
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. The legislature finds that drug overdose deaths
2 and opioid-involved deaths continue to increase in the United
3 States. According to information from the federal Centers for
4 Disease Control and Prevention, the majority of drug overdose
5 deaths involve an opioid. The number of overdose deaths
6 involving opioids has quadrupled since 1999, with more than half
7 a million people dying from drug overdoses between 2000 and
8 2015. The Centers for Disease Control and Prevention notes that
9 overdoses from prescription opioids are a driving factor in the
10 fifteen-year increase in opioid overdose deaths. Furthermore,
11 although the amount of prescription opioids sold to pharmacies,
12 hospitals, and doctors' offices nearly quadrupled from 1999 to
13 2010, there has not been an overall change in the amount of pain
14 reported by Americans. The Centers for Disease Control and
15 Prevention also estimates that the total economic burden of
16 prescription opioid misuse in the United States is
17 \$78,500,000,000 a year, including the costs of health care, lost



1 productivity, addiction treatment, and criminal justice
2 involvement.

3 The legislature further finds that numerous efforts have
4 been made at the national and state levels to respond to the
5 nation's opioid epidemic. A number of states have also taken
6 steps through their workers' compensation systems to stem the
7 overprescribing of opioids to workers injured on the job.

8 The use of prescription opioids may be a reasonable and
9 appropriate treatment option for some workplace injuries.

10 However, the legislature notes that according to the National
11 Safety Council, research on medical outcomes when opioids are
12 used in workers' compensation has demonstrated that opioid use
13 beyond the acute phase can impair function, be a barrier to
14 recovery, and increase an injured worker's experience of pain.

15 The legislature therefore finds that it is important to
16 address the opioid epidemic in the workers' compensation system
17 in a manner similar to the way opioid use has been addressed in
18 other areas of state law.

19 Accordingly, the purpose of this Act is to:

- 20 (1) Require health care providers in the workers'
21 compensation system who are authorized to prescribe



1 opioids to adopt and maintain policies for informed
2 consent to opioid therapy in circumstances that carry
3 elevated risk of dependency; and

4 (2) Establish limits for concurrent opioid and
5 benzodiazepine prescriptions in the workers'
6 compensation system.

7 SECTION 2. Chapter 386, Hawaii Revised Statutes, is
8 amended by adding two new sections to be appropriately
9 designated and to read as follows:

10 "§386-A Opioid therapy; qualifying injured employees;
11 informed consent process. (a) Beginning on July 1, 2019, any
12 health care provider authorized to prescribe opioids shall adopt
13 and maintain a written policy or policies that include execution
14 of a written agreement to engage in an informed consent process
15 between the health care provider authorized to prescribe opioids
16 and a qualifying injured employee.

17 (b) If the qualifying injured employee is unable to
18 physically or mentally execute the written agreement pursuant to
19 subsection (a), due to the injury, then the physician shall
20 execute the agreement as soon as the employee's condition



1 improves. At no time shall the employee be responsible for the
2 payment of the medication prescribed.

3 (c) The department shall make available on its website a
4 copy of the template developed by the department of health
5 pursuant to section 329-38.5(b). The template shall be posted
6 to the department's website no later than December 31, 2018.

7 (d) For the purposes of this section, "qualifying injured
8 employee" means:

9 (1) An injured employee requiring opioid treatment for
10 more than three months;

11 (2) An injured employee who is prescribed benzodiazepines
12 and opioids together; or

13 (3) An injured employee who is prescribed a dose of
14 opioids that exceeds ninety morphine equivalent doses.

15 (e) A violation of this section shall not be subject to
16 the penalty provisions of part IV of chapter 329.

