

---

---

# A BILL FOR AN ACT

RELATING TO MEDICAL CANNABIS.

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

1           SECTION 1. The legislature finds that the State's medical  
2 marijuana program, enacted into law in 2000, is a public health  
3 program conceived out of concern for the health and welfare of  
4 the seriously ill. Registration for the program is currently  
5 administered by the narcotics enforcement division of the  
6 department of public safety.

7           Many patients, however, are intimidated by the prospect of  
8 dealing with a narcotics enforcement agency, and do not apply  
9 for certification. Therefore, they do not benefit from the  
10 protection from arrest or the threat of arrest by state or  
11 county authorities that is offered to those who are certified by  
12 the State under this program.

13           Furthermore, the program's current placement in the  
14 narcotics enforcement division is in part responsible for the  
15 reluctance of many physicians to certify patients. These  
16 physicians are concerned that their written certifications will  
17 be reviewed by the same entity that monitors physicians on

1 issues of over-prescribing, "doctor shopping", and similar  
2 issues.

3 In June 2008 the department of public safety violated  
4 patients' privacy by mistakenly releasing private patient  
5 information to a reporter for the Hawaii Tribune-Herald. The  
6 list included the name of each of the four thousand two hundred  
7 patients, the location of their cannabis plants, license  
8 information, and the names of their physicians.

9 Since the mission of the department of health is "to  
10 protect and improve the health and environment for all people in  
11 Hawaii", the department is experienced in dealing with private  
12 health records, and the use of medical cannabis is properly  
13 regarded as a health issue, not simply as an exception to the  
14 State's laws on controlled substances, the legislature finds  
15 that the State's medical marijuana program would be more  
16 properly administered by the department of health rather than by  
17 the department of public safety.

18 Further, the department of health is already part of the  
19 medical use of medical marijuana program as existing law confers  
20 upon the department of health the power to add new debilitating  
21 conditions to those which would permit medical cannabis use.

1           The purpose of this Act is to transfer administration of  
2 the State's program for the medical use of marijuana from the  
3 department of public safety to the department of health, and to  
4 amend the medical use of marijuana law to replace the term,  
5 "marijuana" with "cannabis". In addition, this Act establishes  
6 the medical cannabis task force that shall develop a  
7 distribution system for medical cannabis and identify  
8 requirements for the licensure of producers and cannabis  
9 production facilities.

10           SECTION 2. Chapter 329, Hawaii Revised Statutes, is  
11 amended by adding one new section to part IX to be appropriately  
12 designated and to read as follows:

13           "§329-       **Protections afforded to a licensed producer.** (a)  
14 A licensed producer shall not be subject to arrest, prosecution,  
15 or penalty, in any manner, for the production, possession,  
16 distribution, or dispensing of cannabis; provided that the  
17 licensed producer strictly complied with the requirements of  
18 this part.

19           (b) A licensed producer may assert the medical use of  
20 cannabis as an affirmative defense to any prosecution involving  
21 cannabis under this part or chapter 712; provided that the

1 licensed producer strictly complied with the requirements of  
2 this part.

3 (c) Any licensed producer not complying with the permitted  
4 scope of the medical use of cannabis shall not be afforded the  
5 protections against searches and seizures pertaining to the  
6 misapplication of the medical use of cannabis."

7 SECTION 3. Section 329-14, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§329-14 Schedule I.** (a) The controlled substances  
10 listed in this section are included in schedule I.

11 (b) Any of the following opiates, including their isomers,  
12 esters, ethers, salts, and salts of isomers, esters, and ethers,  
13 unless specifically excepted, whenever the existence of these  
14 isomers, esters, ethers, and salts is possible within the  
15 specific chemical designation:

16 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-  
17 phenethyl)-4-piperidinyl]-N-phenylacetamide);

18 (2) Acetylmethadol;

19 (3) Allylprodine;

20 (4) Alphacetylmethadol (except levo-alphacetylmethadol,  
21 levomethadyl acetate, or LAAM);

22 (5) Alphameprodine;

