-11(d) states that if a substance is added, deleted or rescheduled under Federal law and notice of the designation is given to PSD, then the Department shall recommend that a corresponding change in Hawaii law be made. SB 2915 SD2 HD1 adds new controlled substances to Hawaii's Uniform Controlled Substance Act that was scheduled by the Federal government in 2015 and 2016.

SB2915 SD2 HD1 would also update Hawaii's Uniform Controlled Substances Act to be consistent with Federal law by adding and deleting definitions to sections 329-1, 329-31, 329-31.5, 329-32, 329-33, 329-34, 329-36, 329-37 and 329-52 to clarify that registrants that manufacture, distribute, prescribe, dispense, store, reverse distribute, conducting research, or chemical analysis with controlled substances are required to register with the Narcotics Enforcement Division and obtain a State controlled substance registration.

SB2915 SD2 HD1 adds new definitions to Chapter 329 HRS 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 the State's "electronic prescription accountability system." This program is capable of

providing practitioners with a prescription history for anyone who is prescribed controlled substances in Schedules II to IV and 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. SB2915 SD1 HD1 will also amend section 329-101 and 329-102 to require that as part of the State's controlled substance registration process that all registrants (except veterinarians) requesting a controlled substance certification shall register for access to the electronic prescription accountability system this will provide practitioners easy access to 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.

SB2915 SD2 HD1 proposes to amend section 329-23(a), HRS, by clarifying that the department would make available to the public an electronic copy of the controlled substance schedules on its website to allow the public better accessibility to this information.

SB2915 SD2 HD1 amends section 329-38 (a) by adding language to limit the quantity on schedule II narcotic controlled substance prescriptions to a 30-day supply due to the abuse and over prescribing of these drugs. Presently Hawaii does not have a quantity limit on schedule II narcotic drugs unlike some of the other states and many

insurance carriers that have already implemented limits on the quantity of controlled substance dispensed to a 30-day supply.

SB2915 SD2 HD1 amends section 329-49 to transfer the depositing of the funds collected from administrative fines of registrants to the controlled substance registration revolving fund under section 329-59. The Narcotics Enforcement Division will utilize these funds to assist in paying for compliance inspections, investigations and prevention programs for controlled substance and regulated chemical registrants.

Thank you for the opportunity to testify on this important bill.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 29, 2016 8:50 AM  
**To:** FINTestimony  
**Cc:** drlmrhodes@gmail.com  
**Subject:** \*Submitted testimony for SB2915 on Mar 30, 2016 15:00PM\*

**SB2915**

Submitted on: 3/29/2016

Testimony for FIN on Mar 30, 2016 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Laurel	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 29, 2016 5:45 AM  
**To:** FINTestimony  
**Cc:** johnhaddockdvm@gmail.com  
**Subject:** \*Submitted testimony for SB2915 on Mar 30, 2016 15:00PM\*

**SB2915**

Submitted on: 3/29/2016

Testimony for FIN on Mar 30, 2016 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John Haddock	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 29, 2016 10:31 AM  
**To:** FINTestimony  
**Cc:** sharmanelison@haikuvet.com  
**Subject:** Submitted testimony for SB2915 on Mar 30, 2016 15:00PM

**SB2915**

Submitted on: 3/29/2016

Testimony for FIN on Mar 30, 2016 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sharman R Elison	Individual	Support	No

Comments: As a practicing veterinarian the exemption given to veterinarians will be helpful in holding our costs of providing our services at a reasonable manner, is mindful of the practicality of the measure, and includes the exemption that would have been a duplication of what is already being recorded.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 29, 2016 11:36 AM  
**To:** FINTestimony  
**Cc:** doctord@hawaii.rr.com  
**Subject:** Submitted testimony for SB2915 on Mar 30, 2016 15:00PM

**SB2915**

Submitted on: 3/29/2016

Testimony for FIN on Mar 30, 2016 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
diane shepherd	Individual	Comments Only	No

