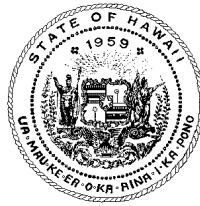


HB665 HD2

Measure Title:	RELATING TO THE ELECTRONIC PRESCRIPTION ACCOUNTABILITY SYSTEM.
Report Title:	Electronic Prescription Accountability System; Opioid Therapy; Informed Consent Process
Description:	Exempts health care providers from consulting the electronic prescription accountability system when a patient is in an inpatient setting, in post-operative care, or in hospice care. Exempts patients who are in an inpatient setting and lack capacity from the informed consent process for opioid therapy. (HB665 HD2)
Companion:	SB807
Package:	None
Current Referral:	CPH, JDC
Introducer(s):	MIZUNO, SAY, TOKIOKA

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

NOLAN P. ESPINDA
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 665, HOUSE DRAFT 2
RELATING TO THE ELECTRONIC PRESCRIPTION
ACCOUNTABILITY SYSTEM.

by
Nolan P. Espinda, Director
Department of Public Safety

LATE

Senate Committee on Commerce, Consumer Protection, and Health
Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

Tuesday, March 19, 2019; 9:05 a.m.
State Capitol, Conference Room 229

Chair Baker, Vice Chair Chang, and Members of the Committee:

The Department of Public Safety (PSD) supports House Bill (HB) 665, House Draft (HD) 2, which clarifies that a health care provider would not be required to consult the electronic prescription accountability system, more commonly known as the Prescription Drug Monitoring Program (PDMP), when the prescription will be directly administered under the supervision of a health care provider or for patients who qualify for hospice care. HB 665, HD 2 would further clarify that an informed consent agreement is not required for patients whose prescription will be directly administered under the supervision of a health care provider.

The need for an informed consent agreement is reduced when a prescription is directly administered under the supervision of a health care provider.

Thank you for the opportunity to present this testimony.

HB-665-HD-2

Submitted on: 3/18/2019 8:12:00 AM

Testimony for CPH on 3/19/2019 9:05:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Linda Rosen, M.D., M.P.H.	Testifying for Hawaii Health Systems Corporation	Support	Yes

Comments:

We support this measure which clarifies important legislation from last year. We are also in agreement with amendments proposed by the Healthcare Association of Hawaii.



March 19, 2019 at 9:05 am
Conference Room 229

Senate Committee on Commerce, Consumer Protection, and Health

To: Chair Rosalyn H. Baker
Vice Chair Stanley Chang

From: Paige Heckathorn Choy
Director of Government Affairs
Healthcare Association of Hawaii

Re: **Testimony in Support**
HB 665 HD 2, Relating to the Electronic Prescription Accountability System

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the healthcare continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

Thank you for the opportunity to testify in **support of HB 665 HD 2 with amendments**. In the 2018 legislative session, the legislature passed Act 153, which requires all prescribers who prescribe a Schedule II, III, or IV controlled substance to check the state's electronic prescription accountability system (better known as the Prescription Drug Monitoring Program, or PDMP), in order to reduce the risk of abuse of or addiction to a controlled substance, as needed to avoid harmful drug interactions, or as otherwise medically necessary. This legislation was passed amidst a national opioid crisis that is requiring lawmakers, providers, and the community to find ways to address access to these potentially dangerous drugs.

The Association's members have taken the charge of Act 153 seriously and have been working diligently to comply with the law. Indeed, many facilities are trying to find ways to make checking the PDMP as seamless as possible to ensure the highest level of patient care. However, in implementing the law, there were some areas highlighted as needing clarification to reflect actual clinical practice and workflow.

We are supportive of this legislation, in particular the sections that provide:

- Clarification that providers do not have to check the PDMP when a patient is receiving a drug directly under the supervision of a healthcare professional; and

- An exemption for prescriptions written for hospice patients, which can create a barrier to appropriate end-of-life care.

We would request one amendment, which is to strike Section 3 from the bill (page 4, lines 16-21 and page 5, lines 1-8). We are agreeable to this change, which was requested by other stakeholders.

