



GOV. MSG. NO. 856

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 3, 2008

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on July 3, 2008, the following bill was signed into law:

SB2459 SD2 HD1 CD1

A BILL FOR AN ACT RELATING TO REMOTE  
DISPENSING.  
(ACT 212)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

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# A BILL FOR AN ACT

RELATING TO REMOTE DISPENSING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The legislature finds that many individuals  
2 living in underserved or remote areas need improved access to  
3 medications and pharmacy services. A remote dispensing program  
4 that allows for the dispensing of low-cost medications through  
5 the use of a secure remote dispensing machine and patient  
6 counseling via a two-way interactive videoconferencing system  
7 will help to resolve the dual problem of access to prescription  
8 drugs and pharmacists for low-income populations.

9 The purpose of this Act is to permit the operation of remote  
10 dispensing machines by a licensed pharmacy or pharmacist.

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

14 "§461- Remote dispensing pharmacy; operations. (a) A  
15 remote dispensing pharmacy shall be under the direct supervision  
16 of the registered pharmacist in charge of the responsible  
17 pharmacy who shall:



- 1        (1) Ensure that the remote dispensing pharmacy is in
- 2                compliance with all laws and rules governing the
- 3                practice of pharmacy and remote dispensing;
- 4        (2) Ensure that the remote dispensing pharmacy is
- 5                appropriately staffed by a qualified remote dispensing
- 6                technician; and
- 7        (3) Be responsible for the integrity of the drugs in the
- 8                remote dispensing machine and that drugs for the
- 9                remote dispensing machine are provided to the remote
- 10               dispensing pharmacy only from the responsible
- 11               pharmacy.
- 12        (b) Physical set-up. A remote dispensing pharmacy shall:
- 13               (1) Be effectively secured to prevent unauthorized access
- 14               at all times, and entry to the remote dispensing
- 15               pharmacy shall be limited to authorized personnel
- 16               only;
- 17               (2) Be connected via live computer link, video link, and
- 18               audio link to the responsible pharmacy and shall use
- 19               the information technology system of the responsible
- 20               pharmacy;
- 21               (3) Conspicuously display at the remote dispensing
- 22               machine:



- 1           (A) A copy of the license of the responsible
- 2           pharmacy; and
- 3           (B) A copy of the license of the pharmacist in charge
- 4           of the responsible pharmacy;
- 5           and
- 6           (4) Have a confidential area available for communication
- 7           between the patient and the pharmacist at the
- 8           responsible pharmacy.
- 9           (c) No remote dispensing pharmacy shall operate within a
- 10          five mile radius of any pharmacy as defined under section 461-1;
- 11          provided that:
- 12           (1) This subsection shall not apply to any remote
- 13           dispensing pharmacy established prior to the effective
- 14           date of this Act that has previously dispensed and
- 15           will continue to dispense only prescription
- 16           medications acquired pursuant to section 340B of the
- 17           Public Health Service Act, title 42 United States Code
- 18           section 256b; and
- 19           (2) If an appropriately designated pharmacy, as defined in
- 20           section 461-1, Hawaii Revised Statutes, is established
- 21           within a five mile radius of an existing remote
- 22           dispensing pharmacy exempted by this subsection, all



1 appropriate measures shall be taken to encourage the  
2 relocation of the existing remote dispensing machine  
3 within the newly established pharmacy.

4 (d) Remote dispensing pharmacies shall not provide  
5 medications to patients with health insurance coverage except  
6 for patients covered by QUEST.

7 (e) The remote dispensing technician shall offer each  
8 patient the option of receiving counseling by a pharmacist at the  
9 responsible pharmacy for all prescriptions.

10 (f) A pharmacist at the responsible pharmacy shall approve  
11 each prescription before it is dispensed to the patient.

12 (g) Each remote dispensing machine shall be operated by  
13 only one responsible pharmacy. A responsible pharmacy may  
14 operate through more than one remote dispensing machine.

15 (h) The remote dispensing machine shall have the following  
16 features to ensure that it is appropriately secure at all times  
17 and that all transactions are properly documented:

18 (1) Secure double-locked cabinets;

19 (2) Bar-coding or similar technology that effectively  
20 recognizes the product;

21 (3) A cabinet that delivers only one bar-coded unit-of-use  
22 container per dispense, per prescription;



1        (4) A scanner and printer that, upon releasing the unit-  
2        of-use container from the remote dispensing machine,  
3        the container is scanned to confirm it is the correct  
4        container, and with that confirmation, the printer  
5        will print a patient-specific label that has a bar  
6        code which is scanned to confirm it is the correct  
7        label for the prescription; and

8        (5) A video component that allows the patient to have a  
9        "face-to-face" consultation with the pharmacist at the  
10       responsible pharmacy.

11       (i) A pharmacist shall be in charge of the remote  
12       dispensing machine and shall ensure that:

13       (1) Written policies and procedures are developed prior to  
14       using the machine that:

15       (A) Ensure the safe and effective dispensing of  
16       pharmaceutical products;

17       (B) Ensure the remote dispensing pharmacy and the  
18       remote dispensing machine is operating safely,  
19       accurately, and securely; and

20       (C) Define access to the remote dispensing machine  
21       and to medications contained within or associated  
22       with the machine, including policies that assign,



1           discontinue, or change access to the remote  
2           dispensing machine and medications;

3       (2) A pharmacist licensed in this State and employed by  
4       the responsible pharmacy has secured access to the  
5       drugs in the remote dispensing machine;

6       (3) Access to the medications complies with state and  
7       federal laws, rules, and regulations;

8       (4) No prescription drug is dispensed at the remote  
9       dispensing pharmacy until a pharmacist at the  
10       responsible pharmacy has verified the finished  
11       prescription;

12       (5) Only one prescription is dispensed and labeled from  
13       the remote dispensing machine at a time;

14       (6) All prescriptions dispensed have a label affixed to  
15       the final drug container that meets the requirements  
16       set forth in section 328-16 and includes the address of  
17       the remote dispensing pharmacy;

18       (7) If a patient refuses the prescription drug at the time  
19       it is dispensed, the prescription drug is locked in a  
20       secured cabinet;

21       (8) There is proper inventory control at the remote  
22       dispensing pharmacy and only a registered pharmacist



1 or a remote dispensing technician assigned by the  
2 pharmacist in charge of the responsible pharmacy shall  
3 stock the remote dispensing machine;

4 (9) A reconciliation of the physical inventory of the  
5 remote dispensing pharmacy is conducted at least  
6 annually;

7 (10) All personnel who operate the remote dispensing  
8 machine at the remote dispensing pharmacy are properly  
9 trained. Training shall ensure the competence and  
10 ability of all personnel who operate any component of  
11 the remote dispensing machine and the remote  
12 dispensing pharmacy. Documentation of training shall  
13 be kept by the responsible pharmacy; and

14 (11) The remote dispensing machine is stocked accurately  
15 and in accordance with established written policies  
16 and procedures. The pharmacist shall check the  
17 accuracy of the product supplied for stocking the  
18 remote dispensing machine.

19 (j) Controlled substances shall not be dispensed from any  
20 remote dispensing machine or remote dispensing pharmacy.

21 (k) Drugs dispensed from the remote dispensing machine  
22 shall be dispensed as packaged, with no changes to the drug, its





1 strength, or its unit quantity, except for the addition of water  
2 for reconstitution of dry powder drugs.

3 (l) Prescription labels for the product dispensed from the  
4 remote dispensing machine shall only be generated at the remote  
5 dispensing pharmacy.

6 (m) Records of prescriptions filled at the remote  
7 dispensing pharmacy shall be maintained at the responsible  
8 pharmacy and shall be distinguishable from those records filled  
9 at the responsible pharmacy. All responsible pharmacies shall  
10 maintain, on-site at the remote dispensing pharmacy and have  
11 available for inspection at all times, records and documentation  
12 of the following:

13 (1) All prescriptions dispensed at the remote dispensing  
14 pharmacy;

15 (2) All inventory movement at the remote dispensing  
16 pharmacy; and

17 (3) A policies and procedures manual of the remote  
18 dispensing pharmacy.

19 (n) No health insurance provider group, hospital, or  
20 medical service plan regulated under article 431-10A or 432-1  
21 shall operate a remote dispensing pharmacy.

22 (o) This section shall not apply to:



1       (1) Mobile medical clinics, provided that no such clinic  
2       shall operate in counties with a population less than  
3       100,000; or

4       (2) Federally qualified health centers, provided that no  
5       remote dispensing pharmacy shall operate within a five  
6       mile radius of any pharmacy as defined under section  
7       461-1, except for those federally qualified health  
8       centers that are exempt under section 461- (c)(2).

9       As used in this subsection, "mobile medical clinic" means a  
10       motor vehicle retrofitted for exclusive use as a medical office  
11       or clinic for medical services licensed under chapter 321."

12       SECTION 3. Section 461-1, Hawaii Revised Statutes, is  
13       amended by adding five new definitions to be appropriately  
14       inserted and to read as follows:

15       "Remote dispensing" means the practice of dispensing drugs  
16       through the use of trained personnel, telecommunications, and  
17       information technologies to patients at a remote dispensing  
18       pharmacy.

19       "Remote dispensing machine" means a device used for  
20       dispensing unit-of-use drugs that are acquired pursuant to  
21       section 340B of the Public Health Service Act, title 42 United  
22       States Code section 256b, that is operated using information  
23       technologies and is located in a remote dispensing pharmacy.



1       "Remote dispensing pharmacy" means the area in an  
2 institutional facility, including a federally qualified health  
3 center, providing outpatient medical care in any county, by  
4 dispensing prescription drugs that are acquired pursuant to  
5 section 340B of the Public Health Service Act, title 42 United  
6 States Code section 256b, through the use of a remote dispensing  
7 machine.

8       "Remote dispensing technician" means an individual who  
9 assists the pharmacist in various activities specific to the  
10 remote dispensing pharmacy.

11       "Responsible pharmacy" means a pharmacy that operates a  
12 remote dispensing machine located in this State and holds a valid  
13 permit issued by the board pursuant to section 461-14."

14       SECTION 4. Section 461-14, Hawaii Revised Statutes, is  
15 amended to read as follows:

16       **"§461-14 Permits for operation of pharmacy[-];**  
17 **notification of remote dispensing pharmacy.** (a) It shall be  
18 unlawful for any person to operate, maintain, open, change  
19 location, or establish any pharmacy or remote dispensing  
20 pharmacy within the State without [~~first~~] having first obtained  
21 a permit or prior notification from the board.

22       (b) Application for permits and notifications shall be  
23 made on a form to be prescribed by the board. Separate



1 ~~[application]~~ applications shall be made and separate permits  
2 and notifications issued for each separate place at which is  
3 carried on any of the operations for which a permit or  
4 notification is required.

5 (c) On evidence satisfactory to the board, a permit or  
6 notification shall be issued~~[, provided];~~ provided that:

7 (1) ~~[That the]~~ The pharmacy for which the permit or  
8 notification is sought is or will be~~[,]~~ in full  
9 compliance with this chapter and rules of the board;

10 (2) ~~[That the]~~ The location and appointments of the  
11 pharmacy are such that it can be operated and  
12 maintained without endangering the public health or  
13 safety; and

14 (3) ~~[That the]~~ The pharmacy will be under the personal and  
15 immediate supervision of a registered pharmacist.

16 (d) ~~[No application]~~ An application for a permit shall be  
17 refused ~~[except pursuant to]~~ for noncompliance with this section  
18 ~~[and]~~ but only after notice to the applicant and a full and fair  
19 hearing.

20 (e) To operate a remote dispensing pharmacy, a responsible  
21 pharmacy shall submit to the board the following information:

22 (1) A completed form prescribed by the board;



- 1        (2) The name, address, and permit number of the
- 2        responsible pharmacy;
- 3        (3) The name and license number of the pharmacist in
- 4        charge of the responsible pharmacy;
- 5        (4) The name of the institutional health care facility and
- 6        the address of the remote dispensing pharmacy;
- 7        (5) A floor plan of the remote dispensing pharmacy, which
- 8        shall indicate the space or location of the remote
- 9        dispensing machine;
- 10       (6) The date the remote dispensing pharmacy will be ready
- 11       for operations;
- 12       (7) A description of the security system;
- 13       (8) A description of the computer link, video link, and
- 14       audio link; and
- 15       (9) Photographs of the remote dispensing pharmacy area,
- 16       including but not limited to the remote dispensing
- 17       machine, the security system, computer link, video
- 18       link, audio link, confidential-communications area,
- 19       and locked cabinet.
- 20       A remote dispensing pharmacy's failure to notify the board in
- 21       writing within thirty days of any changes to the information
- 22       described in paragraphs (1) to (9) or failure to comply with



1 this chapter shall be considered a violation of this chapter and  
2 shall result in disciplinary action against the pharmacist in  
3 charge and the responsible pharmacy.

4 (f) Permits and licenses issued under this section and  
5 section 461-15 may be closed upon written request from the  
6 holder of the permit or license. The board shall approve all  
7 requests by the holder for closure of a permit or license. Once  
8 the closure is approved, the holder of the closed permit or  
9 license shall be required to reapply as a new applicant to  
10 conduct business where a permit or license is required."

11 SECTION 5. The department of commerce and consumer affairs  
12 shall submit an annual report to the legislature no later than  
13 twenty days prior to the convening of the regular legislative  
14 session, beginning with the regular session of 2009 and ending  
15 with the regular session of 2013. The report shall include  
16 information on the use of the remote dispensing machines.

17 SECTION 6. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 7. This Act shall take effect upon its approval  
20 and shall be repealed on January 1, 2013.





S.B. NO.

2459  
S.D. 2  
H.D. 1  
C.D. 1

APPROVED this 3 day of JUL , 2008



GOVERNOR OF THE STATE OF HAWAII