- 1 (6) Alphamethadol;
- 2 (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-
- 3 phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-
- 4 2-phenylethyl)-4-(N-propanilido) piperidine);
- 5 (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-
- 6 thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- 7 (9) Benzethidine;
- 8 (10) Betacetylmethadol;
- 9 (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-
- 10 piperidinyl]-N-phenylpropanamide;
- 11 (12) Beta-hydroxy-3-methylfentanyl (N-[1-(2- hydroxy-2-
- 12 phenethyl)-3-methyl-4-piperidinyl]-N-
- 13 phenylpropanamide);
- 14 (13) Betameprodine;
- 15 (14) Betamethadol;
- 16 (15) Betaprodine;
- 17 (16) Clonitazene;
- 18 (17) Dextromoramide;
- 19 (18) Diampromide;
- 20 (19) Diethylthiambutene;
- 21 (20) Difenoazin;
- 22 (21) Dimenoxadol;

- 1 (22) Dimepheptanol;
- 2 (23) Dimethylthiambutene;
- 3 (24) Dioxaphetyl butyrate;
- 4 (25) Dipipanone;
- 5 (26) Ethylmethylthiambutene;
- 6 (27) Etonitazene;
- 7 (28) Etoxeridine;
- 8 (29) Furethidine;
- 9 (30) Hydroxypethidine;
- 10 (31) Ketobemidone;
- 11 (32) Levomoramide;
- 12 (33) Levophenacylmorphan;
- 13 (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
- 14 piperidyl]-N-phenylpropanamide);
- 15 (35) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-
- 16 4-piperidinyl]-N-phenylpropanamide);
- 17 (36) Morpheridine;
- 18 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 19 (38) Noracymethadol;
- 20 (39) Norlevorphanol;
- 21 (40) Normethadone;
- 22 (41) Norpipanone;

- 1 (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-  
2 phenethyl)-4-piperidinyl] propanamide;
- 3 (43) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine;
- 4 (44) Phenadoxone;
- 5 (45) Phenampromide;
- 6 (46) Phenomorphan;
- 7 (47) Phenoperidine;
- 8 (48) Piritramide;
- 9 (49) Proheptazine;
- 10 (50) Properidine;
- 11 (51) Propiram;
- 12 (52) Racemoramide;
- 13 (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-  
14 piperidinyl]-propanamide);
- 15 (54) Tilidine;
- 16 (55) Trimeperidine;
- 17 (56) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide  
18 (benzylfentanyl), its optical isomers, salts, and  
19 salts of isomers; and
- 20 (57) N-[1-(2-thienyl)methyl-4-piperidyl]-N-  
21 phenylpropanamide (thenylfentanyl), its optical  
22 isomers, salts, and salts of isomers.

1 (c) Any of the following opium derivatives, their salts,  
2 isomers, and salts of isomers, unless specifically excepted,  
3 whenever the existence of these salts, isomers, and salts of  
4 isomers is possible within the specific chemical designation:

- 5 (1) Acetorphine;  
6 (2) Acetyldihydrocodeine;  
7 (3) Benzylmorphine;  
8 (4) Codeine methylbromide;  
9 (5) Codeine-N-Oxide;  
10 (6) Cyprenorphine;  
11 (7) Desomorphine;  
12 (8) Dihydromorphine;  
13 (9) Drotebanol;  
14 (10) Etorphine;  
15 (11) Heroin;  
16 (12) Hydromorphanol;  
17 (13) Methyldesorphine;  
18 (14) Methyldihydromorphine;  
19 (15) Morphine methylbromide;  
20 (16) Morphine methylsulfonate;  
21 (17) Morphine-N-Oxide;  
22 (18) Myrophine;



1 (19) Nicocodeine;

2 (20) Nicomorphine;

3 (21) Normorphine;

4 (22) Phoclodine;

5 (23) Thebacon.

6 (d) Any material, compound, mixture, or preparation that  
7 contains any quantity of the following hallucinogenic  
8 substances, their salts, isomers, and salts of isomers, unless  
9 specifically excepted, whenever the existence of these salts,  
10 isomers, and salts of isomers is possible within the specific  
11 chemical designation:

12 (1) Alpha-ethyltryptamine (AET);

13 (2) 2,5-dimethoxy-4-ethylamphetamine (DOET);

14 (3) 2,5-dimethoxyamphetamine (2,5-DMA);

15 (4) 3,4-methylenedioxy amphetamine;

16 (5) 3,4-methylenedioxymethamphetamine (MDMA);