We will continue to work with our members to ensure the safety of our communities. Thank you for the opportunity to provide comments in support of clarifications to this important law.

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE REGARDING H.B. 665 HD2**

Tuesday, March 19, 2019
9:05 am, Room 229

To: Chair Rosalyn H. Baker and Members of the Senate Committee on Commerce, Consumer Protection, and Health.

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) **requesting an amendment to H.B. 665 HD2**, Relating to the Electronic Prescription Accountability System.

At issue in this measure, is the language in Section 3, amending Hawaii Revised Statutes (HRS) §329-38.5, which removes the need for the opioid therapy informed consent process agreement (“informed consent agreement”) for high-risk opioid patients who are incapacitated and receiving care at a hospital (as inpatients or outpatients).

An informed consent agreement (which is different than the standard informed consent form) is a written treatment agreement, signed by the patient (or representative) and clinician, that provides the standard informed consent form information (condition treated, proposed treatment, expected results, risks/benefits, alternatives), in addition to the plan of care and expectations for, in this case, a patient using high-risk opioid medications. The Department of Health is responsible for developing and providing the informed consent agreement template referred to in HRS §329-38.5.

The amendment to HRS §329-38.5 proposed in this measure, conflicts with established federal law, state law, accreditation organizations, guidelines of professional medical organizations, and basic standards of medical ethics. Therefore, requesting the committee to **delete Section 3 of this measure.**

Generally, the informed consent process seeks to respect patient autonomy by ensuring that treatment is directed toward the ends desired and chosen by the patient. The primacy of patient autonomy extends to patients who cannot participate in decision-making.

Patients who are incapacitated have the right to rely on a surrogate decision-maker who can voice the patient's choices or make decisions determined to be in the best interests of the patient. Informed consent is predicated on the surrogate's ability to act on the patient's wishes or in their best interests. To do so, the surrogate needs to be provided with all of the significant information and use it to weigh treatment options in light of the patient's values.

H.B. 665 HD2, Section 3, disregards patient autonomy by removing the patient's right to participate in the recommended treatment plan and make treatment decisions, through the use of a surrogate decision-maker. H.B. 665 HD2, Section 3, marginalizes two of the most vulnerable patient groups – those patients who lack decision-making capacity, and those who are at high risk for developing an opioid dependency. Ironically, these groups are precisely the patients that would benefit most from an opioid informed consent agreement, and will be left at greater risk for opioid dependency and overdose.

In summary, **the amendment of HRS §329-38.5, in Section 3, should be deleted** because it conflicts with federal law, state law, accreditation organizations, guidelines of professional medical organizations, and basic standards of medical ethics.

HAI met with the proponents in support of this measure and reached an agreement to remove this language. Therefore, respectfully requesting the committee to support the proposed amendment and amend the measure accordingly to delete Section 3.

Thank you for the opportunity to submit testimony on this matter.

HB-665-HD-2

Submitted on: 3/17/2019 10:58:24 PM

Testimony for CPH on 3/19/2019 9:05:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Bergquist	Testifying for Drug Policy Forum of Hawaii	Comments	No

Comments:

Chair Baker, Vice Chair Chang, Committee Members:

As we move forward with the requirement for prescribers to consult the state Electronic Prescription Accountability System, (also known as a Prescription Drug Monitoring Program, PDMP), we must continue to be mindful of unintended consequences that can negatively impact patients in genuine need of pain relief.

Those consequences tend to fall into two categories:

1. Prescribers refraining from prescribing due to perceived added labor when consulting the PDMP;
2. Patients turning elsewhere, including to illicit drugs laced with fentanyl, for relief from pain when their prescriptions are ended.

These are not hypothetical concerns, [see e.g. this report from the Cato Intitute regarding recent research](#).

[T]wo separate studies published online in JAMA Surgery on August 22 [2018] that examined two different restrictive opioid policies that fell victim to the Law of Unintended Consequences.

Accordingly, we appreciate the intent behind this bill as well as the amendments made to it and the Senate companion bill, SB807.

The Drug Policy Forum of Hawai'i appreciates the opportunity to provide these comments.

