



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
House Committee on Water and Land
House Committee on Health and Homelessness
Thursday, February 8, 2024 at 8:30 a.m.

By

Bonnie Irwin, Chancellor

and

Rae Matsumoto, Dean

Daniel K. Inouye College of Pharmacy

University of Hawai'i at Hilo

and

Michael Bruno, Provost

and

Lee Buenconsejo-Lum, Interim Dean

John A. Burns School of Medicine

University of Hawai'i at Mānoa

HB 1836 – RELATING TO HEALTH

Chairs Ichiyama and Belatti, Vice Chairs Poepoe and Takenouchi, and Members of the Committees:

Thank you for the opportunity to submit testimony on HB 1836. The University of Hawai'i at Hilo (UH Hilo) supports HB 1836, which allows pharmacists, during declared states of emergency, to refill prescriptions of up to 30 day supplies of dangerous drugs and dangerous devices if the prescriber is unavailable or cannot be contacted to authorize the refill and if, in the pharmacist's professional judgment, failure to refill the prescription might interrupt the patient's ongoing care and have a significant adverse effect on the patient's wellbeing.

This bill essentially allows pharmacy provisions that happened during the emergency proclamations following the Lahaina fires to be codified so that quick action can be taken should another emergency occur. Community pharmacies and pharmacists play a vital role in our health care system with established relationships with patients and local, state, and federal departments of health as well as accessible distribution networks that remain critical during a state of emergency. Post-disaster lack of access to routine health care is a leading cause of morbidity and mortality. Hawai'i's healthcare system experienced the impact of delayed care for chronic conditions, which included patients going without medications until they could see their physician. In some instances, this resulted in hospitalization or worsening of their condition. When contact

with prescribers cannot be made, pharmacists play a key role in determining the need for emergency refill prescriptions for patients with chronic illnesses. Twenty-three states already have laws or regulations in place that allow prescription refills during an emergency.

The clear guidance provided for pharmacists through HB 1836 will allow the essential medication needs of people in Hawai'i to be addressed in a timely and responsible manner during a state of emergency. In summary, passage of HB 1836 will enable pharmacists, during states of emergency, to act in the best interest of patients and protect the wellbeing of the people of Hawai'i.

Thank you for the opportunity to testify in support of HB 1836.

Testimony of the Board of Pharmacy

**Before the
House Committee on Water and Land
and
House Committee on Health and Homelessness
Thursday, February 08, 2024
8:30 a.m.
Conference Room 430 and Videoconference**

**On the following measure:
H. B. 1836, RELATING TO HEALTH**

Chair Ichiyama, Chair Belatti and Members of the Committees:

My name is James Skizewski, and I am the Executive Officer of the Board of Pharmacy (Board). The Board supports this bill.

The purpose of this bill is to allow pharmacists, during declared states of emergency, to refill prescriptions of up to thirty-day supplies of dangerous drugs or devices if the prescriber is unavailable or cannot be contacted to authorize the refill and if, in the pharmacist's professional judgment, failure to refill the prescription may interrupt the patient's ongoing care and have significant adverse effect on the patient's well-being.

Pharmacies are geographically dispersed throughout the community with extended hours of operation, making access to health care provided through pharmacies readily available for patients in each locality. In light of the recent wildfires on Maui, the Board supports the allowances provided in this bill which is similar to the language included in emergency proclamations issued by Governor Josh Green and Acting Governor Sylvia Luke. This language allowed pharmacies and pharmacists to provide necessary health services to patients who were unable could contact their prescribers or medical providers due to the fire. These exemptions were essential to provide acute healthcare to patients who could have experienced severe adverse reactions with the absence of medication.

The Board appreciates the limitations included in this bill. The requirement of an issuance state of emergency and the limit of a thirty-day supply provide sufficient safeguards related to patient safety. The additional requirements to have pharmacists

Testimony of the Board of Pharmacy

H.B. 1836

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make every effort to contact the prescriber and use their professional judgement on a case-by-case basis creates the appropriate redundancies necessary to allow prescription refills. These parameters ensure that services are not being provided on an indefinite period outside of the appropriate healthcare plan.

Thank you for the opportunity to testify on this bill.



**Testimony to the House Joint Committee on Water and Land and Health and
Homelessness
Thursday, February 8, 2024; 8:30 a.m.
State Capitol, Conference Room 430
Via Videoconference**

RE: HOUSE BILL NO. 1836 – RELATING TO HEALTH.

