

# SB 418

**Measure Title:**

RELATING TO MEDICAL CANNABIS

**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 of \$50; establishes the medical cannabis advisory board; provides for the department of health to license producers to dispense medical cannabis.

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Blvd. 4<sup>th</sup> Floor  
Honolulu, Hawaii 96813

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DIRECTOR

DAVID F. FESTERLING  
Deputy Director of  
Administration

TOMMY JOHNSON  
Deputy Director  
Corrections

JAMES L. PROPOTNICK  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 418  
RELATING TO MEDICAL CANNABIS

by

Clayton A. Frank, Director  
Department of Public Safety

Committee on Health  
Senator David Y. Ige, Chair  
Senator Josh Green, M.D., Vice Chair

Tuesday, February 17, 2009, 3:30 pm  
State Capitol, Room 229

Senator Ige and Members of the Committee:

The Department of Public Safety (PSD) does not support Senate Bill 418, which proposes to transfer the medical use of marijuana program from the Department of Public Safety to the Department of Health (DOH), establish the Medical Cannabis Board, and amend sections of Chapter 329 part IX Hawaii Revised Statutes. The Department feels it is more appropriate for the program remain under the direction of the Narcotics Enforcement Division (NED), because this division has the operational ability and infrastructure to maintain the medical use of marijuana patient registry, and afford law enforcement agencies the ability to verify patient information twenty-four hours a day. SCR 197, which was passed by the 2005 legislature, mandated that the Director of the Department of Health convene a medical marijuana working group to make recommendations to improve Hawaii's medical marijuana program, including recommending in which State department the Medical Marijuana would most effectively be placed. The findings and recommendations of this working group are below.

**Findings.** The functions and authority for the scheduling of controlled substances exercised by the Department of Health were transferred to the Department of Public

Safety in 1990. The transfer of the Medical Use of Marijuana Program to the DOH would not reduce the level of oversight. Current procedures for the program would still be followed. DOH would be required to verify physicians' licensure, as well as their authority to prescribe scheduled drugs. These are functions that require the expertise of staff within the Narcotics Enforcement Division. In addition, a system within DOH that operates "24/7" would have to be established to ensure that law enforcement officers are able to verify a patient's valid use of marijuana for medical purposes.

**Recommendation.** No action is necessary as the functions required to operate the program are present within the NED. Transfer of the program would incur additional operating and manpower cost for the Department of Health.

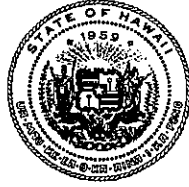
PSD believes that section 2 of Senate Bill 418, which proposes to establish the Medical Cannabis Advisory Board with the authority to review and recommend additional debilitating medical conditions to Hawaii Medical Use of Marijuana Program, and to authorize marijuana producing facilities is unnecessary and repetitive. Presently the Department of Health already has the ability under section 329-121, "Debilitating Medical Condition", to add additional new medical conditions to the list. The proposed Medical Cannabis Advisory Board authorizing and licensing cannabis producing facilities clearly violates Federal law. The recommendations of the 2004 LRB report "In search of a viable distribution system for Hawaii's medical marijuana program" indicated in its conclusions several key points:

- 1) That it would be premature for Hawaii to institute a cooperative system without assurance of a supportive ruling from the U.S. Supreme Court.
- 2) No marijuana can be sold under any circumstances. All marijuana must be grown and distributed free of charge.
- 3) Nothing (processed marijuana, plants seeds, paraphernalia, etc.) must cross state boundaries. State law cannot protect a patient, caregiver or proposed grower who attempts to mail or who carries marijuana on a flight between islands from prosecution by Federal authorities.

The Department believes the amendments being recommended by Senate Bill 418 are premature, and that Federal law would have to be amended before the provisions proposed in Senate Bill 418 could ever be legally and practically considered. Under present State and Federal laws, the State of Hawaii could not develop or sanction the development of licensed marijuana growing facilities on any of the islands unless authorized by way of a controlled substance research permit authorized by the State and the Federal Government. Senate Bill 418 attempts to insert an exemption for marijuana and its chemicals derivatives of tetrahydrocannabinol for medical use by adding a new subsection (g) to section 329-14 Schedule I. However, even with the proposed exemption, marijuana would still be classified under both Federal and State law as schedule I controlled substance (dangerous drug / no accepted medical values of treatment). Based on this classification, it would still be impossible for anyone to lawfully grow, facilitate the growing of, distribute / sell for medicinal use any drug in this category. Schedule I controlled substances can only be authorized for research purposes with the approval of the Federal Drug Enforcement Administration and the State's Narcotics Enforcement Division after complying with specific security and storage requirements as dictated by State and Federal law. Senate Bill 418 proposes to soften the term "marijuana" by replacing it with "cannabis" throughout Chapter 329, Part IX, which is deceptive and unnecessary.