17 (6) N-hydroxy-3,4-methylenedioxyamphetamine (N-hydroxy-  
18 MDA);

19 (7) 3,4-methylenedioxy-N-ethylamphetamine (MDE);

20 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;

21 (9) 4-bromo-2,5-dimethoxy-amphetamine (4-bromo-2,5-DMA);

22 (10) 4-Bromo-2,5-dimethoxyphenethylamine (Nexus);

- 1 (11) 3,4,5-trimethoxy amphetamine;
- 2 (12) Bufotenine;
- 3 (13) 4-methoxyamphetamine (PMA);
- 4 (14) Diethyltryptamine;
- 5 (15) Dimethyltryptamine;
- 6 (16) 4-methyl-2,5-dimethoxy-amphetamine;
- 7 (17) Gamma hydroxybutyrate (GHB) (some other names include
- 8 gamma hydroxybutyric acid; 4-hydroxybutyrate;
- 9 4-hydroxybutanoic acid; sodium oxybate; sodium
- 10 oxybutyrate);
- 11 (18) Ibogaine;
- 12 (19) Lysergic acid diethylamide;
- 13 (20) Marijuana;
- 14 (21) Parahexyl;
- 15 (22) Mescaline;
- 16 (23) Peyote;
- 17 (24) N-ethyl-3-piperidyl benzilate;
- 18 (25) N-methyl-3-piperidyl benzilate;
- 19 (26) Psilocybin;
- 20 (27) Psilocyn;
- 21 (28) 1-[1-(2-Thienyl) cyclohexyl] Pyrrolidine (TCPy);
- 22 (29) Tetrahydrocannabinols;

- 1 (30) Ethylamine analog of phencyclidine (PCE);
- 2 (31) Pyrrolidine analog of phencyclidine (PCPy, PHP);
- 3 (32) Thiophene analog of phencyclidine (TPCP; TCP);
- 4 (33) Gamma-butyrolactone, including butyrolactone;
- 5 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone
- 6 dihydro; dihydro-2(3H)-furanone; tetrahydro-2-
- 7 furanone; 1,2-butanolide; 1,4-butanolide;
- 8 4-butanolide; gamma-hydroxybutyric acid lactone;
- 9 3-hydroxybutyric acid lactone and 4-hydroxybutanoic
- 10 acid lactone with Chemical Abstract Service number
- 11 96-48-0 when any such substance is intended for human
- 12 ingestion;
- 13 (34) 1,4 butanediol, including butanediol; butane-1,4-diol;
- 14 1,4- butylenes glycol; butylene glycol; 1,4-
- 15 dihydroxybutane; 1,4- tetramethylene glycol;
- 16 tetramethylene glycol; tetramethylene 1,4- diol with
- 17 Chemical Abstract Service number 110-63-4 when any
- 18 such substance is intended for human ingestion;
- 19 (35) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7),
- 20 its optical isomers, salts, and salts of isomers;
- 21 (36) N-benzylpiperazine (BZP; 1-benzylpiperazine) its
- 22 optical isomers, salts, and salts of isomers;

- 1 (37) 1-(3-trifluoromethylphenyl)piperazine (TFMPP), its  
2 optical isomers, salts, and salts of isomers;  
3 (38) Alpha-methyltryptamine (AMT), its isomers, salts, and  
4 salts of isomers; and  
5 (39) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT), its  
6 isomers, salts, and salts of isomers.

7 (e) Depressants. Unless specifically excepted, the  
8 schedule shall include any material, compound, mixture, or  
9 preparation which contains any quantity of the substance:

- 10 (1) Mecloqualone; or  
11 (2) Methaqualone.

12 (f) Stimulants. Unless specifically excepted or unless  
13 listed in another schedule, any material, compound, mixture, or  
14 preparation which contains any quantity of the following  
15 substances having a stimulant effect on the central nervous  
16 system, including its salts, isomers, and salts of isomers:

- 17 (1) Aminorex;  
18 (2) Cathinone;  
19 (3) Fenethylamine;  
20 (4) Methcathinone;  
21 (5) N-ethylamphetamine;  
22 (6) 4-methylaminorex;

1 (7) N,N-dimethylamphetamine.

