

JAN 25 2017

A BILL FOR AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 329-16, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Any of the following substances, except those
4 narcotic drugs listed in other schedules, whether produced
5 directly or indirectly by extraction from substances of
6 vegetable origin, or independently by means of chemical
7 synthesis, or by combination of extraction and chemical
8 synthesis:

9 (1) Opium and opiate, and any salt, compound, derivative,
10 or preparation of opium or opiate, excluding
11 apomorphine, thebaine-derived butorphanol,
12 dextrorphan, nalbuphine, nalmefene, naloxegol,
13 naloxone, and naltrexone, and their respective salts,
14 but including the following:

- 15 (A) Raw opium;
16 (B) Opium extracts;
17 (C) Opium fluid;
18 (D) Powdered opium;

- 1 (E) Granulated opium;
- 2 (F) Codeine;
- 3 (G) Ethylmorphine;
- 4 (H) Etorphine hydrochloride;
- 5 (I) Hydrocodone;
- 6 (J) Hydromorphone;
- 7 (K) Metopon;
- 8 (L) Morphine;
- 9 (M) Oxycodone;
- 10 (N) Oxymorphone;
- 11 (O) Thebaine;
- 12 (P) Dihydroetorphine;
- 13 (Q) Oripavine; and
- 14 (R) Tincture of opium[+]."

15 SECTION 2. Section 329-38, Hawaii Revised Statutes, is
16 amended by amending subsection (f) to read as follows:

17 "(f) The effectiveness of a prescription for the
18 purposes of this section shall be determined as follows:

- 19 (1) A prescription for a controlled substance shall be
20 issued for a legitimate medical purpose by an
21 individual practitioner acting in the usual course of
22 the practitioner's professional practice. The

1 responsibility for the proper prescribing and
2 dispensing of controlled substances shall be upon the
3 prescribing practitioner, but a corresponding
4 responsibility shall rest with the pharmacist who
5 fills the prescription. An order purporting to be a
6 prescription issued not in the usual course of
7 professional treatment or for legitimate and
8 authorized research shall not be deemed a prescription
9 within the meaning and intent of this section, and the
10 person who knowingly fills such a purported
11 prescription, as well as the person who issues the
12 prescription, shall be subject to the penalties
13 provided for violations of this chapter;

14 (2) A prescription may not be issued to allow an
15 individual practitioner to obtain controlled
16 substances for supplying the individual practitioner
17 for the purpose of general dispensing to patients;

18 ~~[(3) A prescription may not be issued for the dispensing
19 of narcotic drugs listed in any schedule for the
20 purpose of "detoxification treatment" or "maintenance
21 treatment" except as follows:~~

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1 ~~(A) The administering or dispensing directly (but not~~
2 ~~prescribing) of narcotic drugs listed in any~~
3 ~~schedule to a narcotic drug dependent person for~~
4 ~~"detoxification treatment" or "maintenance~~
5 ~~treatment" shall be deemed to be "in the course~~
6 ~~of a practitioner's professional practice or~~
7 ~~research" so long as the practitioner is~~
8 ~~registered separately with the department and the~~
9 ~~federal Drug Enforcement Agency as required by~~
10 ~~section 329-32(c) and complies with Title 21 Code~~
11 ~~of Federal Regulations section 823(g) and any~~
12 ~~other federal or state regulatory standards~~
13 ~~relating to treatment qualification, security,~~
14 ~~records, and unsupervised use of drugs; and~~
15 ~~(B) Nothing in this section shall prohibit a~~
16 ~~physician or authorized hospital staff from~~
17 ~~administering or dispensing, but not prescribing,~~
18 ~~narcotic drugs in a hospital to maintain or~~
19 ~~detoxify a person as an incidental adjunct to~~
20 ~~medical or surgical treatment of conditions other~~
21 ~~than addiction;]~~
22

1 (3) A prescription may not be issued for "detoxification
2 treatment" or "maintenance treatment," unless the
3 prescription is for a Schedule III, IV, or V narcotic
4 drug approved by the Food and Drug Administration
5 specifically for use in maintenance or detoxification
6 treatment and the practitioner is in compliance with
7 Title 21 Code of Federal Regulations section 1301.28,
8 the registration requirements of section 329-32(e) of
9 this chapter, and any other federal or state
10 regulatory standards relating to treatment
11 qualification, security, records, and unsupervised use
12 of drugs.

13 (4) A practitioner may administer or dispense directly
14 (but not prescribe) a narcotic drug listed in any
15 schedule to a narcotic dependent person for the
16 purpose of maintenance or detoxification treatment if
17 the practitioner meets both of the following
18 conditions:

19 (A) The practitioner is separately registered with
20 DEA as a narcotic treatment program.

21 (B) The practitioner is in compliance with DEA
22 regulations regarding treatment qualifications,

1 security, records, and unsupervised use of the
2 drugs pursuant to this chapter.

3 (5) Nothing in this section shall prohibit a physician who
4 is not specifically registered to conduct a narcotic
5 treatment program from administering (but not
6 prescribing) narcotic drugs to a person for the
7 purpose of relieving acute withdrawal symptoms when
8 necessary while arrangements are being made for
9 referral for treatment. Not more than one day's
10 medication may be administered to the person or for
11 the person's use at one time. Such emergency
12 treatment may be carried out for not more than three
13 days and may not be renewed or extended.