For these reasons, PSD cannot support Senate Bill 418 and asks that it be held.

Thank you for the opportunity to testify on this matter.



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File: DOH/ADAD

**Senate Committees on Health and Public Safety and Military Affairs**

**S.B. 418, MEDICAL CANNABIS**

**Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health**

**February 17, 2009, 3:30 p.m.**

- 1 **Department's Position:** The Department of Health strongly opposes transferring the Medical
- 2 Use of Marijuana program from the Department of Public Safety (PSD) to the Department of
- 3 Health (DOH) as provisions in this measure are well beyond the Department's public health
- 4 functions and responsibilities. We defer to the Departments of the Attorney General and Public
- 5 Safety on amendments within their purview.
- 6 **Fiscal Implications:** The measure increases the registration certificate fee from \$25 to \$50,
- 7 however, no funds are appropriated for staffing and operating costs. Transferring the Medical
- 8 Use of Marijuana program from PSD to DOH, including the development of licensure policies
- 9 and procedures for cannabis producers and cannabis production facilities would have substantial
- 10 cost implications, including but not limited to, added personnel and operating costs.
- 11 **Purpose and Justification:** The purpose of this measure is to amend Chapter 329, Hawaii
- 12 Revised Statutes, and transfer the Medical Use of Marijuana program from the PSD to DOH,
- 13 including the development of licensure policies and procedures for cannabis producers and
- 14 cannabis production facilities. To operate the program, DOH would be required to convene and
- 15 staff the proposed Medical Cannabis Advisory Board; develop an annual report regarding the

1 medical cannabis program; develop, implement and oversee the process to receive, process and  
2 verify applications; provide PSD information on a weekly basis regarding participating  
3 physicians, qualified patients, and primary caregivers; develop, implement and oversee the  
4 licensure of cannabis producers and cannabis production facilities; and develop, implement and  
5 oversee the distribution of cannabis to qualified patients or their primary caregivers.

6 Despite perceptions, the transfer of the medical use of marijuana program to the DOH  
7 would not reduce the level of oversight. It is unclear as to who will be responsible for verifying  
8 physicians' licensure, a function that currently resides within PSD. In addition, a system within  
9 DOH that operates "24/7" would need to be established to ensure that law enforcement officers  
10 can verify a patient's valid use of marijuana for medical purposes.

11 As part of our public health mission, DOH dispenses medications in State-operated  
12 facilities and clinics. These medications are approved by the federal Food and Drug  
13 Administration. This proposal extends well beyond the public health function of assuring the  
14 availability and accessibility of services as the Department would also be charged with the  
15 operation of a secure facility to cultivate and distribute marijuana, which is a Schedule I  
16 substance under the federal Controlled Substances Act. (Schedule I drugs are classified as  
17 having a high potential for abuse, no currently accepted medical use in treatment in the United  
18 States, and a lack of accepted safety for use of the drug or other substance under medical  
19 supervision.)

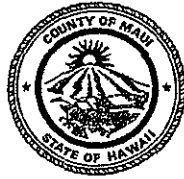
20 We respectfully recommend that this measure be held.

21 Thank you for the opportunity to testify on this measure.

22

23

CHARMAINE TAVARES  
Mayor



BENJAMIN M. ACOB  
Prosecuting Attorney  
  
PETER A. HANANO  
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY  
COUNTY OF MAUI  
150 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
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February 14, 2009

HONORABLE DAVID Y. IGE, CHAIR  
HONORABLE JOSH GREEN, M.D., VICE CHAIR  
COMMITTEE ON HEALTH

HONORABLE WILL ESPERO, CHAIR  
HONORABLE ROBERT BUNDA, VICE CHAIR  
COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

THE SENATE  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009  
STATE OF HAWAII

TESTIMONY OF BENJAMIN M. ACOB,  
PROSECUTING ATTORNEY FOR THE COUNTY OF MAUI,  
IN OPPOSITION TO S.B. NO. 418  
RELATING TO MEDICAL CANNIBIS.