2 (g) The enumeration of marijuana, tetrahydrocannabinols,  
3 or chemical derivatives of tetrahydrocannabinol as Schedule I  
4 controlled substances does not apply to the use or possession of  
5 marijuana, tetrahydrocannabinols, or chemical derivatives of  
6 tetrahydrocannabinol by qualified patients, primary caregivers,  
7 or licensed producers pursuant to part IX of chapter 329  
8 regarding the medical use of cannabis."

9 SECTION 4. Chapter 329, part IX, Hawaii Revised Statutes,  
10 is amended by amending its title to read as follows:

11 "[+]PART IX.[+] MEDICAL USE OF [~~MARIJUANA~~] CANNABIS"

12 SECTION 5. Section 329-121, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[+]§329-121[+] **Definitions.** As used in this part:

15 "Adequate supply" means an amount of [~~marijuana~~] cannabis  
16 jointly possessed between the qualifying patient and the primary  
17 caregiver that is not more than is reasonably necessary to  
18 assure the uninterrupted availability of [~~marijuana~~] cannabis  
19 for the purpose of alleviating the symptoms or effects of a  
20 qualifying patient's debilitating medical condition; provided  
21 that an "adequate supply" shall not exceed three mature  
22 [~~marijuana~~] cannabis plants, four immature [~~marijuana~~] cannabis

1 plants, and one ounce of usable [~~marijuana~~] cannabis per each  
2 mature plant.

3 "Cannabis" shall have the same meaning as "marijuana" and  
4 "marijuana concentrate" as provided in sections 329-1 and 712-  
5 1240.

6 "Department" means the department of health.

7 "Debilitating medical condition" means:

- 8 (1) Cancer, glaucoma, positive status for human  
9 immunodeficiency virus, acquired immune deficiency  
10 syndrome, or the treatment of these conditions;
- 11 (2) A chronic or debilitating disease or medical condition  
12 or its treatment that produces one or more of the  
13 following:
- 14 (A) Cachexia or wasting syndrome;
  - 15 (B) Severe pain;
  - 16 (C) Severe nausea;
  - 17 (D) Seizures, including those characteristic of  
18 epilepsy; or
  - 19 (E) Severe and persistent muscle spasms, including  
20 those characteristic of multiple sclerosis or  
21 Crohn's disease; or

1 (3) Any other medical condition approved by the department  
2 of health pursuant to administrative rules in response  
3 to a request from a physician or potentially  
4 qualifying patient.

5 [~~"Marijuana" shall have the same meaning as "marijuana" and~~  
6 ~~"marijuana concentrate" as provided in sections 329-1 and 712-~~  
7 ~~1240.~~]

8 "Licensed producer" means any person or association of  
9 persons within the State of Hawaii that the department of health  
10 determines to be qualified to produce, possess, distribute, and  
11 dispense cannabis pursuant to this part and that is licensed by  
12 the department.

13 "Medical use" means the acquisition, possession,  
14 cultivation, use, distribution, or transportation of [~~marijuana~~]  
15 cannabis or paraphernalia relating to the administration of  
16 [~~marijuana~~] cannabis to alleviate the symptoms or effects of a  
17 qualifying patient's debilitating medical condition. For the  
18 purposes of "medical use", the term distribution is limited to  
19 the transfer of [~~marijuana~~] cannabis and paraphernalia from the  
20 primary caregiver to the qualifying patient.

21 "Physician" means a person who is licensed under [~~chapters~~]  
22 chapter 453 [~~and 460~~], and is licensed with authority to

1 prescribe drugs and is registered under section 329-32.

2 "Physician" does not include physician's assistant as described  
3 in section 453-5.3.

4 "Primary caregiver" means a person, other than the  
5 qualifying patient and the qualifying patient's physician, who  
6 is eighteen years of age or older and who has agreed to  
7 undertake responsibility for managing the well-being of the  
8 qualifying patient with respect to the medical use of  
9 [~~marijuana~~] cannabis. In the case of a minor or an adult  
10 lacking legal capacity, the primary caregiver shall be a parent,  
11 guardian, or person having legal custody.

12 "Qualifying patient" means a person who has been diagnosed  
13 by a physician as having a debilitating medical condition.

14 [~~"Usable marijuana"~~] "Usable cannabis" means the dried  
15 leaves and flowers of the plant Cannabis family Moraceae, and  
16 any mixture [+]or[+] preparation thereof, that are appropriate  
17 for the medical use of [~~marijuana~~] cannabis. [~~"Usable  
18 marijuana"~~] "Usable cannabis" does not include the seeds,  
19 stalks, and roots of the plant.

