

SB 2646

SD1 HD1

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# A BILL FOR AN ACT

RELATING TO PRESCRIPTION DRUGS.

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

1           SECTION 1. The legislature finds that prescribers of  
2 controlled substances, including doctors, dentists, surgeons,  
3 and podiatrists, are required to register with the state  
4 electronic prescription accountability system and are required  
5 to report information relevant to the dispensation of any  
6 controlled substance before any controlled substance may be  
7 dispensed. Prescribers are also permitted to view prescription  
8 data of their own patients. However, prescribers are currently  
9 not required to consult the state electronic prescription  
10 accountability system before prescribing a controlled substance.

11           The legislature further finds that drug overdose rates have  
12 increased catastrophically in Hawaii, increasing by eighty-three  
13 per cent from 2006 to 2014. Thirty-five per cent of all drug  
14 overdose deaths between 2010 and 2014 were caused by  
15 prescription opioids alone.

16           The purpose of this Act is to reduce the access of the  
17 public to potentially addictive substances by requiring



1 prescribers to consult the state electronic prescription  
2 accountability system before issuing a prescription for certain  
3 controlled substances.

4 SECTION 2. Chapter 329, Hawaii Revised Statutes, is  
5 amended by adding a new section to part III to be appropriately  
6 designated and to read as follows:

7 "§329- Prescriptions; additional restrictions. (a) The  
8 prescription restrictions in this section shall apply in  
9 addition to the restrictions described in section 329-38.

10 (b) No prescriber shall prescribe a schedule II, III, or  
11 IV controlled substance for a duration of seven days or more  
12 without first requesting, receiving, and considering records of  
13 the ultimate user from the state electronic prescription  
14 accountability system as needed to reduce the risk of abuse of  
15 or addiction to a controlled substance, as needed to avoid  
16 harmful drug interactions, or as otherwise medically necessary;  
17 provided that this subsection shall not apply to:

18 (1) Any prescription that is made in an emergency  
19 situation, by an emergency medical provider, or in an  
20 emergency room;



1       (2) Any prescription written while the state electronic  
2       prescription accountability system is nonfunctional;  
3       and

4       (3) Any prescription for post-surgical care; provided that  
5       the patient who is prescribed a prescription for a  
6       duration of seven days or more shall be informed of  
7       the risks and harms of opioid addiction.

8       (c) The administrator of the state electronic prescription  
9       accountability system shall promptly disclose only the requested  
10       data to the requesting prescriber. Disclosure as required under  
11       this section is permissible under the duty of confidentiality  
12       imposed by section 329-104. To the extent that this section  
13       conflicts with other state confidentiality and disclosure laws,  
14       this section shall prevail.

15       (d) A violation of this section shall not be subject to  
16       the penalty provisions of part IV of chapter 329; provided that  
17       a violation of this section may result in disciplinary action  
18       under sections 448-17, 453-8, 457-12, or 471-10."

19       SECTION 3. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$                    or so much  
21 thereof as may be necessary for fiscal year 2018-2019 to improve



1 the functionality and reliability of the electronic prescription  
2 accountability system.

3 The sum appropriated shall be expended by the department of  
4 public safety for the purposes of this Act.

5 SECTION 4. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on July 1, 2050, and  
7 shall be repealed on June 30, 2023.



**Report Title:**

Electronic Prescription Accountability System; Prescription  
Drugs

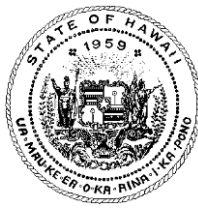
**Description:**

Requires prescribers of certain controlled substances to consult the electronic prescription accountability system before issuing a prescription for the controlled substance. Provides exemptions for certain circumstances. Provides that a violation by a prescriber shall not be subject to criminal penalty provisions but that a violation may be grounds for professional discipline pursuant to sections 448-17, 453-8, 457-12, and 471-10 Hawaii Revised Statutes. (SB2646 HD1)

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



DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
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No. \_\_\_\_\_

**WRITTEN TESTIMONY ONLY**

TESTIMONY ON SENATE BILL 2646, SENATE DRAFT 1, HOUSE DRAFT 1  
RELATING TO PRESCRIPTION DRUGS

by

Nolan P. Espinda, Director  
Department of Public Safety

House Committee on Consumer Protection and Commerce  
Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair

Wednesday, March 21, 2018; 2:15 p.m.  
State Capitol, Conference Room 329

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

The Department of Public Safety (PSD) **supports** Senate Bill (SB) 2646, Senate Draft (SD) 1, House Draft (HD) 1, which would require prescribers of certain controlled substances to consult the electronic prescription monitoring accountability system before issuing a prescription for a controlled substance

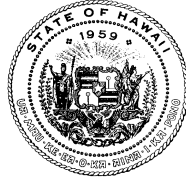
PSD has collaborated closely with the Department of Health (DOH) and other government and private stakeholders to create Hawai'i's Opioid Action Plan. One of the plan's goals is to increase the number of practitioners who use the electronic prescription accountability system, otherwise known as the Prescription Drug Monitoring Program (PDMP). PSD supports SB 2646, SD 1, HD 1 as this would significantly increase the number of PDMP users.