The Honorable Chairpersons and Committee Members:

The Department of the Prosecuting Attorney for the County of Maui opposes S.B. 418 Relating to Medical Cannabis for the following reasons.

First, our Department strongly objects to the Department of Health administering the medical marijuana program. The possession and distribution of marijuana continues to be both a State and federal crime. Thus, a State agency such as the Department of Public Safety (DPS), whose is primarily responsible for the public's safety, should continue to administer the medical marijuana program.

Second, we have serious concerns about empaneling an advisory board that will essentially sanction the production and distribution of marijuana by the State of Hawaii. Indeed, having a State agency responsible for the operational oversight of the growing, distributing, and transportation of medical marijuana, would likely subject the State to federal prosecution. See Gonzales v. Raich, 545 U.S. 1, (2005) (Congress' Commerce Clause authority includes the power to

prohibit the local cultivation and use of marijuana in compliance with California law).

In addition, any State resources (equipment, real property, etc.) used in conjunction with the marijuana growing and distributing operation may possibly be seized and forfeited by the federal government.

Third, we oppose any amendment to change the present law by rendering *medical* marijuana and its derivatives, a non-controlled substance. As Hawaii law currently stands, marijuana and its derivatives are still considered "controlled substances". In addition, possession of any amount of marijuana, medicinal or not, is still a crime. However, the medical marijuana laws afford a medical marijuana patient an *affirmative defense* to any prosecution for possession of marijuana.

Our Department strenuously objects to adding the proposed language in HRS 329-14(g). Essentially, these amendments will render medical marijuana and its derivatives a non-controlled substance. Indeed, whether a person can legally possess marijuana medicinally or not, should not change marijuana's classification as a controlled substance. Marijuana is still a controlled substance regardless of its intended use.

Finally, the proposed change would directly create a conflict between State and Federal law. Under Federal law, marijuana is still classified as a Schedule I substance based upon its high potential for abuse, no accepted medical use, and no accepted safety for use in medically supervised treatment. See Gonzales v. Raich. Thus, under federal law, the manufacture, distribution, or possession of marijuana remains a criminal offense. See 21 USC § 841(a)(1).

Accordingly, based upon all of the above, our Department opposes the passage of S.B. 418. Thank you for the opportunity to testify.

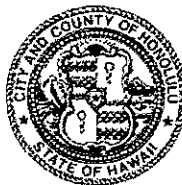
(S.B. 418, Relating to Medical Cannabis)



POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN  
MAYOR



SOISSE P. CORREA  
CHIEF

PAUL D. PUTZULU  
KARL A. GODSEY  
DEPUTY CHIEFS

OUR REFERENCE LK-TA

February 17, 2009

The Honorable David Y. Ige, Chair  
and Members  
Committee on Health  
The Honorable Will Espero, Chair  
and Members  
Committee on Public Safety  
and Military Affairs  
The Senate  
State Capitol  
Honolulu, Hawaii 96813

Dear Chairs Ige and Espero and Members:

Subject: Senate Bill No. 418, Relating to Medical Cannabis

I am Louis Kealoha, Captain of the Narcotics/Vice Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department opposes Senate Bill No. 418, Relating to Medical Cannabis.

Passage of this bill would transfer the medical marijuana program from the Department of Public Safety (DPS) to the Department of Health (DOH). We believe that the Narcotics Enforcement Division (NED), Department of Public Safety, is best suited to administer the program. They are readily available 24 hours a day to confirm whether or not someone is currently registered with them.

Access to this information enables our officers to quickly determine if further investigation is warranted. Our Marijuana Eradication Team checks with NED as part of their protocol while investigating a marijuana complaint.

We believe that patients with a debilitating medical condition would not be intimidated by a narcotics enforcement agency that is tasked with facilitating their legitimate needs. Physicians should not feel intimidated if they are making a responsible decision.

*Serving and Protecting With Aloha*

The Honorable David Y. Ige and Will Espero, Chairs  
and Members  
Page 2  
February 17, 2009

The Honolulu Police Department urges you to oppose Senate Bill No. 418,  
Relating to Medical Cannabis.