14 (6) This section is not intended to impose any limitations
15 on a physician or authorized hospital staff to
16 administer or dispense narcotic drugs in a hospital to
17 maintain or detoxify a person as an incidental adjunct
18 to medical or surgical treatment of conditions other
19 than addiction, or to administer or dispense narcotic
20 drugs to persons with intractable pain in which no
21 relief or cure is possible or none has been found
22 after reasonable efforts.

1 (7) A practitioner may administer or dispense (including
2 prescribe) any Schedule III, IV, or V narcotic drug
3 approved by the Food and Drug Administration
4 specifically for use in maintenance or detoxification
5 treatment to a narcotic dependent person if the
6 practitioner complies with the requirements of Title
7 21 Code of Federal Regulations section 1301.28, the
8 registration and any requirements of section 329-32(e)
9 of this chapter, and any other federal or state
10 regulatory standards relating to treatment
11 qualification, security, records, and unsupervised use
12 of drugs.

13 [~~4~~] (8) An individual practitioner shall not prescribe
14 or dispense a substance included in schedule II, III,
15 IV, or V for that individual practitioner's personal
16 use, except in a medical emergency; and

17 [~~5~~] (9) A pharmacist shall not dispense a substance
18 included in schedule II, III, IV, or V for the
19 pharmacist's personal use."

20 SECTION 3. Section 329-49, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:

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1 "(a) Any person who violates this chapter or any rule
2 adopted by the department pursuant to this chapter shall be
3 fined not more than \$10,000 for each separate offense. Any
4 action taken to collect the penalty provided for in this
5 subsection shall be considered a civil action and the fine shall
6 be deposited into the [~~state general fund.~~] controlled substance
7 registration revolving fund pursuant to section 329-59."

8 SECTION 4. Section 329-59, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) The fund shall consist of all moneys derived from
11 fees collected pursuant to sections 329-31 and 329-67 [~~and~~],
12 legislative appropriations[~~-~~], and fines collected pursuant to
13 section 329-49. All fees collected pursuant to sections 329-31
14 and 329-67 and fines collected pursuant to section 329-49 shall
15 be deposited in the controlled substance registration revolving
16 fund."

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect upon its approval.

20

21

INTRODUCED BY:

RM N.M.

22

BY REQUEST

S.B. NO. 998

Report Title:

Uniform Controlled Substances Act

Description:

Updates chapter 329, Hawaii Revised Statutes as follows: amends sections 329-16 and 329-38(f) to be consistent with federal law which allows prescribing authorization of drugs including buprenorphine and naloxone to patients undergoing detoxification treatment and maintenance treatment by practitioners who are properly registered. Requires that the collections of fines under section 329-49 be deposited into the State controlled substance registration revolving fund under section 329-59 to support the program.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

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JUSTIFICATION SHEET

DEPARTMENT: Public Safety

TITLE: A BILL FOR AN ACT RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.

PURPOSE: Updates chapter 329, Hawaii Revised Statutes (HRS), as follows: amends sections 329-16 and 329-38(f), HRS, to be consistent with federal law which allows prescribing authorization of drugs including buprenorphine and naloxone to patients undergoing detoxification treatment and maintenance treatment by practitioners who are properly registered. Requires that the collections of fines under section 329-49 be deposited into the State controlled substance registration revolving fund under section 329-59 to support the program.

MEANS: Amend sections 329-16(b), 329-38(f), 329-49(a), and 329-59(b), HRS.

JUSTIFICATION: Proposed amendments to chapter 329, HRS, will:

- (1) Amend section 329-16, schedule II, to list exclusions as provided for under Title 21 CFR section 1308.12. This amendment excludes naloxone, as well as other opiate-based drugs, from schedule II, which would allow practitioners to prescribe to patients undergoing detoxification treatment and maintenance treatment.
- (2) Amend section 329-38(f), HRS, to allow prescribing of schedule III, IV, and V drugs as provided for under Title 21 Code of Federal Regulations sections 1306.04 and 1306.07. This amendment clarifies that buprenorphine, a schedule III drug, may be prescribed to patients undergoing detoxification treatment and maintenance treatment by practitioners who are registered separately with the department and the federal Drug Enforcement Administration as required by HRS 329-32(e) and comply with Title 21 CFR 1301.28. This amendment provides

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practitioners prescribing authority for buprenorphine consistent the federal Drug Abuse Treatment Act of 2000 (DATA 2000).

- (2) Amend sections 329-49 and 329-59 to allow the transfer and deposit of the funds collected from administrative fines of registrants under section 329-49 to the controlled substance registration revolving fund under section 329-59. These funds will be utilized to pay for compliance inspections of controlled substance and regulated chemicals registrants, the Hawaii Prescription Database Monitoring Program (HI PDMP), investigations and diversion prevention programs for controlled substance registrants.

Impact on the public: This bill updates chapter 329 to be consistent with federal law, facilitates accessibility of buprenorphine and naloxone medication for substance abuse treatment by practitioners, and allows financial maintenance of the department's programs that protect public health and safety with regard to controlled substance diversion and abuse.

Impact on the department and other agencies: These proposed amendments would assist the Department's Narcotics Enforcement Division in its regulation of the Uniform Controlled Substances Act and maintaining its law enforcement, controlled substance registration, Hawaii Prescription Database Monitoring Program (HI-PDMP) and other services it provides to prevent diversion and drug abuse in the community.

GENERAL FUND: Penalty fines previously designated for the General Fund would now be deposited into the Controlled Substance Registration Fund.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: PSD 502.

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OTHER AFFECTED
AGENCIES:

Department of Health Food and Drug Branch;
Federal, State, and County law enforcement.

EFFECTIVE DATE:

Upon approval.