Testimony of
Jonathan Ching
Government Relations Specialist

Before:
Senate Committee on Commerce, Consumer Protection, and Health
The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair

March 19, 2019
9:05 a.m.
Conference Room 229

Re: HB665, HD2, Relating to the Electronic Prescription Accountability System

Chair Baker, Vice Chair Chang, and committee members, thank you for this opportunity to provide testimony on HB665, HD2, which specifies that a health care provider shall not be required to consult the electronic prescription accountability system for patients in certain instances and clarifies that an informed consent agreement is not necessary for patients whose prescription will be directly administered under the supervision of a health care provider.

Kaiser Permanente Hawai'i SUPPORTS HB665, HD2 with AMENDMENTS

Kaiser Permanente Hawai'i is Hawai'i's largest integrated health system that provides care and coverage for nearly 255,000 members. Each day, more than 4,500 dedicated employees and more than 550 Hawai'i Permanente Medical Group physicians come to work at Kaiser Permanente Hawai'i to care for our members at Moanalua Medical Center and our 27 medical clinics, providing high-quality care for our members and delivering on our commitment to improve the health of the 1.4 million people living in the communities we serve.

HB665, HD2 clarifies when a health care provider is required to consult the electronic prescription accountability system. In 2018, the Legislature passed Act 153, Session Laws Hawai'i, to require that prescribers of controlled substances check the electronic prescription accountability system, known as the prescription drug monitoring program (PDMP), prior to prescribing certain controlled substances.

While Kaiser Permanente Hawai'i generally supports prescribers checking the PDMP, we appreciate the legislature's consideration that the PDMP does not need to be consulted:

1. For a patient who is directly administered a drug under the supervision of a licensed health care provider;
2. When a patient is in post-operative care; provided that the prescription is limited to a three-day supply; and
3. When a patient has a terminal disease and is receiving hospice or other palliative care.

Furthermore, we appreciate that the measure provides clarification on when an opioid therapy patient must complete informed consent to ensure that incapacitated patients in the hospital are not subject to this requirement. However, after discussion with other stakeholders, **we concur with the testimony of the Healthcare Association of Hawai‘i to strike Section 3 from the bill (page 4, lines 16-21 and page 5 lines 1-8).**

Mahalo for the opportunity to testify on this important measure.



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair
Members, Committee on Commerce, Consumer Protection, and Health
Paula Yoshioka

From: Paula Yoshioka, Vice President, Government Relations and External Affairs, The
Queen's Health Systems

Date: March 15, 2019

Hrg: Senate Committee on Commerce, Consumer Protection, and Health Hearing; Tuesday,
March 19, 2019 at 9:05 AM in Room 229

Re: Support for H.B. 665, H.D. 2 Relating to the Electronic Prescription Accountability
System

The Queen's Health Systems (Queen's) is a not-for-profit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, 66 health care centers and labs, and more than 1,600 physicians statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide testimony in support of H.B. 665, H.D. 2 relating to the electronic prescription accountability system. The measure clarifies that a health care provider does not need to consult the electronic prescription accountability system when a patient is in an inpatient setting or in hospice care. It also specifies that an informed consent agreement is not required for patients whose prescription will be directly administered under supervision of a health care provider. We also concur with the testimony submitted by the Healthcare Association of Hawaii and the amendment to strike Section 3 from the bill, page 4, lines 16-21 and page 5, lines 1-8.

Since the passage of Act 153, Queen's has dedicated resources to be in compliance and ensure that the state's electronic prescription accountability system is consulted, in order to reduce the potential risk of abuse or addiction to a controlled substance, as needed to avoid harmful drug interactions, or as otherwise medically necessary. Thank you for your time and attention to this important issue.

The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.



3- 3420 Kuhio Highway, Suite 300 • Lihue, HI 96766

March 19, 2019 at 9:05 am

Senate Committee on Commerce, Consumer Protection, and Health

To: Chair Rosalyn H. Baker
Vice Chair Stanley Chang

From: Kurt Akamine
Vice President

Re: **Testimony in Support**
HB 665 HD 2, Relating to the Electronic Prescription Accountability System

Ohana Pacific Management Company, Inc. (OPMC) owns and operates five post-acute care facilities servicing more than 500 patients on Oahu and Kauai as well as an adult day health program and home health agency on Kauai.

