



STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony in SUPPORT of (SB 0807 SD 1)
RELATING TO THE ELECTRONIC PRESCRIPTION ACCOUNTABILITY SYSTEM

REPRESENTATIVE JOHN M. MIZUNO, CHAIR
HOUSE COMMITTEE ON HEALTH

Hearing Date: March 12, 2019

Room Number: 329

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (DOH) supports this bill to exempt
3 licensed health care providers from consulting the electronic prescription accountability system
4 also known as the Prescription Drug Monitoring Program (PDMP) of the Department of Public
5 Safety (PSD) when the patient is in an inpatient or hospital setting, or in hospice care. The DOH
6 also supports the proposed exemption to not require an informed consent agreement for patients
7 who are administered controlled substances under the supervision of a health care provider. The
8 DOH also concurs with the amendments raised by PSD and others in SB 0807 SD 1.

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

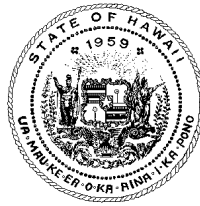
- 12 • In-Progress Objective 2-3a: “By December 2019, develop a standardized training on
13 opioid-prescribing best practices and provide training to 50% of prescribers
14 Statewide;”
- 15 • New Objective 2-2: “By December 2019, develop and recommend a plan for
16 education for physicians specific to opioid prescribing and pain management
17 practices that includes oversight to ensure that content remains relevant and current;”
18 and
- 19 • In-Progress Objective 3-2: “By September 2018, develop a standardized framework
20 for the collection, synthesis, and dissemination of data.”

1 The DOH supports a balanced implementation of this measure. The proposed exemptions
2 promote both balance and faster relief for patients who are hospitalized or in hospice. Both
3 exemptions also do not impact the PDMP whose purpose is to collect data on prescriptions
4 dispensed in outpatient settings like doctor's offices or local pharmacies.

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

7 Thank you for the opportunity to provide testimony.

DAVID Y. IGE
GOVERNOR



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TESTIMONY ON SENATE BILL 807, SENATE DRAFT 1
RELATING TO THE ELECTRONIC PRESCRIPTION
ACCOUNTABILITY SYSTEM.

by

Nolan P. Espinda, Director
Department of Public Safety

House Committee on Health
Representative John M. Mizuno, Chair
Representative Bertrand Kobayashi, Vice Chair

Tuesday, March 12, 2019; 9:00 p.m.
State Capitol, Conference Room 329

Chair Mizuno, Vice Chair Kobayashi, and Members of the Committee:

The Department of Public Safety (PSD) supports Senate Bill (SB) 807, Senate Draft (SD) 1, 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. The measure 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.

First, patients in inpatient or hospice care settings are under the direct supervision of health care providers. As such, the need to consult the PDMP to reduce the risk of overdose or harmful drug interactions is lessened as compared to the situation wherein a patient is prescribed a controlled substance in an unsupervised or outpatient setting.

Testimony on SB 807, SD 1
House Committee on Health
March 12, 2019
Page 2

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

Thank you for the opportunity to present this testimony.

SB-807-SD-1

Submitted on: 3/11/2019 7:59:49 AM

Testimony for HLT on 3/12/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Linda Rosen, M.D., M.P.H.	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.



**Written Testimony Presented Before the
House Committee on Health
Tuesday, March 12, 2019 9:00 a.m.**

**by
Laura Reichhardt, MS, AGNP-C, APRN
Director, Hawai'i State Center for Nursing
University of Hawai'i at Mānoa**

WRITTEN COMMENTS

SB 807, SD1 Relating to the Electronic Prescription Accountability System

Chair Mizuno, Vice Chair Kobayashi, and members of the House Committee on Health, thank you for this opportunity to provide written comments related to this bill, SB807, SD1. This bill, if enacted, among other things, specifies that a health care provider shall not be required to consult the electronic prescription accountability system for patients when the prescription will be directly administered under the supervision of a health care provider, provided that the system is consulted when the patients are initially admitted at a hospital; for patients in post-operative care with a prescription limited to a three-day supply; or for patients with a terminal disease receiving hospice or other palliative care.

The mission of the Hawai'i State Center for Nursing is that through collaborative partnerships, the Center provides accurate nursing workforce data for planning, disseminates nursing knowledge to support excellence in practice and leadership development, promotes a diverse workforce, and advocates for sound health policy to serve the changing health care needs of the people of Hawai'i.