Testimony on SB 2646, SD 1, HD 1  
House Committee on Consumer Protection and Commerce  
March 21, 2018  
Page 2

PSD is aware that other states have mandated use of the PDMP before the prescription of controlled substances. According to information from the DOH, 36 states currently have laws in place requiring the use of the PDMP. Those states have significantly reduced the effects of opioids.

Thank you for the opportunity to testify on this measure.





STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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**Testimony COMMENTING on SB 2646 HD 1  
RELATING TO PRESCRIPTION DRUGS**

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

Hearing Date: March 21, 2018

Room Number: 329

1 **Fiscal Implications:** Undetermined

2 **Department Testimony:** The Department of Health (DOH) supports this bill to require  
3 prescribers to use the electronic prescription accountability system also known as the  
4 Prescription Drug Monitoring Program (PDMP) of the Department of Public Safety (PSD)  
5 before writing prescriptions for certain narcotics.

6 This measure aligns with the following prescriber education and pain management  
7 practice objectives of the Hawaii Opioid Action Plan, developed by the Governor's Opioid and  
8 Substance Misuse Initiative:

- 9
- 10 • Objective 2-1: "By December 2018, increase primary care provider PDMP  
11 registration rates by twenty-five percent by providing training to prescribers;"
  - 12 • Objective 2-1a: "By December 2018, increase prescriber PDMP utilization rates by  
13 ten percent;" and
  - 14 • Objective 3-2: "By September 2018, develop a standardized framework for the  
15 collection, synthesis, and dissemination of data."

16 The DOH also respectfully submits the following statistics:

- 17 • Forty-nine states have an operational PDMP;
- 18 • Thirty-six states have laws in place to require use of state PDMP; and
- Forty-four states have laws in place that allow delegates to use the PDMP.

1 The federal Centers for Disease Control highlights the following examples from Florida,  
2 New York, and Tennessee to illustrate the association between the enactment of state-level  
3 PDMP policy enactments and changes in prescribing behavior  
4 (<https://www.cdc.gov/drugoverdose/policy/successes.html>):

5 Florida

- 6 • 2010 Action: Regulated pain clinics and stopped health care providers from  
7 dispensing prescription opioid pain relievers from their offices, in combination with  
8 establishing a PDMP.
- 9 • 2012 Result: Saw more than fifty percent decrease in oxycodone overdose deaths.  
10 These changes might represent the first documented substantial decline in drug  
11 overdose mortality in any state during the previous ten years.

12 New York

- 13 • 2012 Action: Required prescribers to check the state's PDMP before prescribing  
14 opioids.
- 15 • 2013 Result: Saw a seventy-five percent drop in patients seeing multiple prescribers  
16 for the same drugs.

17 Tennessee

- 18 • 2012 Action: Required prescribers to check the state's PDMP before prescribing  
19 painkillers.
- 20 • 2013 Result: Saw a thirty-six percent decline in patients seeing multiple prescribers  
21 for the same drugs.

22 Additionally, the National Governor's Association, the Center for Disease Control, the  
23 Substance Abuse and Mental Health Administration, and other national entities recommend that  
24 states mandate the use of the PDMP for certain controlled substances. Additionally, despite a  
25 registration mandate in Hawaii (like other states) the actual review of the PDMP by prescribers  
26 prior to writing a prescription has not increased because of registration. Finally, Hawaii already  
27 allows delegation by prescribers to support staff to access the PDMP on their behalf to reduce the  
28 time burden to the actual prescriber/practitioner.

1           The DOH is aware that while mandates are less preferable to voluntary compliance, this  
2 measure will nonetheless achieve the results of Objectives 2-1 and 2-1a of the Hawaii Opioid  
3 Action Plan and as noted above have had compelling positive impact in other states.

4           The DOH supports a balanced implementation of this measure and supports the  
5 exemptions indicated in the HD 1 version in recognition of the concerns raised by the Hawaii  
6 Medical Association.

7           The DOH also defers to the PSD on the regulation and implementation of the proposed  
8 amendments to the Hawaii Uniform Controlled Substances Act.

9           Thank you for the opportunity to provide testimony.



March 21, 2018

Representative Roy Takumi  
Chairman  
Hawaii House Committee on Consumer Protection and Commerce  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Dear Chairman Takumi,

The Hawaii Society of Clinical Oncology (HSCO) and the American Society of Clinical Oncology (ASCO) are pleased to provide **comments on the amended version of Hawaii SB 2646: relating to prescription drugs.**

HSCO is a diverse community of oncology professionals whose mission is to be identified as the voice of Hawaii's oncologists, promote high-quality oncology care through patient advocacy, continuing education, multidisciplinary engagement, and participation in the public forum. ASCO is the national organization representing nearly 45,000 physicians and other healthcare professionals specializing in cancer treatment, diagnosis, and prevention.