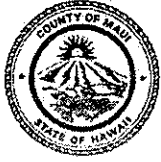
Thank you for the opportunity to testify.

Sincerely,

  
LOUIS KEALOHA, Captain  
Narcotics/Vice Division

APPROVED:

for:   
BOISSE P. CORREA  
Chief of Police



CHARMAINE TAVARES  
MAYOR

OUR REFERENCE  
YOUR REFERENCE

## POLICE DEPARTMENT COUNTY OF MAUI

55 MAHALANI STREET  
WAILUKU, HAWAII 96793  
(808) 244-6400  
FAX (808) 244-6411



THOMAS M. PHILLIPS  
CHIEF OF POLICE

GARY A. YABUTA  
DEPUTY CHIEF OF POLICE

February 12, 2009

The Honorable David Y. Ige, Chair  
and Members of the Committee on Health  
The Senate  
State Capitol  
Honolulu, HI 96813

The Honorable Will Espero, Chair  
and Members of the Committee on Public Safety and Military Affairs  
The Senate  
State Capitol  
Honolulu, HI 96813

Dear Chairs Ige, Espero, and Members of the Committees:

**SUBJECT: Senate Bill No. 418, Relating to Medical Cannabis**

This bill amends the term “medical marijuana” to “medical cannabis”; transfers the administration of the program for the Department of Public Safety to the Department of Health; authorizes a registration fee of \$50; establishes the medical cannabis advisory board; provides for the Department of Health to license producers to dispense medical cannabis.

The amendment of the term “medical marijuana” to “medical cannabis” will provide a loophole in the prosecution of those in violation of Chapter 712 of the Hawaii Revised Statutes. This bill does not provide any relevant information or rationale for the change from “marijuana” to “cannabis” and the descriptive term of “cannabis” is contrary to all current laws in the Hawaii Revised Statutes which uses the descriptor, “marijuana”.

Transferring the administration of the medical marijuana program from the Department of Public Safety to the Department of Health essentially removes all enforcement authority and capabilities from the program. This bill claims that the program's current placement in the Narcotics Enforcement Division is responsible for the reluctance of many physicians to certify patients and they are concerned that their written certifications will be reviewed by the same authority that monitors physicians on issues of “over-prescribing” and “doctor shopping”. Any physician who legally prescribes medical marijuana has nothing to fear.

The Honorable David Y. Ige, Chair  
The Honorable Will Espero, Chair  
February 12, 2009  
Page 2

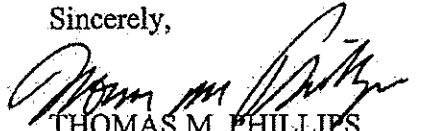
The Medical Cannabis Advisory Board, which will consist of eleven members: three qualified medical cannabis patients, seven practitioners representing the fields of neurology, pain management, medical oncology, psychiatry, infectious disease, family medicine, and gynecology. The chair will be the Director of Health. This appears to be a one-sided board specifically designed to further the views of a specific interest group.

This bill also authorizes the Department of Health to license producers to dispense medical cannabis which is contrary to current State and Federal laws, subjecting a department within our state to Federal prosecution and asset forfeitures.

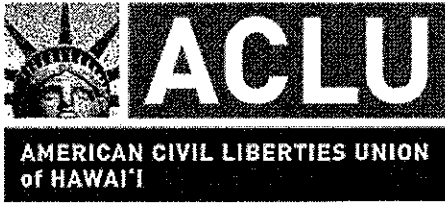
The Maui County Police Department urges you to oppose Senate Bill No. 418, Relating to Medical Cannabis.

Thank you for the opportunity to testify.

Sincerely,



THOMAS M. PHILLIPS  
Chief of Police



Via E-mail: PSMTestimony@Capitol.hawaii.gov  
Committee: Committees on Health and Public Safety and Military Affairs  
Hearing Date/Time: Tuesday, February 17, 2009, 3:30 p.m.  
Place: Room 329  
Re: Testimony of the ACLU of Hawaii Supporting the Intent of SB 418,  
Relating to Medical Cannabis

Dear Chairs Ige and Espero and Members of the Committees on Health and Public Safety and Military Affairs:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") supports the intent of SB 418, which transfers oversight of the medical marijuana program to the Department of Health.