17 **§386-B Qualifying injured employees; initial concurrent**
18 **prescriptions; opioids and benzodiazepines.** (a) Initial

19 concurrent prescriptions for opioids and benzodiazepines shall
20 not be for longer than seven consecutive days unless a supply of



1 longer than seven days is determined to be reasonably needed for
2 the treatment of:

3 (1) Pain experienced while the qualifying injured employee
4 is in post-operative care;

5 (2) Chronic pain and pain management;

6 (3) Substance abuse or opioid or opiate dependence;

7 (4) Cancer;

8 (5) Pain experienced while the qualifying injured employee
9 is in palliative care; or

10 (6) Pain experienced while the qualifying injured employee
11 is in hospice care;

12 provided that if a health care provider authorized to prescribe
13 opioids issues a concurrent prescription for more than a seven-
14 day supply of an opioid and benzodiazepine, the health care
15 provider shall document in the qualifying injured employee's
16 medical record the condition for which the health care provider
17 issued the prescription and that an alternative to the opioid
18 and benzodiazepine was not appropriate treatment for the
19 condition.

20 (b) After an initial concurrent prescription for opioids
21 and benzodiazepines has been made, a health care provider



1 authorized to prescribe opioids may authorize subsequent
2 prescriptions through a telephone consultation with the
3 qualifying injured employee when the health care provider deems
4 such action to be reasonably needed for post-operative care and
5 pain management; provided that the health care provider shall
6 consult with a qualifying injured employee in person at least
7 once every ninety days for the duration during which the health
8 care provider concurrently prescribes opioids and
9 benzodiazepines to the qualifying injured employee.

10 (c) For the purposes of this section, "qualifying injured
11 employee" has the same meaning as in section 386-A."

12 SECTION 3. Section 386-21.7, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) Notwithstanding any other provision to the contrary,
15 immediately after a work injury is sustained by an employee and
16 so long as reasonably needed, the employer shall furnish to the
17 employee all prescription drugs as the nature of the injury
18 requires[-]; provided that initial concurrent prescriptions for
19 opioids and benzodiazepines shall meet the requirements of
20 section 386-B. The liability for the prescription drugs shall
21 be subject to the deductible under section 386-100."



1 SECTION 4. In codifying the new sections added by
2 section 2 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

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

7 SECTION 6. This Act shall take effect on January 1, 2050.



Report Title:

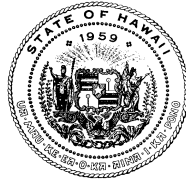
Workers' Compensation; Opioid Therapy; Informed Consent;
Prescription Limits

Description:

Requires health care providers in the workers' compensation system who are authorized to prescribe opioids to adopt and maintain policies for informed consent to opioid therapy in circumstances that carry elevated risk of dependency. Establishes limits for concurrent opioid and benzodiazepine prescriptions. (SB2244 HD1)

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





STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
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**Testimony COMMENTING on SB 2244 HD1
RELATING TO WORKERS' COMPENSATION**

REPRESENTATIVE ROY M. TAKUMI, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Hearing Date: March 28, 2018

Room Number: 329

1 **Fiscal Implications:** Undetermined

2 **Department Testimony:** The Department of Health (DOH) supports the intent of this bill to
3 require providers to adopt an informed consent for injured employees requiring opioid therapy,
4 as well as the regulation of initial concurrent prescriptions for opioids and benzodiazepines. This
5 measure aligns with the following objectives in the Hawaii Opioid Action Plan (Plan), developed
6 by the Governor's Opioid and Substance Misuse Initiative (Collaborative):

- 7 • Objective 2-3: By March 2018, engage payers and physician organizations to
8 disseminate basic best practice information on opioid-prescribing statewide;
- 9 • Objective 2-3a: By December 2019, develop a standardized training on opioid-
10 prescribing best practices and provide training to 50 percent of prescribers statewide; and
- 11 • Objective 2-4: By July 2018, implement informed consent template as outlined in Act 66
12 (2017).

13 The Collaborative brought together a wide range of legislators, state and county officials,
14 law enforcement and first responders, health care professionals and other citizens to work
15 together to develop and implement a Plan to reduce prescription opioid abuse and deaths from
16 overdose. The full Plan is available at: [https://health.hawaii.gov/substance-
17 abuse/files/2013/05/The-Hawaii-Opioid-Initiative.pdf](https://health.hawaii.gov/substance-abuse/files/2013/05/The-Hawaii-Opioid-Initiative.pdf).