Chair Ichiyama, Chair Belatti, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** House Bill No. 1836, RELATING TO HEALTH.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

This bill, as received by your Committee, would allow pharmacists to refill prescriptions of up to thirty-day supplies of dangerous drugs and dangerous devices if the prescriber is unavailable to authorize refills and if, in the pharmacist's professional judgment, failure to refill the prescription may interrupt the patient's ongoing care and have a significant adverse effect on the patient's well-being.

In early August 2023, a series of wildfires broke out on the Island of Maui that caused severe destruction of businesses and residences in the town of Lahaina, and the loss of at least 100 persons. The Lahaina event was the deadliest wildfire in U.S. history.

As the people of Maui began to grieve, heal and put their lives back in order, heroes stepped up to help their neighbors during their greatest time of need. One such hero was Cory Lehano, a pharmacist and owner of Mauiola Pharmacy, located about 40 minutes away from Lahaina. He and his staff scrambled to Lahaina with desperately needed medications to help residents from Lahaina, many of whom had their homes and all of their possessions destroyed by the fire, obtain refills of their

Testimony on House Bill No. 1836

Thursday, February 8, 2024; 8:30 a.m.

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prescriptions – in many cases for free. (**See**, <https://www.cbsnews.com/news/maui-wildfire-survivors-left-without-life-saving-medicine-doctor-cory-lehano-stepped-up-provide-them-for-free/>)

Lehano and his staff were able to do this because of the Governor’s use of emergency powers easing various pharmacy regulations that would have prohibited the refilling of medications in this manner. However, recognizing the exigent circumstances of this situation, regulators, administrators, and providers came together to help the victims of the fire immediately.

Mauliola Pharmacy is a contractor of Lanai Community Health Center (LCHC). He helped to develop LCHC’s model Telepharmacy Program, which ensures that more than 70% of Lanai’s population are able to receive prescription medications cheaper and quicker under the federal 340B program. To the HPCA, we are not surprised by what Lehano and Mauliola Pharmacy did in Lahaina. He was already a hero to the people of Lanai.

This bill would clarify statutes to ensure that if another crisis like the Lahaina wildfire should arise, pharmacists like Cory Lehano can step up once again. In our opinion, it makes sense to change the law this way.

Accordingly, the HPCA strongly urges your favorable consideration of this measure.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.



Hawaii Medical Association

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COMMITTEE ON WATER & LAND

Rep. Linda Ichiyama, Chair
Rep. Mahina Poepoe, Vice Chair

COMMITTEE ON HEALTH & HOMELESSNESS

Rep. Della Au Belatti, Chair
Rep. Jenna Takenouchi, Vice Chair

Date: February 8, 2024
From: Hawaii Medical Association
Elizabeth England, MD
Chair, HMA Public Policy Committee

Re: HB 1836, RELATING TO HEALTH
Position: SUPPORT WITH COMMENTS

Thank you for the opportunity to submit testimony in **SUPPORT WITH COMMENTS of HB1836**, which allows pharmacists to refill prescriptions if providers are unavailable during a declared state of emergency.

HMA appreciates that this bill will facilitate patient access to care and continued treatment when extenuating circumstances may limit a patient's ability to get refills from their provider. Allowing pharmacists to assist with refills when these circumstances arise can help prevent exacerbations of chronic disease that can further strain our healthcare system and negatively impact patient outcomes. To provide continuity of care and ensure that providers are aware of their patient's prescription regimen, the HMA kindly requests that pharmacists be required to notify the prescriber that a refill was dispensed (in addition to making every reasonable attempt to contact prior to dispensing the medication) and that this communication (via fax, electronic mail or telephone) be made to the prescriber within 24 hours that a refill was dispensed.

Thank you for allowing the HMA to testify on this measure.

2024 Hawaii Medical Association Officers

Elizabeth Ann Ignacio, MD, President • Nadine Tenn-Salle, MD, President Elect • Angela Pratt, MD, Immediate Past President
Jerris Hedges, MD, Treasurer • Thomas Kosasa, MD, Secretary • Marc Alexander, Executive Director

2024 Hawaii Medical Association Public Policy Coordination Team

Beth England, MD, Chair
Linda Rosehill, JD, Government Relations • Marc Alexander, Executive Director



SanHi

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 8, 2024

TO: Representative Linda Ichiyama
Chair, Committee on Water & Land

Representative Della Au Belatti
Chair, Committee on Health & Homelessness

FROM: Mihoko Ito / Tiffany Yajima

RE: **H.B. 1836 – Relating to Health**
Hearing Date: Thursday, February 8, 2024 at 8:30 a.m.
Conference Room: 430

Dear Chair Ichiyama, Chair Belatti, and Members of the Joint Committees on Water & Land and Health and Homelessness:

We submit this testimony on behalf of Walgreen Co. (“Walgreens”). Walgreens operates stores at more than 9,000 locations in all 50 states, the District of Columbia, and Puerto Rico. In Hawaii, Walgreens has 17 stores on the islands of Oahu and Maui.

