

# SB798 SD1

Measure Title: RELATING TO HEALTH.

Report Title: Pain Medication Agreement; Narcotics Enforcement Division

Description: Requires a pain medication agreement to be executed between a patient and any prescriber of a narcotic drug within the State for use as pain medication under certain conditions. Requires the administrator of the narcotics enforcement division to develop and make available a template of a pain medication agreement for use in the State. Specifies the contents of the template. (SD1)

Companion:

Package: None

Current Referral: HTH/PSM, CPN

Introducer(s): GREEN, BAKER, INOUYE, Dela Cruz, Espero, Nishihara, Riviere, Taniguchi

<u>Sort by Date</u>		<b>Status Text</b>
1/23/2015	S	Introduced.
1/26/2015	S	Passed First Reading.
1/28/2015	S	Referred to HTH/PSM, CPN.
2/6/2015	S	The committee(s) on HTH/PSM has scheduled a public hearing on 02-11-15 1:45PM in conference room 414.
2/11/2015	S	The committee(s) on HTH recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in HTH were as follows: 5 Aye(s): Senator(s) Green, Wakai, Baker, Riviere, Ruderman; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) Gabbard, Slom.
2/11/2015	S	The committee(s) on PSM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in PSM were as follows: 3 Aye(s): Senator(s) Espero, Baker, Keith-Agaran; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) Galuteria, Slom.
2/20/2015	S	Reported from HTH/PSM (Stand. Com. Rep. No. 393) with recommendation of passage on Second Reading, as amended (SD 1) and referral to CPN.
2/20/2015	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to CPN.
2/20/2015	S	The committee(s) on CPN will hold a public decision making on 02-25-15 9:45AM in conference room 229.



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

**NOLAN P. ESPINDA**  
DIRECTOR

**Cathy Ross**  
DEPUTY DIRECTOR  
ADMINISTRATION

DEPUTY DIRECTOR  
CORRECTIONS

**Shawn H. Tsuha**  
DEPUTY DIRECTOR  
LAW ENFORCEMENT

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

TESTIMONY ON SENATE BILL 798, SD1  
RELATING TO HEALTH

Nolan P. Espinda, Director  
Department of Public Safety

Senate Committee on Commerce and Consumer Protection  
Senator Rosalyn H. Baker, Chair  
Senator Brian T. Taniguchi, Vice Chair

Wednesday, February 25, 2015, 9:45 AM  
State Capitol, Conference Room 229

Chair Baker, Vice Chair Taniguchi, and Members of the Committee:

The Department of Public Safety (PSD) **supports the intent** of Senate Bill (SB) 798, SD1. PSD defers to the Department of the Attorney General on the legality of the proposed physician - patient pain medication agreement to be executed between a patient and any prescriber of a narcotic drug under certain conditions.

The PSD would like to suggest the following amendments to SB 798, SD1:

Section 329-42, Page 2, Lines 20 to 21 (prohibited acts committed by the patient), this list of violations should read as follows:

“(6) A statement advising any patient who violates section 329-42 and 329-46 shall be guilty of a class C felony.”

The PSD would also suggest broadening the definition of “Practitioner” in Section 329-1 to include physician assistants and deleting the term “locum tenens practitioner” which is no longer allowed under the Federal law. We would like to suggest the following amendments to Section 329-1:

" "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 physician assistant with prescriptive authority licensed and registered under section 329-32 to distribute, prescribe and administer controlled substances under the authority and supervision of a physician registered under section 329-33 in the course of the physician assistant's professional practice in this State; and

~~(3)~~(4) 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.