18 The DOH is also grateful to the sponsors of SB 2244 HD 1 for their recommendation to
19 expand the use of the opioid informed consent template developed by the Collaborative. The

1 template is now posted on the DOH website: <https://health.hawaii.gov/substance->
2 [abuse/files/2017/12/opioid_informed_consent_template.pdf](https://health.hawaii.gov/substance-abuse/files/2017/12/opioid_informed_consent_template.pdf).

3 The DOH defers to the Department of Labor & Industrial Relations on the regulation and
4 implementation of the Hawaii State Compensation Mutual Insurance Fund.

5 Thank you for the opportunity to provide testimony.

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR



LEONARD HOSHIJO
DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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March 28, 2018

To: The Honorable Roy M. Takumi, Chair,
The Honorable Linda Ichiyama, Vice Chair, and
Members of the House Committee on Consumer Protection and Commerce

Date: Wednesday, March 28, 2018
Time: 2:00 p.m.
Place: Conference Room 329, State Capitol

From: Leonard Hoshijo, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. No. 2244 SD1 HD1 RELATING TO WORKERS' COMPENSATION

I. OVERVIEW OF PROPOSED LEGISLATION

SB2244SD1HD1 proposes two new sections for Chapter 386, Hawaii Revised Statutes (HRS). The first under section **386-A** titled "**Opioid therapy; qualifying injured employees; informed consent process**", which will require an opioid therapy consent process agreement between the injured employee and the physician who prescribes the opioid(s). The written agreement will at the minimum consist of specific requirements on the part of both the injured employee and the physician. If the injured employee is physically or mentally unable to execute the agreement, the physician shall execute the agreement as soon as the employee's condition improves and the employee shall not be responsible to payment of the prescribed medication.

The second proposed section **386-B**, titled "**Qualifying injured employees; initial concurrent prescriptions; opioids and benzodiazepines**" will limit the initial prescription to no more than a seven-day supply.

Section 3 of this proposal also amends Section 386-21.7, HRS, by amending subsection (a) to ensure that the initial concurrent prescriptions of opioids and benzodiazepines meet the requirement of the proposed section 386-B. The effective date of this bill has been changed to January 1, 2050.

The Department supports this measure.

II. CURRENT LAW

Currently, nothing in Chapter 386, HRS, mandates a consent process agreement be made between the injured employee and the prescribing physician of opioid drugs.

Section 386-21.7, HRS, specifies how prescription and compound drugs are reimbursed. The law does not specify limits on supply for compound drugs and does not preclude the physician from dispensing any drug including schedule II drugs beyond thirty days.

III. COMMENTS ON THE SENATE BILL

DLIR supports this measure to help ensure that schedule II drugs, which have a high potential for abuse, are prescribed based upon medical necessity and are justifiably reasonable and necessary. According to the Centers for Disease Control and Prevention, "Opioids (including prescription opioids and heroin) killed more than 33,000 people in 2015, more than any year on record. Nearly half of all opioid overdose deaths involve a prescription opioid."

The opioid epidemic in the United States has a far-reaching impact on the workers compensation system. Many injured workers are prescribed opioid drugs to help with pain following a serious injury. For Service Year 2016, Hawaii spent \$8 million on 57,000 prescriptions for workers compensation claims.

If an injured worker becomes addicted to his or her "pain meds," it greatly affects their ability to get back to work, may increase their disability which will lead to higher medical costs, and sadly can have a disabling effect on the injured worker's family relationships and finances. This proposal limits the initial concurrent prescriptions of opioids and benzodiazepines to a seven (7) day supply. DLIR supports this as it will still provide the injured employee with the needed immediate relief.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU
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KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONO
ASSISTANT DIRECTOR

March 28, 2018

The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
and Members of the Committee
on Consumer Protection & Commerce
The House of Representatives
State Capitol, Room 329
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

**SUBJECT: Senate Bill No. 2244, S.D. 1, H.D. 1
Relating to Workers' Compensation**

S.B. 2244, S.D. 1, H.D. 1, requires health care providers in the workers' compensation system who are authorized to prescribe opioids to adopt and maintain policies for informed consent to opioid therapy in circumstances that carry elevated risk of dependency; and establishes limits for concurrent opioid and benzodiazepine prescriptions.