Walgreens submits this testimony in **support of this measure with amendments**. H.B. 1836 allows pharmacists, during declared states of emergency, to refill prescriptions of up to thirty-day supplies of drugs if the prescriber is unavailable or cannot be contacted to authorize the refill and if, in the pharmacist’s professional judgement, failure to refill the prescription might interrupt the patient’s ongoing care and have a significant adverse effect on the patient’s well-being.

In the aftermath of the Maui wildfires, Walgreens participated in a group with other stakeholders to address emergency pharmacy needs so that people who were affected by the disaster could access critical medicines. These pharmacy provisions are set forth in the Governor’s current wildfire [emergency proclamation](#) and cover three areas: 1) allowing pharmacists to refill prescriptions up to a thirty-day supply, 2) allowing pharmacies to utilize centralized services, where available, to review prescriptions and counsel patients, and 3) establishing mobile or temporary pharmacies.

While HB 1836 allows pharmacists to dispense up to a 30-day supply, it does not cover the ability to use centralized services or establish mobile or temporary pharmacies. We would recommend inclusion of this language from the existing emergency proclamation, as well as other conforming amendments to be consistent with the emergency proclamation, as proposed in the draft H.D.1.

Thank you for the opportunity to submit this testimony.

H.B. 1836, Proposed H.D.1

RELATING TO HEALTH.

SECTION 1. The legislature finds that prescription refills play an important role in allowing patients to get their medication without frequent office visits. Refills also support patient adherence to chronic medications. Typical pharmacotherapy requires a patient's adherence to the regimen to achieve the therapeutic outcome, especially in patients with chronic conditions. Abrupt cessation or unplanned interruption of therapy may lead to undesirable outcomes. It is paramount for the pharmacist to ensure the patient's regimen is not disrupted and medications are dispensed in a timely manner.

The legislature further finds that during times of natural disasters or public health emergencies, there may be significant challenges that impede a patient's ability to timely receive a necessary prescription. For example, the COVID-19 pandemic forced some providers to limit office hours. Additionally, quarantine mandates forced patients to cancel existing appointments. These challenges resulted in gap periods without medications.

The purpose of this Act is to provide clear guidance during a state of emergency for pharmacists to act in the best interest of the patients and minimize gap periods without medications by: 1) allowing pharmacists to refill prescriptions up to a thirty-day supply if the prescriber is unavailable to authorize the refill, and 2) allowing pharmacies to utilize out-of-state centralized services

where available to review prescriptions and counsel patients, and 3) establishing mobile or temporary pharmacies.

SECTION 2. Chapter 461, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§461- State of emergency. Notwithstanding any other law, during a state of emergency declared pursuant to section 127A-14: (a) A pharmacist may refill active prescriptions for persons directly impacted by the emergency if (i) the pharmacist is unable to readily obtain refill authorization from the prescriber and (ii) there is sufficient information available to allow the pharmacist to assess patient renal and hepatic function and the potential for drug interaction, and (iii) it is unnecessary to modify the patient's other medications to avoid potential drug interaction, provided that:

(1) the pharmacist may only dispense up to a maximum 30-day supply;

(2) the prescription is not for a substance listed in schedules II-V appearing in chapter 329;

(3) the medication is essential to the maintenance of life or to the continuation of therapy for a chronic condition;

(4) in the pharmacist's professional judgment, the interruption of therapy might reasonably produce undesirable health consequences or may cause physical or mental discomfort;

(5) any dispensed prescription drug bears a label with the information otherwise required by law, including but not limited to section 328-16; and

(6) the dispensing pharmacist complies with section 328-17.7, HRS, and notifies the prescriber of the emergency dispensing as soon as practicable after such dispensing.