~~"Locum tenens practitioner" means a practitioner:~~

~~(1) Who is licensed in this State and registered under section 329-32 to administer, prescribe, or dispense a controlled substance in the course of professional practice, who temporarily substitutes for another registered practitioner for a period not to exceed sixty days at that other practitioner's registered place of business; and~~

~~(2) Whose Drug Enforcement Administration controlled substance registration number has not been transferred to the State of Hawaii.~~

~~Locum tenens practitioners are not eligible to receive an oral code number as designated by section [328-16(k)]."~~

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



## 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 Commerce and Consumer Protection  
Senator Rosalyn H. Baker, Chair  
Senator Brian T. Taniguchi, Vice Chair

DATE: Wednesday, February 25, 2015  
TIME: 9:45 A.M.  
PLACE: Conference Room 229

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

**Re: SB 798, SD 1 RELATING TO HEALTH**

**Position: Oppose without proposed amendments**

Dear Senator Green, Senator Espero, and Committee Members,

Thank you for allowing the Hawaii Medical Association to comment on Senate Bill 798, and to suggest the following amendment:

**"§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; provided that this paragraph shall not apply to emergency room and urgent care providers.**

**We must OPPOSE this bill unless the above provision is deleted. In many clinical settings, including post operatively or post serious injury, physicians and other practitioners prescribe short courses of opioid medications to treat acute pain. In such cases, it is not necessary or appropriate for the patient and provider to enter into a pain contract.**

**Providers are already very short on time. They are dealing with an unprecedented increase in administrative work for which they are uncompensated. Adding this unnecessary requirement for every short-term treatment of pain will make it even more difficult for providers to survive in Hawaii.**

*Officers*

*President - Robert Sloan, MD, President-Elect – Scott McCaffrey, MD  
Immediate Past President – Walton Shim, MD, Secretary - Thomas Kosasa, MD  
Treasurer – Brandon Lee, MD Executive Director – Christopher Flanders, DO*

Doctors frequently write prescriptions for short courses of opioid pain medications to treat acute pain, generally consisting of small numbers of tablets. As the proposed legislation is written, any prescription for a narcotic drug, which does not take place in an ER or Urgent Care, would require a pain medication agreement.

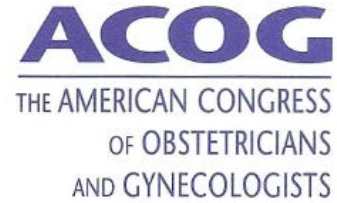
**We feel the legislation maintains the same impact if the above provision is deleted and pain contracts are created for patients receiving chronic opioid therapy.**

We understand the intent of the proposed legislation. **In general, our organization supports the use of pain medication agreements between patients and providers for chronic opioid therapy.**

Most importantly, we attempt to honor those agreements when they are made available. However, **it would not be appropriate to initiate such agreements for a patient that has just had an operation, procedure, or injury that requires only a short course of pain intervention.** If this bill is to move forward, we hope you will amend it so it is directed at the appropriate setting to impact chronic pain patients and the providers that treat them.

**American Congress of Obstetricians and Gynecologists  
District VIII, Hawaii (Guam & American Samoa) Section**

Lori Kamemoto, MD, MPH, FACOG, Chair  
94-235 Hanawai Circle, #1B  
Waipahu, Hawaii 96797



Wednesday, February 25, 2015  
9:45 AM  
Conference Room 229

To: Committee on Commerce and Consumer Protection  
Senator Rosalyn H. Baker, Chair  
Senator Brian T. Taniguchi, Vice Chair

FROM: Lori Kamemoto, MD, MPH, FACOG, Chair  
Greigh Hirata, MD, FACOG, Legislative Chair & Vice-Chair

**Re: SB 798 SD 1 - RELATING TO HEALTH**

**Position: Request Amendment for Acute Care/Immediately after Surgery,  
Support Hawaii Medical Association Amendments - see HMA  
testimony**

Dear Chair Baker, Vice-Chair Taniguchi and Committee Members:

The American Congress of Obstetricians and Gynecologists, Hawaii Section understands that there is a serious prescription narcotic abuse problem in Hawaii and nationwide which has been hurting our patients. Anecdotally, we have seen increasing numbers of patients addicted to prescription narcotics over the years and applaud your efforts to assist healthcare providers on this issue.