We support the transfer of oversight from the Department of Public Safety to the Department of Health, given that (a) many patients are intimidated by the prospect of having their names on a Department of Public Safety database, and (b) the Department of Public Safety has already released confidential patient data. We also support the creation of a distribution system for medical cannabis, so that patients do not need to resort to the black market for their medical needs. We oppose the increase in licensing fees, however, given their disproportionately adverse impact on low-income medical marijuana patients.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Daniel M. Gluck  
Senior Staff Attorney  
ACLU of Hawaii

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
Honolulu, Hawai'i 96801  
T: 808.522-5900  
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E: office@acluhawaii.org  
www.acluhawaii.org

**From:** Joel Fischer [mailto:jfischer@hawaii.edu]  
**Sent:** Friday, February 13, 2009 1:16 PM  
**To:** PSM Testimony  
**Subject:** SB418;PSM;2/17/09;3:30PM;Rm229  
**Importance:** High

SB418, Relating to **Medical Cannabis**  
PSM; Chair, Sen Espero  
Hth: Chair, Sen. Ige

**PLEASE PASS THIS BILL!**

The key to this bill is the word MEDICAL. Of course, medical and health issues should be the province of the DOH. Beyond the symbolic appeal, this change will make a real difference in how medical cannabis will be viewed by the public: as a legitimate medical procedure that can help people who may have run out of traditional ways of helping.

The other changes in this bill -from amending the term from marijuana to cannabis and creating the Advisory Board are going to mean a lot to patients is only hope is medical cannabis.

Stand tough, members of these two committees. People need your help, and this bill is a way to provide it.

Thank you.

Aloha, joel

Dr. Joel Fischer, ACSW  
President, 19-3, Democratic Party

Professor  
University of Hawai'i, School of Social Work  
Henke Hall  
Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice."  
Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."  
Dr. Martin Luther King, Jr.

"Never, never, never quit."  
Winston Churchill

**League of Women Voters of Hawaii**  
**49 South Hotel Street**  
**Suite #314**  
**Honolulu, Hawaii 96813**  
**Phone: 531-7448 Fax: 599-5669**  
**[www.lwv-hawaii.com](http://www.lwv-hawaii.com)**

February 16, 2009

To: Senator David Ige, Chair  
Senator Josh Green, Vice Chair  
and members of the Health Committee

Senator Will Espero, Chair  
Senator Robert Bunda, Vice Chair  
and members of the Public Safety & Military Affairs Committee

From: Suzanne Meisenzahl, Chair  
Women's Health & Safety Committee – LWWHI

RE: SB 418 RELATING TO MEDICAL CANNABIS  
(3:30 p.m., Tuesday, February 17, 2009, Room 229)

Position: Support

Thank you for the opportunity to testify on this bill amending the term medical marijuana to medical cannabis, transferring the administration of the program from the department of public safety to the department of health; authorizing a registration fee of \$50, establishing the medical cannabis advisory board; and providing for the department of health to license producers to dispense medical cannabis.

The League, in August of 2008 completed a Hawaii Drug Policy Report. We adopted a position in October of 2008. Both the report, and League position, are accessible from the homepage of our website.

Our report calls for a public health approach to drug policy. Relating to medical marijuana, in 2007 we participated in a concerted, albeit unsuccessful, legislative effort to move administration of the program under the jurisdiction of the DOH. This policy change is sought primarily to address patients fear and the stigma associated with registering with the narcotics enforcement agency.

These concerns were exacerbated by a security breach in July 2008, when the database of 4200 patients was mistakenly released to the Big Island newspaper. This administrative move to DOH would assuage the fears of people with qualifying medical conditions and would also mitigate the reluctance of some physicians to certify patients.

Such a change would better reflect the legislative intent of this program and enable the program to take advantage of the outreach and education capacity of the DOH, as is the case in most of the states that permit the medical use of marijuana.





the  
**Drug Policy  
Forum**

February 17, 2009

To: Committee on Health  
Committee on Public Safety and Military Affairs

From: Jeanne Ohta, Executive Director

RE: SB 418 Relating to Medical Cannabis  
Hearing: February 17, 2009, 3:30 p.m., Room 229

Position: Support

I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawai'i. Thank you for this opportunity to testify in support of SB 418.

DPFH supports the establishment of a distribution system which is missing from the current system. Many patients are unable to grow their own supply due to living in a condominium with no yard, lack of privacy from neighbors, or they are too sick. It is one of the most asked questions, "I have my card, now how do I get marijuana?" Patients who register with the program are law abiding citizens who want to remain so; they are reluctant to go to the illegal market to obtain their medicine.