(b) Out-of-state pharmacists actively licensed in another state may engage in the practice of pharmacy pursuant to Chapter 461, to receive and review prescriptions by remote data entry and counsel patients regarding the same without pharmacist supervision and physical presence requirements, provided that:

(1) their license is not revoked or suspended in any jurisdiction in which they hold a license; and

(2) they are working for a pharmacy, mobile pharmacy or temporary pharmacy in the State that shares common ownership with at least one currently licensed pharmacy in good standing in the State;

(c) Mobile or temporary pharmacies may be established without the otherwise required permits under 461-14, provided that the following conditions are met:

(1) The mobile or temporary pharmacy meets all applicable federal requirements;

(2) The mobile or temporary pharmacy shares common ownership with at least one currently licensed pharmacy in good standing in the State;

(3) The mobile or temporary pharmacy retains records of dispensing and complies with the applicable prescription, reporting requirements and restrictions under section 329-36, section 329-38, 329-41(a) (6) and 329-101;

(4) The mobile or temporary pharmacy is under the control and management of a licensed pharmacist who is on the premises while prescriptions are being dispensed;

(5) Reasonable security measures are taken to safeguard the drug supply maintained in the mobile or temporary pharmacy and comply with any rules approved by the department of public safety to safeguard against diversion of controlled substances;
and

(6) The mobile or temporary pharmacy ceases the provision of services within 48 hours following the termination of the declared emergency.

SECTION 3. Section 328-16, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) A prescription drug shall be dispensed only if its label bears the following:

(1) The name, business address, and telephone number of the seller. The business address shall be the physical location of the pharmacy or the dispensing practitioner's office;

(2) Except as otherwise authorized for expedited partner therapy in section 453-52 or an opioid antagonist in section 461-

11.8, the name of the person for whom the drug was prescribed or the name of the owner of the animal for which the drug was prescribed;

(3) The serial number of the prescription;

(4) The date the prescription was prepared;

(5) The name of the practitioner if the seller is not the practitioner;

(6) The name, strength, and quantity of the drug;

(7) The "use by" date for the drug, which shall be:

(A) The expiration date on the manufacturer's container;

or

(B) One year from the date the drug is dispensed, whichever is earlier;

(8) The number of refills available, if any;

(9) In the case of the dispensing of an equivalent generic drug product, the statement "same as (brand name of the drug product prescribed or the referenced listed drug name)", or words of similar meaning;

(10) In the case of the dispensing of an interchangeable biological product, the statement "interchangeable with (brand name of the biological product prescribed or the referenced biological drug name)", or words of similar meaning; and

(11) Specific directions for the drug's use; provided that if the specific directions for use are too lengthy for inclusion on the label, the notation "take according to written instructions" may be used if separate written instructions for use are actually issued with the drug by the practitioner or the pharmacist, but in no event

shall the notation "take as directed", referring to oral instructions, be considered acceptable.

If any prescription for a drug does not indicate the number of times it may be refilled, if any, the pharmacist shall not refill that prescription unless subsequently authorized to do so by the practitioner[.] or pursuant to section 461- . The act of dispensing a prescription drug other than a professional sample or medical oxygen contrary to this subsection shall be deemed to be an act that results in a drug being misbranded while held for sale.

(b) In addition to the requirements enumerated in subsection (a), a prescription drug shall be dispensed only:

(1) By a pharmacist pursuant to a valid prescription or section 453-52, 461-1, [or] 461-11.8[;], or 461- ;

(2) By a medical oxygen distributor pursuant to a prescription or certificate of medical necessity; provided that the drug to be dispensed is medical oxygen; or

(3) By a practitioner to an ultimate user; provided that:

(A) Except as otherwise authorized for expedited partner therapy in section 453-52, the practitioner shall inform the patient, prior to dispensing any drug other than a professional sample, that the patient may have a written, orally ordered, or electronically transmitted or conveyed prescription directed to a pharmacy or a medical oxygen distributor of the patient's own choice;

(B) The practitioner shall promptly record in the practitioner's records:

(i) The prescription in full;

(ii) The name, strength, and quantity of the drug, and specific directions for the drug's use;

(iii) The date the drug was dispensed;

(iv) Except as otherwise authorized for expedited partner therapy in section 453-52 or for an opioid antagonist in section 461-11.8, the name and address of the person for whom the drug was prescribed or the name of the owner of the animal for which the drug was prescribed; and

(v) Prescription drugs dispensed or prescribed for expedited partner therapy as authorized under section 453-52 or for an opioid antagonist in section 461-11.8;

(C) The records described in subparagraph (B) shall be subject to the inspection of the department or its agents at all times; and

(D) No undisclosed rebate, refund, commission, preference, discount, or other consideration, whether in the form of money or otherwise, has been offered to the practitioner as compensation or inducement to dispense or prescribe any specific drug in preference to other drugs that might be used for the identical therapeutic indication."

2. By amending subsection (d) to read:

"(d) Any prescription may be refilled by the pharmacy and a prescription for medical oxygen may be refilled by the medical oxygen distributor if that refilling is authorized by the practitioner either:

(1) In the original prescription; or

(2) By oral or electronic order, which shall be promptly recorded and filed by the receiving pharmacist or medical oxygen distributor[.], or the refilling is conducted pursuant to section 461- ."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.