The City and County of Honolulu, Department of Human Resources, fully supports this measure, which we believe will help to lessen the potential for abuse and possible addiction, and is consistent with providing reasonably needed medical care, services, and supplies to injured workers.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Carolee C. Kubo".

Carolee C. Kubo
Director

SB-2244-HD-1

Submitted on: 3/27/2018 8:44:54 AM

Testimony for CPC on 3/28/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:

To the Honorable Roy M. Takumi, Chair; the Honorable Linda Ichiyama, Vice-Chair, and Members of the Committee on Consumer Protection & Commerce:

Good afternoon, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") on Legislative Priorities of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **SB2244 SD1 HD1** relating to Workers' Compensation; Opioid Therapy; Informed Consent; and Prescription Limits.

The OCC on Legislative Priorities is in favor of **SB2244 SD1 HD1** and supports its passage.

SB2244 SD1 HD1 is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it requires health care providers in the workers' compensation system who are authorized to prescribe opioids to adopt and maintain policies for informed consent to opioid therapy in circumstances that carry elevated risk of dependency and establishes limits for concurrent opioid and benzodiazepine prescriptions.

The DPH Platform states that "[a]ccess to health care is a basic human need. Our citizens and visitors have an inherent right to high quality, high standard health care. The state legislature and the federal government should take all appropriate steps to create and support a health care system of public, for-profit, and nonprofit hospitals and other medical facilities that follow best practices to enhance and protect and preserve life. (Platform of the DPH, P.7, Lines 361-364 (2016)).

We also support the establishment of adequate mental health and statewide drug rehabilitation programs set up in conjunction with policing policies aimed at enabling all that seek assistance to obtain whatever support assistance is needed to allow them to remain free of drug dependence. (Platform of the DPH, P.7, Lines 382384 (2016)).

Given that **SB2244 SD1 HD1** requires health care providers in the workers' compensation system who are authorized to prescribe opioids to adopt and maintain

policies for informed consent to opioid therapy in circumstances that carry elevated risk of dependency and establishes limits for concurrent opioid and benzodiazepine prescriptions, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC on Legislative Priorities

Email: legislativepriorities@gmail.com, Text/Tel.: (808) 258-8889



SB2244 SD1 HD1 Workers Comp. Opioid Informed Consent, Prescriptive Limits

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE:

- Representative Roy Takumi, Chair; Representative Linda Ichiyama, Vice Chair
- Wednesday, March 28, 2018: 2:00 pm
- Conference Room 329

Hawaii Substance Abuse Coalition (HSAC) Supports SB2244 SD1 HD1:

GOOD MORNING CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide hui of almost 40 non-profit alcohol and drug treatment and prevention agencies.

The Hawaii Opioid Action Plan (Plan), the collaborative gathering of about 150 political, government, insurers and providers, including HSAC members, developed plans that included our construction of a formal opioid consent form.

- We recommended limits for overall excessive use but were careful to allow doctors room for medical necessity, especially for serious conditions.
- We defer to HMA for input in this area.
- Also, we defer to regulatory bodies for what may have to change to facilitate good implementation of this proposed legislation.

We came together with so many, accomplishing so much in a short time because we are cognizant of the impending crisis due to Hawaii's opioid misuse and high overdose.

We appreciate the opportunity to provide testimony and are available for questions.

SB-2244-HD-1

Submitted on: 3/27/2018 1:53:48 PM

Testimony for CPC on 3/28/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Bergquist	Drug Policy Forum of Hawaii	Support	Yes

Comments:

The Drug Policy Forum supports this bill to bring the worker compensation system in line with the rest of the insurance system when it comes to opioid treatment. It thus mirrors the language of [Act 66, Session Laws of 2017 \(SB505\)](#).