Comments: Dear Sirs: I write in support of the language to SB2915 which excepts veterinarians from the electronic system for reporting controlled substances. Such a requirement would be an undue burden upon veterinary businesses.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 29, 2016 1:41 PM  
**To:** FINTestimony  
**Cc:** malialyons\_06@yahoo.com  
**Subject:** \*Submitted testimony for SB2915 on Mar 30, 2016 15:00PM\*

**SB2915**

Submitted on: 3/29/2016

Testimony for FIN on Mar 30, 2016 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Malia Lyons, DVM	Individual	Support	No

Comments:

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*From:* Sylvia Kondo <sylviak@hawaii.edu>  
*Sent:* Tuesday, March 29, 2016 4:34 PM  
*To:* FINTestimony  
*Subject:* Please support SB2915 SD2 HD1

**LATE**

**Honorable Representatives:**

I would like to ask that you support SB2915 SD2 HD1.

Sincerely,  
Sylvia Kondo, DVM

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Uniform Controlled Substances Act

BILL NUMBER: SB 2915, HD-1

INTRODUCED BY: Senate Committee on Ways and Means

**LATE**

EXECUTIVE SUMMARY: Part of this bill mandates that the collections of administrative fines be deposited into the controlled substance registration revolving fund to support the program. This would reduce transparency and accountability by bypassing the normal appropriations process, and would raise questions about the validity of the revolving fund under the criteria normally applied to special and revolving funds.

BRIEF SUMMARY: Section 13 of the bill redirects any fines collected for violations of the controlled substances provisions from the general fund to the controlled substance registration revolving fund established under HRS section 329-59.

EFFECTIVE DATE: July 1, 2112.

STAFF COMMENTS: This bill is part of the Administration package and is sponsored by the Department of Public Safety. It is designated PSD-05 (16). Our comments relate only to section 13 of the bill.

Section 37-62, HRS, defines a revolving fund as one “from which is paid the cost of goods and services rendered or furnished to or by a state agency and which is replenished through charges made for the goods or services or through transfers from other accounts or funds.” Revolving funds are often established with an appropriation of seed money from the general fund. Activities commonly financed through revolving funds include loan programs, which are initially established by general fund seed moneys and are then replenished through the repayment of loans. An example of a revolving fund is the State Motor Pool Revolving Fund, which is used to purchase and maintain the State’s fleet of motor vehicles and is replenished by charges to state agencies for the use of the vehicles.

In 2002, the Legislature set requirements for establishing and continuing special and revolving funds. Sections 37-52.3 and 37-52.4, HRS, now state that the criteria used to review special and revolving funds are the extent to which each fund:

- Serves a need, as demonstrated by the purpose of the program to be supported by the fund; the scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and an explanation of why the program cannot be implemented successfully under the general fund appropriation process;
- Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries, or a clear link between the program and the sources of revenue—as

opposed to serving primarily as a means to provide the program or users with an automatic means of support, removed from the normal budget and appropriation process;

- Provides an appropriate means of financing for the program or activity, that is used only when essential to the successful operation of the program or activity; and
- Demonstrates the capacity to be financially self-sustaining.

We are concerned about the diversion of controlled substances fines from the general fund to the controlled substance registration revolving fund. Presumably the fund is self-sustaining now, and diversion of the fine moneys to the fund in order to support additional positions appears to be a subversion of the appropriation process. The Department's explanation for this provision, as reflected on the justification sheet submitted with S.B. 2915, is: "These funds will be utilized to pay for compliance inspections, investigations and prevention programs for controlled substance registrants." There is no explanation of why this special funding mechanism is required as opposed to the normal general fund appropriations process. If the Department's controlled substance enforcement program requires additional funding, consideration should be given to adjusting the registration fees appropriately or making the case for additional appropriations from the general fund.

Digested 3/19/16

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Uniform Controlled Substances Act

BILL NUMBER: SB 2915, HD-1

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- Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries, or a clear link between the program and the sources of revenue—as

- opposed to serving primarily as a means to provide the program or users with an automatic means of support, removed from the normal budget and appropriation process;
- Provides an appropriate means of financing for the program or activity, that is used only when essential to the successful operation of the program or activity; and
  - Demonstrates the capacity to be financially self-sustaining.

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Digested 3/19/16