

# SB2244

Measure Title: RELATING TO WORKERS' COMPENSATION.

Report Title: Workers' Compensation; Opioid Therapy; Informed Consent; Prescription Limits

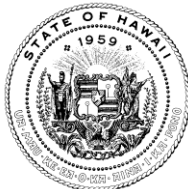
Description: Requires health care providers in the workers' compensation system who are authorized to prescribe opioids to adopt and maintain policies for informed consent to opioid therapy in circumstances that carry elevated risk of dependency. Establishes limits for concurrent opioid and benzodiazepine prescriptions. Takes effect 1/1/2045. (SD1)

Companion:

Package: None

Current Referral: LBR, CPH

Introducer(s): BAKER, GABBARD, INOUE, KEITH-AGARAN, KIM, TOKUDA, S. Chang, English, Espero, Galuteria, Nishihara, Ruderman, Taniguchi



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

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February 20, 2018

To: The Honorable Rosalyn H. Baker, Chair,  
The Honorable Jill N. Tokuda, Vice Chair, and  
Members of the Senate Committee on Commerce, Consumer Protection,  
and Health

Date: Tuesday, February 20, 2018

Time: 10:00 a.m.

Place: Conference Room 229, State Capitol

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

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

**I. OVERVIEW OF PROPOSED LEGISLATION**

SB2244SD1 proposes two new sections be added to 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 consists of specific requirements on the part of both the injured employee and the physician.

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 Department supports the intent of the consent agreement process 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. We support this as it will still provide the injured employee with the needed immediate relief.

## **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 and costs 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**

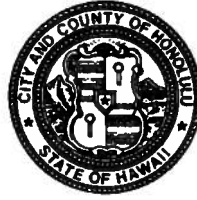
DLIR supports the intent of the measure; however, it does have some questions regarding potential, unintended consequences.

- Section 1 of this proposal mandates a consent process agreement between the injured employee and the prescribing physician:

If the parties do not enter into an agreement prior to the prescribing of opioid drugs, will the employer have the right to deny the injured employee the prescribed opioid drugs? If the employer did deny, the injured worker would need to request a hearing, essentially defeating the purpose of the prescription. Moreover, it could also result in a bill dispute process between the healthcare provider and the employer/carrier.

DEPARTMENT OF HUMAN RESOURCES  
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CAROLEE C. KUBO  
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NOEL T. ONO  
ASSISTANT DIRECTOR

February 20, 2018

The Honorable Rosalyn H. Baker, Chair  
The Honorable Jill N. Tokuda, Vice Chair  
and Members of the Committee on Commerce,  
Consumer Protection, and Health  
The Senate  
State Capitol, Room 229  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Baker, Vice Chair Tokuda, and Members of the Committee:

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

S.B. 2244, S.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,

Handwritten signature of Carolee C. Kubo in black ink.

Carolee C. Kubo  
Director



*Dedicated to safe, responsible, humane and effective drug policies since 1993*

TO: Senate Committee on Commerce, Consumer Protection and Public Health  
FROM: Carl Bergquist, Executive Director  
HEARING DATE: 20 February 2018, 9AM  
RE: SB2244 SD1, RELATING TO WORKERS' COMPENSATION, **SUPPORT**

Dear Chair Baker, Vice Chair Tokuda, Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) **supports** this measure to bring the workers' compensation system in line with previous reforms related to Hawaii's preemptive strategy against the opioid epidemic. Act 66 of 2017 (originating as SB505) contained identical provisions on informed consent & prescription limits for health care providers *outside* the workers' compensation system. Extending these common sense limits to healthcare providers *within* the workers' compensation system is an important part of the holistic approach the State of Hawai'i has adopted in as evidence by Act 66 and the Statewide Opioid Initiative released in December 2017.

It is essential that this tackling of the supply side of the equation continues to be balanced by a focus on the demand side. In particular, drug users need to be respected before they can be helped, and they can best be helped if they are not further harmed. To that effect, we must remain vigilant against punitive measures or excessively restrictive measures that can either cause health care providers to stop providing needed services or force drug users to turn to more dangerous sources in order to relieve their very real pain.

