

ACT 207

H.B. NO. 644

A Bill for an Act Relating to Prescription Drugs.

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

SECTION 1. Section 328C-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Institutional facility” means a:

- (1) Hospital;
- (2) Convalescent home;
- (3) Nursing home;
- (4) Extended care facility;
- (5) Mental institution;
- (6) Rehabilitation center;
- (7) Health maintenance organization;
- (8) Psychiatric center;
- (9) Mental retardation center;
- (10) Penal institution; or

- (11) Any other organization whose primary purpose is to provide a physical environment for patients to obtain health care services or at-home care services, except those places where physicians, dentists, veterinarians, osteopaths, podiatrists, or other prescribers who are duly licensed, engage in private practice.”

SECTION 2. Section 328C-2, Hawaii Revised Statutes, is amended to read as follows:

“[§328C-2] Exceptions to liability. (a) A charitable, religious, or non-profit organization which in good faith receives pharmaceuticals or health care supplies, apparently fit for human consumption or external use, and distributes them to needy persons at no charge, shall not be liable for any civil damages or criminal penalties resulting from the use of the pharmaceuticals or health care supplies donated to needy persons unless an injury or illness results to those needy persons as a result of that organization’s gross negligence or wanton acts or omissions.

(b) Any pharmacy, wholesale prescription drug distributor, pharmaceutical company, institutional facility, or practitioner that in good faith provides pharmaceuticals, including previously dispensed prescription drugs, and health care supplies to needy persons without remuneration or expectation of remuneration, shall be exempt from civil liability for injuries and damages resulting from their acts or omissions in providing pharmaceuticals and health care supplies, except for gross negligence, or wanton acts or omissions on the part of the pharmacy, wholesale prescription drug distributor, pharmaceutical company, institutional facility, or practitioner.

(c) Any donated, previously dispensed, prescription drug:

- (1) Shall be in its dispensed, unopened, tamper-evident single user unit;
- (2) Shall have remained at all times in the control of a person trained and knowledgeable in the storage and administration of drugs in institutional facilities;
- (3) Shall not have been adulterated, misbranded, or stored under conditions contrary to standards established by the United States Pharmacopoeia or the product manufacturer; and
- (4) Shall be used before the expiration date on the unit.

(d) This section shall not relieve any organization from any other duty imposed upon it by law for the inspection of donated pharmaceuticals or health care supplies or for any provisions regarding the handling of those products, ~~nor~~ or relieve any health care provider from liability arising out of the prescription of such pharmaceuticals or health care supplies.

(e) For purposes of this section:

“Needy person” means any natural person who lacks the means to obtain adequate or proper pharmaceuticals or health care supplies as determined by a practitioner at a Hawaii qualified health center established under section 346-41.5, to be in need of service.

“Pharmaceuticals and health care supplies” means any medicine (prescription or nonprescription, excluding all controlled substances listed in chapter 329) or health care supplies such as soap, personal sanitary products, baby formula, dietary supplement, health care aids such as thermometers, surgical gloves, or bandages, or any other item that is customarily fit for human consumption or external use, before the expiration date stamped on the product, if any.

“Pharmaceutical company” means any company that manufactures pharmaceuticals and health care supplies.

“Pharmacy” is as defined in chapter 461.”

SECTION 3. Section 461-11, Hawaii Revised Statutes, is amended to read as follows:

“§461-11 Duties of registered pharmacist. ~~[(a)]~~ Every registered pharmacist in charge of a pharmacy shall comply with all laws and rules. The pharmacist shall be responsible for the management of the pharmacy ~~[. Every]~~ and every activity thereof ~~[that]~~ which is subject to this chapter ~~[and the rules adopted to implement this chapter]~~ shall be under the pharmacist's complete control.

~~[(b)]~~ All registered pharmacists shall notify the board of changes of business address within ten days.

~~[(c)]~~ ~~Prescription drugs previously dispensed or distributed by a pharmacist may be returned to and redispensed or redistributed by the pharmacist if the prescription drug:~~

- ~~(1) Is in its dispensed, unopened, tamper-evident single user unit;~~
- ~~(2) Has remained at all times in control of a person trained and knowledgeable in the storage and administration of drugs in institutional facilities or supervised living groups using the services of a consultant pharmacist;~~
- ~~(3) Has not been adulterated or misbranded and has been stored under conditions meeting the United States pharmacopoeia standards;~~
- ~~(4) Is returned and redispensed or redistributed before the expiration date on the unit; and~~
- ~~(5) Does not include any controlled substance under chapter 329.]”~~

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.

(Approved June 2, 2001.)