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

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

Tuesday, March 22, 2016; 2:00 p.m.
State Capitol, Conference Room 325

Chair Rhoads, Vice Chair San Buenaventura, 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 provide this testimony.

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

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.

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2016 5:28 PM
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Cc: AKOE002@hawaii.rr.com
Subject: Submitted testimony for SB2915 on Mar 22, 2016 14:00PM

SB2915

Submitted on: 3/18/2016

Testimony for JUD on Mar 22, 2016 14:00PM in Conference Room 325

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

Comments: Honorable Chair Representative Rhoads and members of the Committee on Judiciary, The Hawaii Veterinary Medical Association is in support of SB2915. While we are in favor of curbing diversion of pharmaceutical,we especially support Section 18 which exempts veterinarians from mandatory electronic reporting.The system is not appropriate for our profession. Furthermore,perhaps the reference to veterinarians in the definition of practitioner delegate should be deleted. Respectfully yours, Eric Ako DVM Executive Vice President

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

by
Keith Kamita

COMMITTEE ON JUDICIARY

Rep. Karl Rhoads, Chair
Rep. Joy A. San Buenaventura, Vice Chair

Tuesday, March 22, 2016, 2:00 PM
State Capitol, Conference Room 325

Chair Rhoads, Vice Chair San Buenaventura 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.

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

DATE: March 21, 2016

TO: Representative Karl Rhoads
Chair, Committee on Judiciary
JUDTestimony@capitol.hawaii.gov

RE: **S.B. 2915, S.D.2, H.D.1 – Relating to the Uniform Controlled
Substances Act**
Hearing Date: Tuesday, March 22, 2016 at 2:00 p.m.
Conference Room: 325

Dear Chair Rhoads and Members of the Committee:

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 storing, conducting research, reverse distribution and chemical analysis 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

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

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(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. However, there are some controlled substances that come in a unit dose package that technically exceed the 30 day limit. Placing a 30 day supply restriction will impact the ability to dispense those products to the patients who have been prescribed this medication. We would respectfully ask for these types of products to be exempt from this law, as follows:

(2) No schedule II narcotic controlled substance may be prescribed or dispensed for more than a thirty-day supply, **except where such substances come in a single unit dose package that exceeds the 30 day limit;**

We are happy to work with the Committee and the Department of Public Safety on our suggested amendments.

Thank you very much 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 21, 2016

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

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

Dear Committee on Judiciary,

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

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 22, 2016 7:18 AM
To: JUDtestimony
Cc: kaiwahine1@hawaii.rr.com
Subject: Submitted testimony for SB2915 on Mar 22, 2016 14:00PM

SB2915

Submitted on: 3/22/2016
Testimony for JUD on Mar 22, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kimberly Steinberg, DVM	Individual	Support	No

Comments: Aloha, I have been a practicing veterinarian in Hawaii since 1992 and I strongly support SB 2915. If this bill does not pass, it will result in a heavy burden to my clients as well as my patients. Please support this bill. Sincerely, K. Steinberg, DVM

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Cc: nonezumi@aol.com
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SB2915

Submitted on: 3/22/2016

Testimony for JUD on Mar 22, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Asato	Individual	Support	No

Comments: This exemption would be very helpful to veterinarians. The requirement to register to utilize the electronic prescription accountability system when they obtain a controlled substance registration places an undue burden on the veterinarian/small business owner. Please consider exempting the veterinarian from this requirement.

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Cc: cnaun@armsofaloha.com
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SB2915

Submitted on: 3/22/2016
Testimony for JUD on Mar 22, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Carolyn Naun	Individual	Support	No

Comments:

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