However, this distribution system should not be the only source of legal medical marijuana. Patients or their registered caregiver should still be able to grow their own plants should they choose to do so.

DPFH also supports moving the program from the Department of Public Safety to the Department of Health. The DOH is better equipped to deal with health issues and should be the agency to administer the program. Patients are still concerned with maintaining the confidentiality of information after the mistaken release of 4,200 patients' names and other private information by the Narcotics Enforcement Division.

DPFH opposes increasing the fee from \$25 to \$50; many patients are on disability; or have other medical bills and the increase would pose a hardship and believes that the caregiver to patient ratio should be revised. Many patients have a difficult time finding a caregiver.

DPFH believes that Hawai'i needs to have a distribution system in place as it appears that the federal government will be changing policies relating to medical marijuana. Thank you for this opportunity to testify in support of SB 418.

**Board of Directors**

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## INFORMATION ON MEDICAL MARIJUANA

### **Federal Laws do not Preempt State Medical Marijuana Laws**

In December 2008, the U.S. Supreme Court refused to review a landmark decision in which California state courts found that its medical marijuana law was not preempted by federal law. The state appellate court decision from November 28, 2007, ruled that "it is not the job of the local police to enforce the federal drug laws."

### **Many Organizations Support Access to Therapeutic Cannabis**

American Academy of Family Physicians, American Medical Association's Council on Scientific Affairs, American Nurses Association, American Public Health Association, and many others.

"ACP urges an evidence-based review of marijuana's status as a Schedule I controlled substance to determine whether it should be reclassified to a different schedule. ... ACP strongly supports exemption from federal criminal prosecution; civil liability; or professional sanctioning, such as loss of licensure or credentialing, for physicians who prescribe or dispense medical marijuana in accordance with state law. Similarly, ACP strongly urges protection from criminal or civil penalties for patients who use medical marijuana as permitted under state laws. ... Evidence not only supports the use of medical marijuana in certain conditions but also suggests numerous indications for cannabinoids."

— American College of Physicians, *Supporting Research into the Therapeutic Role of Marijuana*, 2008

### **Marinol is not the same as Marijuana**

Marinol, available as a prescription pill, is THC, the active ingredient of marijuana. Many patients cannot tolerate marinol and have better results by using the whole plant. Scientists believe that the whole plant contains other ingredients that work with THC and thus is better tolerated and more effective for some patients.

### **Prescription Drugs**

Available prescription drugs often come with far more serious side effects than marijuana, and many patients who find relief from marijuana simply do not respond to prescription medications. Smoking or vaporizing marijuana are much more effective delivery methods than pills for many patients: The drug works instantly, the dosage may be controlled by the patient, and there is no problem "keeping it down" since it cannot be vomited back up.

Cocaine, morphine, and methamphetamine may all be legally administered to patients — so why not marijuana, which has a far lower rate of dependency and on which no one has ever overdosed?

### **Marijuana is NOT a Gateway Drug**

Marijuana is not now, nor has ever been a "gateway drug." The National Academy of Sciences found, "there is no conclusive evidence that the drug effects of marijuana are causally linked to the subsequent abuse of other illicit drugs."



**TO:** SENATE COMMITTEES ON HEALTH & PUBLIC SAFETY AND MILITARY AFFAIRS

**FROM:** PAMELA LICHTY, MPH, PRESIDENT

**RE:** SB 418 RELATING TO MEDICAL CANNABIS – IN GENERAL SUPPORT

**DATE:** FEBRUARY 17, 2009, 3:30 p.m., room 229

The Drug Policy Action Group is in general support of this measure with a few reservations. We agree that the term "cannabis" is preferable to "marijuana" because it is the correct scientific term, but given the problems with the program, we do not consider this change to be a high priority. To my knowledge the 12 other states with programs do not use the term "cannabis," although it is commonly used abroad.

As you are aware, our state's medical marijuana law, the first in the nation to be enacted via legislative action, has been in place since 2000. After eight years and with more than 4,000 patients registered, it is timely to re-examine the program and look at what is working and what is not. We can also now look to 12 other states with medical marijuana programs and take note of some advances since ours was put in place.