However, Hawaii ACOG objects to the use of a pain medication agreement in the setting of acute care, such as immediately after surgery. As an example, requiring a pain management agreement for our immediately post-operative patients, such as those who are discharged from the hospital after cesarean section, will unnecessarily add to provider time and therefore overall healthcare costs. Hawaii ACOG agrees with Hawaii Medical Association amendments and urge you to amend the bill as follows:

**"§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 provider; provided that this paragraph shall not apply to emergency room and urgent care providers.~~**

In acute care settings, including after operations, patients appropriately require short-course narcotics for pain management. We do not feel that it is necessary or appropriate to enter a pain contract in these cases.

Healthcare providers are already squeezed by time constraints. We already work with an unprecedented amount of required paperwork/administrative work associated with caring for patients. This increasing administrative burden comes from medical insurance companies and the government, which takes a lot of time away from actual patient care. Adding required pain contracts for patients that have had operations and appropriately require short-course narcotics adds even more administrative burden, making it that much harder for physicians to practice in Hawaii.

As the proposed legislation is written, any prescription for a narcotic drug would require a pain medication agreement. We feel that this bill would have the same impact if pain contracts were not required in the immediately post-operative period such as discharge from the hospital or other surgical facility after surgery. Hawaii ACOG urges you to amend the bill as requested.

Thank you for the opportunity to present this testimony.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [CPN Testimony](#)  
**Cc:** [pheckathorn@queens.org](mailto:pheckathorn@queens.org)  
**Subject:** Submitted testimony for SB798 on Feb 25, 2015 09:45AM  
**Date:** Monday, February 23, 2015 4:09:51 PM

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**SB798**

Submitted on: 2/23/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. Daniel Fischberg	The Queen's Health Systems	Comments Only	No

Comments: SB 798 SD 1, Relating to Health Senate Committee on Commerce and Consumer Protection Hearing—February 25, 2015 at 9:45 AM Dear Chairwoman Baker and Members of the Senate Committee on Commerce and Consumer Protection: My name is Daniel Fischberg, MD, PhD, and I am the Medical Director of the Pain and Palliative Care Department at The Queen’s Medical Center-Punchbowl. I would like to take this opportunity to provide comments and suggestions regarding SB 798 SD 1. While we support the intent of SB 798 SD 1, I would ask that you amend the measure to establish an informed consent process rather than a pain medication agreement. There is not clear evidence that pain medication agreements would resolve issues of abuse and bad behavior. Moreover, it has been found that these agreements sometimes give a provider “cover” by allowing him or her to continue problematic prescription practices while still following the exact terms of the agreement. The carve-out in SB 798 SD 1 for emergency or urgent care is a step in the right direction. We would also ask that you exempt hospice and terminally ill patients and their providers from the requirements laid out in this legislation. Thank you for your time and consideration of this matter.

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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**Testimony of  
Mihoko E. Ito  
on behalf of  
Walgreens**

DATE: February 24, 2015

TO: Senator Rosalyn Baker  
Chair, Committee on Commerce and Consumer Protection

*Submitted Via [CPNtestimony@capitol.hawaii.gov](mailto:CPNtestimony@capitol.hawaii.gov)*

RE: **S.B. 798, SD1 – Relating to Health  
Decision Making: Wednesday, February 25, 2015, 9:45 a.m.  
Conference Room: 229**

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Dear Chair Baker and Members of the Committee on Commerce and Consumer Protection:

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. 798, SD1, which 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 participated in and is in full support of the working group that convened to discuss systemic improvements to curbing the overuse of prescription drugs. Walgreens supports this measure because it seeks to address the issue of prescription drug overuse by establishing a safe prescribing protocol that also educates a patient regarding the use of prescription pain medication.

Walgreens would, however, respectfully request that a technical amendment be made to this measure. In the requirements for the pain medication agreement, the agreement must

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Gary M. Slovin  
Mihoko E. Ito  
C. Mike Kido  
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include a statement recommending a single pharmacy to be used for all patients receiving chronic pain medications (page 2, lines 15-17). 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.

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

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [CPN Testimony](#)  
**Cc:** [mendezj@hawaii.edu](mailto:mendezj@hawaii.edu)  
**Subject:** \*Submitted testimony for SB798 on Feb 25, 2015 09:45AM\*  
**Date:** Friday, February 20, 2015 5:04:25 PM

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**SB798**

Submitted on: 2/20/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	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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