We are supportive of this legislation, in particular the sections that provide:

- Clarification that providers do not have to check the PDMP when a patient is receiving a drug directly under the supervision of a healthcare professional; and
- An exemption for prescriptions written for hospice patients, which can create a barrier to appropriate end-of-life care.

We would request one amendment, which is to strike Section 3 from the bill (page 4, lines 16-21 and page 5, lines 1-8). We are agreeable to this change, which was requested by other stakeholders.

We appreciate the opportunity to provide comments in support of clarifications to this important law.

Tuesday, March 19, 2019 at 9:05 AM
Conference Room 229

Senate Committee on Commerce, Consumer Protection and Health

To: Senator Rosalyn Baker, Chair
Senator Stanley Chang, Vice Chair

From: Michael Robinson
Vice President, Government Relations & Community Affairs

Re: **Testimony in Support of HB 665, HD2
Relating to The Electronic Prescription Accountability System**

My name is Michael Robinson, Vice President, Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health (HPH) is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

I write in support of HB 665, HD2 which makes amendments to the electronic prescription accountability system.

Act 153 which was passed in 2018 requires all prescribers who prescribe a Schedule II, III, or IV controlled substance to check the state's electronic prescription accountability system (better known as the Prescription Drug Monitoring Program, or PDMP). Its purpose was to reduce the risk of abuse of or addiction to a controlled substance. This legislation was passed amidst a national opioid crisis that is requiring lawmakers, providers, and the community to find ways to address access to these potentially dangerous drugs.

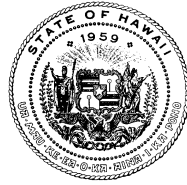
HPH has been working diligently to comply with the law, and in making checking the PDMP as seamless as possible to ensure the highest level of patient care. However, in implementing the law, some areas were identified as needing clarification to reflect actual clinical practice and workflow.

We are supportive of this measure, in particular the sections that provide:

- Clarification that providers do not have to check the PDMP when a patient is receiving a drug directly under the supervision of a healthcare professional;

- An exemption for prescriptions written for hospice patients, which can create a barrier to appropriate end-of-life care; and
- Clarification on when an opioid therapy patient must complete informed consent to ensure that incapacitated patients in the hospital are not subject to this requirement.

Thank you for the opportunity to testify.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of (HB 0665 HD 2)
RELATING TO THE ELECTRONIC PRESCRIPTION ACCOUNTABILITY SYSTEM**

SENATOR ROSALYN BAKER, CHAIR
COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Hearing Date: March 19, 2019

Room Number: 229

LATE

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (DOH) defers to the Department of Public
3 Safety on the regulation and implementation of the proposed amendments to the Hawaii Uniform
4 Controlled Substances Act, and supports this bill to exempt licensed health care providers from
5 consulting the electronic prescription accountability system also known as the Prescription Drug
6 Monitoring Program (PDMP) of the Department of Public Safety (PSD) when the patient is in an
7 inpatient or hospital setting, or in hospice care. The DOH also supports the proposed exemption
8 to not require an informed consent agreement for patients who are administered controlled
9 substances under the supervision of a health care provider.

10 This measure aligns with the following prescriber education and pain management
11 practice objectives of the Hawaii Opioid Action Plan (January 2019) that was developed by the
12 Hawaii Opioid Initiative:

- 13 • In-Progress Objective 2-3a: “By December 2019, develop a standardized training on
14 opioid-prescribing best practices and provide training to 50% of prescribers
15 Statewide;” and
16 • New Objective 2-2: “By December 2019, develop and recommend a plan for
17 education for physicians specific to opioid prescribing and pain management
18 practices that includes oversight to ensure that content remains relevant and current.”

19 The DOH supports a balanced implementation of this measure. The proposed exemptions
20 promote both balance and faster relief for patients who are hospitalized or in hospice. Both

- 1 exemptions also do not impact the PDMP whose purpose is to collect data on prescriptions
- 2 dispensed in outpatient settings like doctor's offices or local pharmacies.
- 3 Thank you for the opportunity to provide testimony.