ACT 206

S.B. NO. 2416

A Bill for an Act Relating to Controlled Substances.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 329-32, Hawaii Revised Statutes, is amended to read as follows:

"**§329-32 Registration requirements.** (a) Every person who [manufactures,]:

(1) Manufactures, distributes, prescribes, or dispenses any controlled substance within this State [or who proposes];

(2) Proposes to engage in the manufacture, distribution, prescription, or dispensing of any controlled substance within this State[, or who dispenses]; or

(3) Dispenses or proposes to dispense any controlled substance for use in this State by shipping, mailing, or otherwise delivering the controlled substance from a location [out of] outside this State[, must];

shall obtain a registration issued by the department of public safety in accordance with [its] the department's rules. A licensed or registered health care professional [acting] who acts as the authorized agent of a practitioner and who administers

controlled substances at the direction of [a] the practitioner [is], shall not be required to obtain a registration.

(b) Persons registered by the department of public safety under this chapter to manufacture, distribute, prescribe, dispense, store, or conduct research with controlled substances may possess, manufacture, distribute, prescribe, dispense, store, or conduct research with those substances to the extent authorized by their registration and in conformity with [the other provisions of] this part.

(c) Except as otherwise provided[,] by law, the following persons [need] shall not be required to register and may lawfully possess controlled substances under this chapter:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance, if the agent or employee is acting in the usual course of the agent's or employee's business or employment;

(2) A common or contract carrier or [warehouseman,] warehouser, or an employee thereof, whose possession of any controlled substance is in the usual course of the person's business or employment; and

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner [or in lawful possession of a Schedule V substance].

(d) The department of public safety, by rule, may waive [by rule] the [requirement for] registration or filing [of] requirement for certain manufacturers, distributors, prescribers, or dispensers if [it]:

(1) It is consistent with the public health and safety; and [if the]

(2) The department of public safety states the specific reasons for [such] the waiver and the time period for which [it] the waiver is to be valid.

(e) A separate registration [is] shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, prescribes, or dispenses controlled substances.

(f) The department of public safety may inspect the establishment of a registrant or applicant for registration in accordance with the department's rule.

(g) The department of public safety may require a registrant to submit such documents or written statements of fact relevant to a registration as the department deems necessary to determine whether the registration should be granted or denied. The failure of the registrant to provide the documents or statements within a reasonable time after being requested to do so shall be deemed to be a waiver by the registrant of the opportunity to present the documents or statements for consideration by the department in granting or denying the registration."

SECTION 2. Section 329-38, Hawaii Revised Statutes, is amended by amending subsections (c), (d), (e), (f), and (g) to read as follows:

"(c) No controlled substance in Schedule III [or], IV, or V may be dispensed without a written or oral prescription of a practitioner, except when a controlled substance is dispensed directly by a practitioner, other than a pharmacist, to an ultimate user. The practitioner, in dispensing a controlled substance in Schedule III [and], IV, or V, shall affix to the package a label showing [the]:

(1) The date of dispensing[, the];

(2) The name, strength, and quantity issued of the drug[, the];

(3) The dispensing practitioner's name and business address[, the];

(4) The name of the patient[, the];

(5) The date the potency of the drug expires if that date is available from the manufacturer or the principal labeler[, directions];

(6) Directions for use[,]; and [cautionary]

(7) Cautionary statements, if any, contained in the prescription or as required by law.

A complete and accurate record of all Schedule III, IV, and V controlled substances administered, prescribed, and dispensed shall be maintained for two years. Prescriptions and records of dispensing shall [otherwise] be retained in conformance with the requirements of section 329-36[.] unless otherwise provided by law. Prescriptions may not be filled or refilled more than three months after the date [thereof] of the prescription or be refilled more than two times after the date of the prescription, unless the prescription is renewed by the practitioner.