20 "Written certification" means the qualifying patient's  
21 medical records or a statement signed by a qualifying patient's  
22 physician, stating that in the physician's professional opinion,



1 the qualifying patient has a debilitating medical condition and  
2 the potential benefits of the medical use of [~~marijuana~~]  
3 cannabis would likely outweigh the health risks for the  
4 qualifying patient. The department of [~~public safety~~] health  
5 may require, through its rulemaking authority, that all written  
6 certifications comply with a designated form. "Written  
7 certifications" are valid for only one year from the time of  
8 signing."

9 SECTION 6. Section 329-122, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§329-122 Medical use of [~~marijuana~~] cannabis; conditions**  
12 **of use.** (a) Notwithstanding any law to the contrary, the  
13 medical use of [~~marijuana~~] cannabis by a qualifying patient  
14 shall be permitted only if:

- 15 (1) The qualifying patient has been diagnosed by a  
16 physician as having a debilitating medical condition;
- 17 (2) The qualifying patient's physician has certified in  
18 writing that, in the physician's professional opinion,  
19 the potential benefits of the medical use of  
20 [~~marijuana~~] cannabis would likely outweigh the health  
21 risks for the particular qualifying patient; and

1 (3) The amount of [~~marijuana~~] cannabis does not exceed an  
2 adequate supply.

3 (b) Subsection (a) shall not apply to a qualifying patient  
4 under the age of eighteen years, unless:

5 (1) The qualifying patient's physician has explained the  
6 potential risks and benefits of the medical use of  
7 [~~marijuana~~] cannabis to the qualifying patient and to  
8 a parent, guardian, or person having legal custody of  
9 the qualifying patient; and

10 (2) A parent, guardian, or person having legal custody  
11 consents in writing to:

12 (A) Allow the qualifying patient's medical use of  
13 [~~marijuana~~] cannabis;

14 (B) Serve as the qualifying patient's primary  
15 caregiver; and

16 (C) Control the acquisition of the [~~marijuana~~]  
17 cannabis, the dosage, and the frequency of the  
18 medical use of [~~marijuana~~] cannabis by the  
19 qualifying patient.

20 (c) The authorization for the medical use of [~~marijuana~~]  
21 cannabis in this section shall not apply to:

- 1 (1) The medical use of [~~marijuana~~] cannabis that endangers  
 2 the health or well-being of another person;
- 3 (2) The medical use of [~~marijuana~~] cannabis:
- 4 (A) In a school bus, public bus, or any moving  
 5 vehicle;
- 6 (B) In the workplace of one's employment;
- 7 (C) On any school grounds;
- 8 (D) At any public park, public beach, public  
 9 recreation center, recreation or youth center; or
- 10 (E) [~~Other~~] At any other place open to the public;  
 11 and
- 12 (3) The use of [~~marijuana~~] cannabis by a qualifying  
 13 patient, parent, or primary caregiver for purposes  
 14 other than medical use permitted by this part."

15 SECTION 7. Section 329-123, Hawaii Revised Statutes, is  
 16 amended to read as follows:

17 "~~[§]~~**§329-123**~~[§]~~ **Registration requirements.** (a)  
 18 Physicians who issue written certifications shall register the  
 19 names, addresses, patient identification numbers, and other  
 20 identifying information of the patients issued written  
 21 certifications with the department of [~~public safety~~] health.  
 22 The department of health shall provide the department of public

1 safety, on a weekly basis, a copy of the information provided by  
2 physicians.

3 (b) Qualifying patients shall register with the department  
4 of [~~public safety.~~] health. Such registration shall be  
5 effective until the expiration of the certificate issued by the  
6 physician. Every qualifying patient shall provide sufficient  
7 identifying information to establish personal identity of the  
8 qualifying patient and the primary caregiver. Qualifying  
9 patients shall report changes in information within five working  
10 days. Every qualifying patient shall have only one primary  
11 caregiver at any given time. The department shall then issue to  
12 the qualifying patient a registration certificate, and may  
13 charge a reasonable fee not to exceed [~~\$25.~~] \$50. The  
14 department of health shall provide the department of public  
15 safety, on a weekly basis, a copy of the information provided by  
16 qualifying patients.

17 (c) Primary caregivers shall register with the department  
18 of [~~public safety.~~] health. Every primary caregiver shall be  
19 responsible for the care of only one qualifying patient at any  
20 given time. The department of health shall provide the  
21 department of public safety, on a weekly basis, a copy of the  
22 information provided by primary caregivers.

1 (d) Upon an inquiry by a law enforcement agency, the  
2 department of [~~public safety~~] health shall verify whether the  
3 particular qualifying patient or licensed producer has  
4 registered with the department and may provide reasonable access  
5 to the registry information for official law enforcement  
6 purposes."

7 SECTION 8. Section 329-124, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "~~[+]§329-124[+]~~ **Insurance not applicable.** This part shall  
10 not be construed to require insurance coverage for the medical  
11 use of [~~marijuana.~~] cannabis."

12 SECTION 9. Section 329-125, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "~~[+]§329-125[+]~~ **Protections afforded to a qualifying**  
15 **patient or primary caregiver.** (a) A qualifying patient or the  
16 primary caregiver may assert the medical use of [~~marijuana~~]  
17 cannabis as an affirmative defense to any prosecution involving  
18 [~~marijuana~~] cannabis under this ~~[+]part[+]~~ or chapter 712;  
19 provided that the qualifying patient or the primary caregiver  
20 strictly complied with the requirements of this part.

21 (b) Any qualifying patient or primary caregiver not  
22 complying with the permitted scope of the medical use of

1 [~~marijuana~~] cannabis shall not be afforded the protections  
2 against searches and seizures pertaining to the misapplication  
3 of the medical use of [~~marijuana~~] cannabis.

4 (c) No person shall be subject to arrest or prosecution  
5 for simply being in the presence or vicinity of the medical use  
6 of [~~marijuana~~] cannabis as permitted under this part."

7 SECTION 10. Section 329-126, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "~~[+]§329-126[+]~~ **Protections afforded to a treating**  
10 **physician.** No physician shall be subject to arrest or  
11 prosecution, penalized in any manner, or denied any right or  
12 privilege for providing written certification for the medical  
13 use of [~~marijuana~~] cannabis for a qualifying patient; provided  
14 that:

15 (1) The physician has diagnosed the patient as having a  
16 debilitating medical condition, as defined in section  
17 329-121;

18 (2) The physician has explained the potential risks and  
19 benefits of the medical use of [~~marijuana~~] cannabis,  
20 as required under section 329-122;

21 (3) The written certification is based upon the  
22 physician's professional opinion after having

1 completed a full assessment of the patient's medical  
2 history and current medical condition made in the  
3 course of a bona fide physician-patient relationship;  
4 and

5 (4) The physician has complied with the registration  
6 requirements of section 329-123."

7 SECTION 11. Section 329-127, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "~~[+]§329-127[+]~~ **Protection of [~~marijuana,~~ cannabis and**  
10 **other seized property.** [~~Marijuana,~~ Cannabis, paraphernalia, or  
11 other property seized from a qualifying patient or primary  
12 caregiver in connection with a claimed medical use of  
13 [~~marijuana,~~ cannabis under this part shall be returned  
14 immediately upon the determination by a court that the  
15 qualifying patient or primary caregiver is entitled to the  
16 protections of this part, as evidenced by a decision not to  
17 prosecute, dismissal of charges, or an acquittal; provided that  
18 law enforcement agencies seizing live plants as evidence shall  
19 not be responsible for the care and maintenance of [~~such~~] the  
20 plants."

21 SECTION 12. Section 329-128, Hawaii Revised Statutes, is  
22 amended to read as follows:

1           "~~§~~329-128~~§~~   **Fraudulent misrepresentation; penalty.**

2   (a) Notwithstanding any law to the contrary, fraudulent  
3 misrepresentation to a law enforcement official of any fact or  
4 circumstance relating to the medical use of [~~marijuana~~] cannabis  
5 to avoid arrest or prosecution under this part or chapter 712  
6 shall be a petty misdemeanor and subject to a fine of \$500.

7           (b) Notwithstanding any law to the contrary, fraudulent  
8 misrepresentation to a law enforcement official of any fact or  
9 circumstance relating to the issuance of a written certificate  
10 by a physician not covered under section 329-126 for the medical  
11 use of [~~marijuana~~] cannabis shall be a misdemeanor. This  
12 penalty shall be in addition to any other penalties that may  
13 apply for the non-medical use of [~~marijuana~~.] cannabis. Nothing  
14 in this section is intended to preclude the conviction of any  
15 person under section 710-1060 or for any other offense under  
16 part V of chapter 710.

17           (c) If a licensed producer sells, distributes, dispenses,  
18 or transfers cannabis to a person not approved by the department  
19 pursuant to this part or obtains or transports cannabis outside  
20 the State of Hawaii in violation of federal law, the licensed  
21 producer shall be subject to arrest, prosecution, and civil or  
22 criminal penalties pursuant to state law."



1 SECTION 13. **Medical cannabis task force.** (a) There is  
2 established within the department of health the medical cannabis  
3 task force.

4 (b) The task force shall consist of eleven members, three  
5 of which shall be qualified medical cannabis patients, seven of  
6 which shall be practitioners representing the fields of  
7 neurology, pain management, medical oncology, psychiatry,  
8 infectious disease, family medicine, and gynecology. The  
9 practitioners shall be nationally board-certified in their area  
10 of specialty and knowledgeable about the medical use of  
11 cannabis. The chairperson of the board and the members shall be  
12 appointed by the director of health or the director's designee.

13 (c) The task force shall:

14 (1) Develop and make recommendations for a distribution  
15 system for medical cannabis that provides for:

16 (A) Cannabis production facilities within the State  
17 of Hawaii housed on secured grounds and operated  
18 by licensed producers; and

19 (B) Distribution of medical cannabis to qualified  
20 patients or their primary caregivers to take  
21 place at locations that are designated by the

- 1 department and that are not within three hundred  
2 feet of any school, church, or daycare center;
- 3 (2) Identify requirements for the licensure of producers  
4 and cannabis production facilities and make  
5 recommendations for licensing procedures; and
- 6 (3) Submit a report to the legislature no later than  
7 twenty days prior to the convening of the regular  
8 session of 2010 that shall include:
- 9 (A) Any issues and concerns relating to the  
10 implementation of the medical cannabis program;
- 11 (B) The total number of licensed producers,  
12 qualifying patients, and primary caregivers that  
13 have utilized the program; provided that no  
14 personal, identifying information of producers,  
15 qualifying patients, or primary caregivers is  
16 included;
- 17 (C) An evaluation of the effectiveness of the program  
18 in providing medical cannabis to individuals  
19 suffering from debilitating illnesses;
- 20 (D) A distribution plan that provides for the safe  
21 and effective distribution of medical cannabis to

1 participants of the State's medical cannabis  
2 program; and

3 (E) Any recommendations, including proposed  
4 legislation, to improve the provisions of the  
5 medical cannabis program.

6 SECTION 14. This Act does not affect rights and duties  
7 that matured, penalties that were incurred, and proceedings that  
8 were begun, before its effective date.

9 SECTION 15. All appropriations, records, equipment, files,  
10 supplies, contracts, books, papers, documents, maps, computer  
11 software and data, authorizations and other property, both real  
12 and personal, heretofore made, used, acquired, or held by the  
13 department of public safety in the exercise of the functions and  
14 programs transferred by the Act shall be transferred to the  
15 department of health when the functions or programs are  
16 transferred.

17 SECTION 16. All rules or other documents executed or  
18 entered into by or on behalf of the department of public safety  
19 pursuant to the provisions of part IX of chapter 329, Hawaii  
20 Revised Statutes, which are reenacted or made applicable to the  
21 department of health by this Act, shall remain in full force and

1 effect until amended or repealed by the department of health  
2 pursuant to chapter 91, Hawaii Revised Statutes.

3 SECTION 17. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 18. This Act shall take effect upon its approval.

**Report Title:**

Medical Marijuana; Medical Cannabis; Department of Health;  
Dispensaries; Licensed Producer

**Description:**

Amends the term "medical marijuana" to "medical cannabis";  
transfers the administration of the program from the department  
of public safety to the department of health; authorizes a  
registration fee not to exceed \$50; establishes the medical  
cannabis task force; provides for the department of health to  
license producers to dispense medical cannabis. (SD1)