

STAND. COM. REP. NO.

2648

Honolulu, Hawaii

MAR 02 2018

RE: S.B. No. 2646
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 2646 entitled:

"A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS,"

begs leave to report as follows:

The purpose and intent of this measure is to reduce public access to potentially addictive substances by requiring prescribers to consult the state Electronic Prescription Accountability System, also known as the Hawaii Prescription Drug Monitoring Program, or PDMP, before issuing a prescription for Schedule II, III, or IV controlled substances.

Your Committee received testimony in support of this measure from the Department of Public Safety, Hawaii Medical Service Association, and Hawaii Substance Abuse Coalition. Your Committee received testimony in opposition to this measure from the Hawaii Medical Association, Hawaii Emergency Physicians Associated, Hawaii American College of Emergency Physicians, The Emergency Group, and one individual. Your Committee received comments on this measure from the Department of Health, Hawaii Society of Clinical Oncology and American Society of Clinical Oncology, and Drug Policy Forum of Hawaii.

Your Committee finds that certain prescribers of controlled substances are required to register with the Department of Public Safety to use the PDMP and are required to report information



relevant to the dispensation of any controlled substance before dispensation. However, your Committee finds that prescribers are not required to consult the PDMP before writing a prescription. Your Committee also finds that drug overdose rates have increased catastrophically in Hawaii, and that requiring prescribers to consult the PDMP may reduce access to potentially addictive substances.

Your Committee has heard the concerns of the Hawaii American College of Emergency Physicians and Hawaii Emergency Physicians Associated with respect to the non-delegable burdens that this measure would place upon emergency room physicians and other emergency medical providers and the delays in treatment that this would inflict upon emergency room patients, who are often in acute need of treatment. Your Committee finds that an exemption for short-term prescriptions issued by emergency medical providers will address these concerns without affecting the intent of this measure.

Your Committee has also heard the concerns of the Hawaii Medical Association to the effect that a violation under this section will constitute a felony, and that a felony conviction would permanently bar a physician or advanced practice registered nurse from practice in the State. Your Committee finds that permanently barring a physician or advanced practice registered nurse from practice for a single administrative error is not good public policy given the existing shortage of medical personnel in the State. Your Committee finds that the violations proposed by this measure are best policed by the appropriate licensing boards, which are the bodies best able to determine the appropriateness of a sanction.

Your Committee is also aware of the concerns raised with respect to the reliability and functionality of the PDMP but notes that it is not within your Committee's purview to appropriate funds to upgrade and improve the PDMP. Your Committee has also heard other concerns raised by other testifiers, including the Department of Health, Hawaii Society of Clinical Oncology, and Drug Policy Forum of Hawaii, and believes that further discussion of this measure is warranted.

Your Committee has amended this measure by:



- (1) Providing exemptions from the PDMP consultation requirement for prescriptions with a duration of three days or less written in emergency situations, by emergency medical providers, or in emergency rooms and for prescriptions written when the electronic prescription accountability system is unavailable;
- (2) Providing that a violation of the PDMP consultation requirement shall not be subject to the penalty provisions of part IV of chapter 329, Hawaii Revised Statutes, but that violations may result in disciplinary action under section 453-8 or 457-12, Hawaii Revised Statutes, as appropriate;
- (3) Adding a sunset date of June 30, 2023;
- (4) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2646, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2646, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,




ROSALYN H. BAKER, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2046	CPH	2/22/10		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	—			
TOKUDA, Jill N. (VC)	—			
CHANG, Stanley	—			
ESPERO, Will	—			
IHARA, Jr., Les	—			
NISHIHARA, Clarence K.				—
RUDERMAN, Russell E.				—
TOTAL	5			2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes