TESTIMONY OF ATTORNEY GENERAL

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COMMITTEE ON HEALTH, HOSPITALS AND HUMAN SERVICES

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Good morning, Chairman Ray Fonseca, Committee on Health, Hospitals and Human Services members, other Senators, Legislative staff, and the listening and viewing audiences. I am Attorney General Gordon Rhea. It is an honor and privilege to appear before you this morning.

The Department of Justice appreciates the opportunity to comment on Bill No. 36-0021. The Department of Justice has completed a preliminary review of Bill No. 36-0021 and offers the following comments.

Bill No. 36-0021 seeks to amend Title 19 of the Virgin Islands Code, Part III, Chapter 29, Subchapter 1, by adding a new Section 603a with the heading of "Patient Opioid Notification," which would require that medical practitioners discuss certain information with patients when prescribing opioids. The information to be discussed includes the reasons why the prescription is necessary, alternative treatments that may be available, and the risks associated with the use of the drug being prescribed. When discussing risks, doctors should explain that opioids are highly addictive, even when taken as prescribed, and the dangers of developing a dependency on the drugs. Doctors also should warn patients about the possible hazards of taking more opioids

than prescribed or mixing them with alcohol, benzodiazepines or other central nervous system depressants, as these actions can result in fatal respiratory depression, which can result in death if not treated. Bill No. 36-0021 requires this information to be discussed prior to an initial prescription for a Schedule II drug and once again before a third prescription for a Schedule II drug can be issued during a course of treatment.

Bill No. 36-0021 also includes a provision that practitioners prescribing a Schedule II drug include a note in the patient's medical record that the above information was discussed with the patient and, if necessary, their parent or guardian. Additionally, Bill No. 36-0021 provides exceptions when patient notification is not necessary. Exceptions have been carved out for patients receiving treatment for cancer, receiving hospice care, residing in a long-term care facility, and those receiving treatment for substance abuse or opioid dependency.

Schedule II drugs have been identified as "drugs with a high potential for abuse, with use potentially leading to severe psychological or physical dependence."[1] These drugs are considered dangerous due to the high potential for abuse and addiction. Examples of Schedule II drugs include cocaine, methamphetamine, methadone, fentanyl, and the prescription drugs Vicodin,

[1] https://www.dea.gov/drug-information/drug-scheduling, last viewed April 15, 2025

OxyContin, Adderall and Ritalin. The Controlled Substances Act categorized "all substances which were in some manner regulated under existing federal law into one of five schedules" based on its medical use, potential for abuse, and safety or dependency risks.[2] Schedule I substances have the highest risk of abuse and no accepted medical use, while Schedule V drugs have the lowest potential for abuse. "Opioids are a class of drugs that include the illegal drug heroin, synthetic opioids such as fentanyl, and pain relievers available legally by prescription," including oxycodone, hydrocodone, codeine, morphine and others.[3]

Although the federal government has the exclusive authority to determine which medications are designated as federally controlled substances, states and territories have the ability and freedom to regulate medical practices within their jurisdictions. Under Virgin Islands law, no Schedule II drugs, as determined by the Federal Food, Drug and Cosmetic Act, may be dispensed without the written prescription of a practitioner except under certain emergency situations.[4] Requiring medical professionals to go a step further by discussing certain information with patients when prescribing Schedule II drugs is a more patient-centric approach to care because it encourages active collaboration between doctors and patients, and

[2] https://www.dea.gov/drug-information/csa, last viewed April 15, 2025
[3] https://www.dea.gov/highlight-topics/opioids, last viewed April 16, 2025
[4] See 19 V.I.C. § 603(a)

allows patients and their families to actively participate in decision making related to their care.

Several states have similar requirements as those proposed by Bill 36-0021. For example, in Delaware, before a patient can be given a second prescription for an opiate or opiate-like drug, their doctor must conduct an examination including a "documented discussion" to gather any relevant history, explain the risks and benefits of opioids and possible opioid alternatives.[5] The prescriber also must obtain a signed Informed Consent Form that includes "information regarding the drug's potential for addiction, abuse, and misuse" among other warnings.[6]

State law in Florida requires medical providers to "discuss the risks and benefits of the use of controlled substances, including the risks of abuse and addiction, as well as physical dependence and its consequences" with patients.[7] Additionally, the provider must complete a written controlled substance agreement with the patient that outlines the patient's responsibilities while using the medication.

In Connecticut, when issuing a prescription for an opioid drug, a doctor must discuss any risks associated with the use of the medication including the risks of addition and overdose, the dangers of taking opioid drugs with alcohol and other

[5] See 24 DE Reg. 9.6.3
[6] See 24 DE Reg. 9.6.4
[7] See Fla. Stat. § 456.44(3)(c)

drugs, and the reason the prescription is necessary.[8] Connecticut law also requires the prescriber to encourage the patient to obtain an opioid antagonist, meaning a medication that blocks the effects of opioids and can be used to treat opioid overdose.[9]

The amendments suggested by Bill No. 36-0021 are in line with what other states require from medical professionals who prescribe controlled substances. Additionally, the requirements being contemplated are complimentary to the existing controlled substance laws in the territory, and are not intended to be cumbersome or to restrict the treatment options for either providers or patients. Instead, Bill No. 36-0021 aims to provide patients with more information about their care, including the risks associated with Schedule II drugs and alternative treatments that may be available to them, allowing patients to make well informed and voluntary decisions about their healthcare.

I thank the Committee for allowing the Department of Justice to testify on Bill No. 36-0021. This concludes my formal remarks. I respectfully welcome any questions this body may have.

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[8] See Conn. Gen. Stat. § 20-370-20-14o(f) (Rev. 2025)
[9] https://my.clevelandclinic.org/health/treatments/24878-opioid-antagonist, last viewed April 16, 2025