The Center commends the Legislature's use of provider-neutral language in this measure. This enables all prescribing providers who may provide services as described in section 2 to benefit from the improved clarity of these proposed changes while also maintaining high quality, safe, patient-centered care.

Thank you for the opportunity to provide written comments related to this measure.

Tuesday, March 12, 2019 at 9:00 AM
Conference Room 329

House Committee on Health

To: Representative John Mizuno, Chair
Representative Bertrand Kobayashi, Vice Chair

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

Re: **Testimony in Support of SB 807, SD1
Relating to Pharmacy Electronic Prescription Accountability System**

My name is Michael Robinson, Vice President, Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health 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 SB 807, SD1 .which makes amendments to the electronic prescription accountability system. **We also support the amendment requested by the Healthcare Association of Hawaii, which is to strike Section 3 from the bill (page 5, lines 3-16).** We are agreeable to this change.

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.



March 12, 2019 at 9:00 am
Conference Room 329

House Committee on Health

To: Chair John M. Mizuno
Vice Chair Bertrand Kobayashi

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

Re: Testimony in Support
SB 807 SD 1, 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 SB 807 SD 1 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;
- 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.

We would request one amendment, which is to strike Section 3 from the bill (page 5, lines 3-16).

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
Jonathan Ching
Government Relations Specialist

Before:
House Committee on Health
The Honorable John H. Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair

March 12, 2019
9:00 a.m.
Conference Room 329

Re: SB807 SD1, Relating to the Electronic Prescription Accountability System

Chair Mizuno, Vice Chair Kobayashi, and committee members, thank you for this opportunity to provide testimony on SB807 SD1, 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 SB807 SD1 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 600 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.

SB 807 SD1 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 5, lines 3-16).**

Mahalo for the opportunity to testify on this important measure.



HAWAII MEDICAL ASSOCIATION

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To:

HOUSE COMMITTEE ON HEALTH

Rep. John Mizuno, Chair

Rep. Bertrand Kobayoshi, Vice Chair

Date: March 12, 2019

Time: 9:00 a.m.

Place: Room 329

From: Hawaii Medical Association

Jerry Van Meter, MD, President

Christopher Flanders, DO, Executive Director

Re: SB 807 SD1 – Relating to the Electronic Prescription Accountability System

Position: Support, with Comments

The Hawaii Medical Association supports SB 807 SD1 and the changes contained. We would also ask that an exemption for palliative care in patients with terminal illness be provided outside of the six month window required for hospice eligibility, as this population may be neither in-patient nor hospice eligible.

Thank you for allowing testimony on this issue.

HMA OFFICERS

President – Jerry Van Meter, MD President-Elect – Michael Champion, MD Secretary – Thomas Kosasa, MD


Immediate Past President – William Wong, Jr., MD Treasurer – Elizabeth A. Ignacio, MD

Executive Director – Christopher Flanders, DO



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable John M. Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair
Members, Committee on Health

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

Date: March 11, 2019

Hrg: House Committee on Health Hearing; Tuesday, March 12, 2019 at 9:00 AM in Room 329

Re: **Support for S.B. 807, S.D.1 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 S.B. 807, S.D. 1, 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.

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.

SB-807-SD-1

Submitted on: 3/11/2019 12:19:48 AM

Testimony for HLT on 3/12/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen Yokouchi	Individual	Support	No

Comments:

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE REGARDING S.B. 807 SD1**

Tuesday, March 12, 2019
9:00 am, Room 329

LATE

To: Chair John M. Mizuno and Members of the House Committee on 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 S.B. 807 SD1**, 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.

SB807 SD1, 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. SB807 SD1, 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.

LATE

SB-807-SD-1

Submitted on: 3/11/2019 11:22:52 PM

Testimony for HLT on 3/12/2019 9:00:00 AM

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

Comments:

LATE

SB-807-SD-1

Submitted on: 3/12/2019 12:28:13 AM

Testimony for HLT on 3/12/2019 9:00:00 AM

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

Comments:

Chair Mizuno, Vice Chair Kobayashi:

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.

To that effect, we appreciate the adopted amendment in the SD1 version of this bill, as proposed by Kaiser Permanente that the bill:

"should not apply to initial prescriptions for 4 patients being treated for post-operative pain with a limited 5 three-day supply, given that this is consistent with a 2016 6 Centers for Disease Control and Prevention recommendation on 7 acute pain management."

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