February 8, 2024

The Honorable Linda Ichiyama, Chair
The Honorable Mahina Poepoe, Vice Chair
House Committee on Water & Land

The Honorable Della Au Belatti, Chair
The Honorable Jenna Takenouchi, Vice Chair
House Committee on Health & Homelessness

Re: HB 1836 – Relating to Health

Dear Chair Ichiyama, Chair Belatti, Vice Chair Poepoe, Vice Chair Takenouchi, and Members of the Committees:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to provide comments on HB 1836, which will allow pharmacists, during declared states of emergency, to refill prescriptions of up to thirty-day supplies of dangerous drugs and dangerous devices if the prescriber is unavailable or cannot be contacted to authorize the refill and if, in the pharmacist's professional judgment, failure to refill the prescription might interrupt the patient's ongoing care and have a significant adverse effect on the patient's wellbeing.

We support the legislature's intent to ensure access to needed medication especially during emergency scenarios as we saw last August during the Maui wildfires. We request that the committee consider limiting the applicability of the measure to individuals who are directly impacted by the State of Emergency for clarity under these circumstances.

Thank you for the opportunity to provide comments on HB 1836.

Sincerely,

A handwritten signature in black ink, appearing to be 'Dawn Kurisu', with a long horizontal flourish extending to the right.

Dawn Kurisu
Assistant Vice President
Community and Government Relations

TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) WITH COMMENTS ON HB 1836

Date: Thursday, February 8, 2024

Time: 8:30 a.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) with **COMMENTS** on HB 1836, Relating to Health. While HAJ appreciates the intent of the measure, we have **serious concerns with HB 1836** in its current form as it grants immunity from any civil liability for practitioners refilling a prescription during a state of emergency.

HB 1836 provides a new proposed section in Hawaii Revised Statute Section 461 to allow to the refilling of a prescription of up to a 30-day supply of a dangerous drug or dangerous device without practitioner authorization during a state of emergency. Specifically, subsection (e) states "The practitioner shall not incur any liability as the result of a refilling of a prescription pursuant to this section."

HAJ understands the need for allowing a prescription to be filled during a state of emergency, however, practitioners should not be granted complete immunity from civil liability for administration of a dangerous drug or device during a state of emergency. As currently drafted, the measure would prevent any suit or liability for any damage, loss or injury caused by negligence, intentional, willful or wanton conduct of a practitioner administering dangerous drugs under this measure.

Accordingly, HAJ respectfully requests the following amendment:

1. Delete subsection (2) on page 3, lines 13-15; or
2. Revise subsection (2) on page 3, lines 13-15 be to include “; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for

any damage, loss or injury caused by negligent, intentional, willful or wanton conduct of that person."

The proposed amendments will remove immunity for civil liability for practitioners or ensure that the immunity provided under this measure does not preclude a claim for negligence when administering a dangerous drug during a state of emergency.

Thank you for allowing us to testify regarding this measure. Please feel free to contact us should you have any questions or desire additional information.

HB-1836

Submitted on: 2/2/2024 10:50:56 PM

Testimony for WAL on 2/8/2024 8:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ronald Taniguchi, Pharm.D., MBA	Individual	Support	Written Testimony Only

Comments:

I support the passage of HB1836 as written. Mahalo

HB-1836

Submitted on: 2/6/2024 4:14:47 PM

Testimony for WAL on 2/8/2024 8:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Dylan P. Armstrong	Individual	Support	Written Testimony Only

Comments:

COMMITTEE ON WATER & LAND

Rep. Linda Ichiyama, Chair

Rep. Mahina Poepoe, Vice Chair

COMMITTEE ON HEALTH & HOMELESSNESS

Rep. Della Au Belatti, Chair

Rep. Jenna Takenouchi, Vice Chair

RE: House Bill 1836

Dear Representatives,

I support House Bill 1836, intended to permit pharmaceutical refills during declared emergencies as authorized by pharmacists in lieu of prescribers.

As the legislature is becoming aware, a single hurricane or tsunami could impact pharmaceutical logistics for weeks or months. The current flow of goods requires many actions to keep distribution smooth, including the human services affected by this measure.

This is a policy gap with multiple points-of-failure that risk the health and safety Hawai'i's elderly, disabled, and chronic disease-suffering populations. This measure addresses one of the points within the policy gap.

The state remains deeply vulnerable to natural disaster, which while not news to many now was a point that I and others raised long before it became all too unavoidably obvious.

Thank you for your consideration.

Dylan P. Armstrong, *individual capacity only*.