HSCO and ASCO are deeply committed to supporting efforts to address the opioid epidemic and believe that a well-utilized prescription drug monitoring program can be an incredibly useful tool in combatting this crisis. However, we are concerned that the amendments made to SB 2646 in the Senate fail to address the problematic language that could negatively impact the practice of oncology in your state.

With that in mind, we would like to reiterate **the following policy recommendations to SB 2646: Relating to Prescription Drugs** in order to help the measure work more seamlessly with the demands of cancer care:

- **Providers should review the state electronic prescription accountability system (EPAS) for the initial script and subsequently every 6 months.** As SB 2646 currently reads, the required review of EPAS records seems to apply to all controlled substance prescriptions including refills for known patients receiving ongoing treatment. Those who treat cancer pain may prescribe opioids to relatively large numbers of patients and may provide some with multiple controlled drugs at relatively high doses. These providers should not repeatedly trigger review by regulators or law enforcement simply for meeting the needs of their specialized patient population.
- **Clinicians should be able to delegate authority for requesting EPAS information to other practice staff/clinicians.** Language stipulating the EPAS administrator will promptly disclose "only the requested data to the requesting prescribers" implies that the prescribing physician is the only member of the practice that can request EPAS data. Delegating authority for review to a designated staff member would relieve administrative burden and allow the clinician to spend more time caring for their patients.
- **Physician practices should be allowed to "batch" check patients at the front end.** This would involve a delegated practice staff member checking each day's patients in a "batch" at the beginning

of the day, or up to 24 hours beforehand, depending on what the practice knows about the needs of these patients in advance. The physician would be able to look at a report of all of the day's patients at the beginning of the day and would be responsible for interpreting the results contextually for each patient.

For a more detailed understanding of our policy on this issue, we invite you to read the [ASCO Policy Statement on Opioid Therapy: Protecting Access to Treatment for Cancer-Related Pain](#). HSCO and ASCO welcome the opportunity to be a resource for you. Please contact Allison Rollins at ASCO at [allison.rollins@asco.org](mailto:allison.rollins@asco.org) or Keola Beale M.D., the President of HSCO, at [Keola.K.Beale@kp.org](mailto:Keola.K.Beale@kp.org) if you have any questions or if we can be of assistance.

Sincerely,



Keola K. Beale, MD  
President  
Hawaii Society of Clinical Oncology



Bruce E. Johnson, MD, FASCO  
President  
American Society of Clinical Oncology

RE: SB2646 SD1

Dear Honorable Senate committee;

The Hawaii Society of Pain Physicians recognizes the current problem of the Opioid Epidemic.

Our society is committed to the continued effort to develop, educate and promote standards of care in Pain Management and opioid prescribing.

In review of the SB2646 SD1

The society would recommend that anyone prescribing controlled substances be subject to the rules of the bill, which would including physicians, dentists, Veterinarian's, Nurse Practitioner's, or Physician assistants. We support that anyone prescribing opioids would benefit from the information that the HPDMR provides regarding prescribing history.

We support that the information is beneficial for clinical decision making regarding initiating or continuing opioid or adjunctive medication. This information is similar to information that may be obtained from a patient's lab work and used for clinical decision making in other medical situations.

We support that this would not apply only in an Emergency situation where the HPDMR is unavailable, or would impede medical care.

A concern with the bill is that there may be changes made in conference that would affect the bill in its current writing, and therefore have unintended consequences to Pain Physicians and their ability to deliver healthcare as needed for their patients.

Additionally, there is a concern that there is no allocation of finances allocated to support the implementation of non-criminal oversight.

We also have a concern when legislation is imposed on medical care. Unintended consequences impact medical care. Those not trained in medicine often times are unable to for see the consequences.

We recognize that the prescribing of controlled substances including Opioids must be part of a comprehensive treatment plan that adheres to the current standard of care in Pain Management.

We recognize that to help solve this problem is to continue the effort to have available Education to healthcare providers, legislators, social workers and individuals in the community regarding this topic.

We appreciate the opportunity to provide testimony and are available to provide further insight and answer questions if needed regarding the current standards of care in Pain Management, Pain Medicine, Opioid prescribing or other area in our Pain Medicine Specialty.

Respectfully,

Dr. Kerrey Taylor President of the Hawaii Society of Pain Physicians



An Independent Licensee of the Blue Cross and Blue Shield Association

March 21, 2018

The Honorable Roy M. Takumi, Chair  
The Honorable Linda Ichiyama, Vice Chair  
House Committee on Consumer Protection and Commerce

Re: SB 2646, SD1, HD1 – Relating to Prescription Drugs

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

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in **support** of SB 2646, SD1, HD1 which requires prescribers of certain controlled substances to consult the electronic prescription accountability system before issuing a prescription for the controlled substance, and provides that a violation by a prescriber shall not be subject to criminal penalty provisions but that a violation may be grounds for professional discipline pursuant to section 453-8 or 457-12, HRS. HMSA supports the intent of this Bill, to reduce the access of the public to potentially addictive substances.

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

Sincerely,

Jennifer Diesman  
Senior Vice-President-Government Relations