[(d) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

(e)] (d) The effectiveness of a prescription for the purposes of this section shall be determined as follows:

(1) A prescription for a controlled substance [to be effective must] shall be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of [his] the practitioner's professional practice. The responsibility for the proper prescribing and dispensing of controlled substances [is] shall be upon the prescribing practitioner, but a corresponding responsibility [rests] shall rest with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or [in] for legitimate and authorized research [is] shall not be deemed a prescription within the meaning and intent of this section, and the person who knowingly [filling] fills such a purported prescription, as well as the person [issuing it,] who issues the prescription, shall be subject to the penalties provided for violations of [the provisions of the law relating to controlled substances;] this chapter;

(2) A prescription may not be issued [in order for] to allow an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients;

(3) A prescription may not be issued for the dispensing of narcotic drugs listed in any schedule for the purpose of "detoxification treatment" or "maintenance treatment"; and

(4) An individual practitioner may not prescribe or dispense a substance included in Schedule II, III, [or] IV, or V for that individual practitioner's personal use, except in a medical emergency.

[(f)] (e) Prescriptions for controlled substances shall be issued only as follows:

(1) All prescriptions for controlled substances shall be dated as of, and signed on, the day when the prescriptions were issued and shall bear the full name and address of the patient, and the name, address, and registration number of the practitioner. A practitioner may sign a prescription in the same manner as [he] the practitioner would sign a check or legal document (e.g., J.H. Smith or John H. Smith) and shall use both words and figures (e.g., alphabetically and numerically as indications of quantity such as five (5)) to indicate the amount of controlled substance to be dispensed. Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or by typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by a secretary or agent for the signature of [a] the practitioner, but the prescribing practitioner [is] shall be responsible in case the prescription does not conform in all essential respects to [the law and regulations.] this chapter and any rules adopted pursuant to this chapter. A corresponding liability [rests] shall rest upon

[the] a pharmacist who fills a prescription not prepared in the form prescribed by this section[.];

(2) An intern, resident, or foreign-trained physician, or a physician on the staff of a Department of Veterans [Administration] Affairs facility[,] or other facility serving veterans, exempted from registration under this chapter, shall include on all prescriptions issued by [him] the physician:

(A) The registration number of the hospital or other institution [and the]; and

(B) The special internal code number assigned to [him] the physician by the hospital or other institution in lieu of the registration number of the practitioner required by this section.

Each written prescription shall have the name of the physician stamped, typed, or handprinted on it, as well as the signature of the physician[.]; and

(3) An official exempted from registration shall include on all prescriptions issued by [him his] the official:

(A) The official's branch of service or agency (e.g., "U.S. Army" or "Public Health Service"); and [his]

(B) The official's service identification number, in lieu of the registration number of the practitioner required by this section. The service identification number for a Public Health Service employee [is his] shall be the employee's Social Security identification number.

Each prescription shall have the name of the officer stamped, typed, or handprinted on it, as well as the signature of the officer.

[(g)] (f) A prescription for controlled substances may only be filled by a pharmacist acting in the usual course of [his] the pharmacist's professional practice and either registered individually or employed in a registered pharmacy or registered institutional practitioner."

SECTION 3. Section 329-39, Hawaii Revised Statutes, is amended to read as follows:

"**§329-39 Labels.** (a) Whenever a producer, manufacturer, or wholesaler of controlled substances, or [an apothecary,] a pharmacy sells or dispenses any such drug to [a]:

(1) A producer, manufacturer, or wholesaler [thereof, or to an apothecary,] of controlled substances; or

(2) A pharmacy, physician, dentist, podiatrist, veterinarian, or practitioner[,];

the producer, manufacturer, wholesaler, or [apothecary] pharmacist shall securely affix to each package in which that drug is contained: a label showing in legible English the name and address of the vendor or dispenser; and the amount, quantity, kinds, and form of controlled [substance] substances contained [therein.] in each package.

(b) Whenever [an apothecary] a pharmacist sells or dispenses any controlled substance on a prescription issued by a physician, dentist, podiatrist, or veterinarian, the [apothecary] pharmacist shall affix to the bottle or other container in which the drug is sold or dispensed [the apothecary's]:

(1) The pharmacy's name and business address[, the];

(2) The serial number of the prescription[, the];

(3) The name [and address] of the patient or, if the patient is an animal, the name [and address] of the owner of the animal and the species of the animal[, the];

(4) The name [and address] of the physician, dentist, podiatrist, or veterinarian by whom the prescription is written[,]; and [such]
(5) Such directions as may be stated on the prescription.
(c) No person shall alter, deface, or remove any label [so] affixed[,] to a package, bottle, or other container in which a drug is sold or dispensed, except for the purpose of replacing [it by] the label with the person's own lawful authorized label.''

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 17, 1996.)