Finally, we applaud that the legislature also considered how the same workers compensation providers could begin paying for medical cannabis treatment in lieu of, or alongside, opioids. See e.g. SB2248. Case law developing in other states points to this becoming a requirement in the near future.

Thank you for the opportunity to testify.



## **SB2244 Workers Comp. Opioid Informed Consent, Prescriptive Limits**

COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH:

- Senator Rosalyn Baker, Chair; Senator Jill Tokuda, Vice Chair
- Tuesday, February 10th, 2018: 10:00 am
- Conference Room 229

### **HAWAII SUBSTANCE ABUSE COALITION (HSAC) Supports SB2244:**

*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.



**To: Senator Rosalyn H. Baker, Chair  
Senator Jill N. Tokuda, Vice Chair  
Members of the Committee on Commerce, Consumer Protection &  
Health**

**Date: Tuesday, February 20, 2018**

**Time: 10:00 a.m.**

**Place: Conference Room 229  
State Capitol  
415 South Beretania Street**

**Comments on SB2244 SD1**

Work Injury Medical Association of Hawaii (WIMAH) is a nonprofit trade organization of healthcare providers dedicated and devoted to promoting the best practices and policies for the injured workers of Hawaii and the providers who take care of them and to enhance the quality of life of injured workers in this community. WIMAH represents the majority of physicians treating injured workers in the State of Hawaii.

SB2244 SD1 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. It also establishes limits for concurrent opioid and benzodiazepine prescriptions.

Act 66 of 2017 (originating as SB505) contained identical provisions on informed consent and prescription limits for health care providers generally. We understand that Act 66 applies to health care providers in the workers' compensation system too. Therefore, we question whether SB2244 SD1 is needed or whether it is duplicative and unnecessary. We would recommend that a legal opinion from the Attorney General's office be obtained before passing this bill.

Thank you for your consideration.

Scott J. Miscovich, MD  
President and Director

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Vivian Tseng, MD

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Scott J. Miscovich, MD  
*President*

**WIMAH**

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WIMAH Tax ID  
46-0870762

**SB-2244-SD-1**

Submitted on: 2/20/2018 10:32:24 AM

Testimony for CPH on 2/20/2018 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Christopher D. Flanders, D.O.	Testifying for Hawaii Medical Association	Oppose	No

Comments:

The HMA supports the position of WIMAH on this bill.



**SB-2244-SD-1**

Submitted on: 2/18/2018 6:23:32 PM

Testimony for CPH on 2/20/2018 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Barbara Lawson	Individual	Comments	No

Comments:

There are many loopholes that allow opioids to be obtained illegally. One of those loopholes are persons who are on disability and receiving multiple pain management prescriptions. People on disability have limited funds. I know of several individuals who sell their prescriptions illegally. One hydrocodone pill is worth \$6 to \$7 dollars on the street. A new law in Virginia has persons on disability submitting to random blood test to ensure they are actually taking their prescriptions. Those who do not have the prescribed drugs in their system are either significantly reduced in the number of pills they can obtain or the prescription is stopped.

18 months ago my partner of 14 years moved to Oahu. She has a friend on disability who was selling her pills. They came in our mail and when I found out, I told my partner it would never happen again, that it was against the law. So, my partner moved and transferred jobs over to Oahu, working in the transportation industry. She lives right over top the person selling her drugs. I have seen photo's of her since she left. She looks awful and very thin. I have filed a report with the Honolulu Police Department. Many, many people are earning extra money selling their own prescriptions. This is a significant source of the drugs for people who do not have a prescription or their usage is so high, they have to buy additional off the streets.

I hope you can find a way to end this. It has been very painful watching someone you love turn into a stranger. It has made me very angry that someone receiving state assistance is earning monies selling narcotics that are meant to be used by them...

Thank you for your time.