In virtually all of the other states with a registration system, patients are registered with the Department of Health. Since we know that this program was intended by this body to be a compassionate public health program, we endorse its move to the Department of Health. The inadvertent release of patient names, addresses and other confidential data by the Narcotics Enforcement Division this past June offers just one reason for this change. Both potential patients and physicians are intimidated by its current placement in Public Safety and that incident did nothing to allay their concerns. If this move remains under consideration, we would be pleased to provide additional input into the details.

It's an interesting idea to have DOH and PSD working together on the program with PSD serving as the go between police departments with questions about the legal status of specific individuals and DOH, but the mechanism as described here seems unnecessarily burdensome.

Similarly a state-authorized system for distribution makes a great deal of sense since our current law's silence on the issue of how to abstain medicine is distinctly unhelpful and is the biggest source of concern for patients. The make-up of the Advisory Board described in this measure seems extremely specific at this stage of consideration. Again this is a highly complex issue, but New Mexico has just finalized rules for such a system after state-wide hearings and I strongly urge the Committees to examine their model.

We do oppose the raising of the program's yearly fee from \$25 to \$50, especially at this difficult financial time, since many patients are on fixed income and are already experiencing financial strains. Again thank you for hearing this measure and for the opportunity to testify.

COMMITTEE ON HEALTH

SENATOR DAVID IGE, Chair

SENATOR JOSH GREEN, M. D., Vice Chair

COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

SENATOR WILL ESPERO, Chair

SENATOR ROBERT BUNDA, Vice Chair

HEARING DATE: February 19, 2009

TIME: 3:30 PM

PLACE: Conference Room 229

**BILL NUMBER: SB 418**

**RELATING TO MEDICAL CANNABIS**

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 of \$50; establishes the medical cannabis advisory board; provides for the department of health to license producers to dispense medical cannabis.

**IN STRONG SUPPORT WITH THE AMENDMENTS I AND OTHERS' PUT IN THEIR TESTIMONY**

Aloha,

Senator David Ige, Health Chair; Senator Josh Green, M. D., Vice Chair of Health,  
Senator Will Espero , Chair of Public Safety and Military Affairs and Senator Robert Bunda, Vice Chair,

A new proposal, making amendments to the present Medical (Marijuana) Cannabis Law were welcomed by all of you, by accepting the recommendations absolutely needed that should be taken and the many new positions and stands we must take to *stimulate revenue*, while *reducing drug crime* on all Islands.

I will begin slowly, to explain the amenities to the Bill by increasing the annual fee from \$25.00 to \$50.00, which at almost 4,600 patients and their caregivers (about of which 4,200 are actual Patients), increases revenue annually by \$250,000.00. *Patients will not complain, when they see how much it costs for a 30 day supply of Medication.*

**Of most importance, which I Strongly Support regardless of the negativity and possible whining testimonies from each department are:**

The moving of the Administration, Medical, Patient, Caregiver and Physician Record Keeping, Licensing of Producers/Cultivators, Secure Growing Facilities, and the Protection of their confidential

information of the present and New Program, due to the **Department of Health's PRIMARY CONTROL of the Program, for starters, by following HIPPA Guidelines.**

This is primarily due, to the actual **medicinal relationship** between **cannabis** (*presently called marijuana, also to be amended*) and the treatment of most chronic illnesses and debilitating conditions, decided **only** by your Physician and as set forth through the guidelines of the American Medical Association (AMA), Department of Health and what would be a **new and permanent, Hawai'i State Medical Distribution Program Advisory Board**. The 11 member Board are not compensated in any way. This is including but certainly not limited to, the use of HIPAA rules, and instead of Law Enforcement using their taught rules and guidelines, which is controlling the actions they take for and unfortunately very **AGAINST** the chronically ill Patients', for instance by releasing the names of every Patients, Caregivers and Doctors, personal and confidential information to The Big Island Herald's Editor and a Columnist, sending a letter to all of us that "they were sorry", but letting the protection of every Patient and Caregiver's Home and personal and confidential information remain at Risk.

The text with the proposed amendments for SB 418, will also create a new & viable, Hawai'i State Medical Cannabis Distribution Program **ADVISORY BOARD**, which will allow for the State to be in FULL control, leaving no room for any **third party corruptions**, by moving the Administration of the present OUT OF CONTROL Medical Marijuana (Cannabis, correct and amended word) Program, incepted in 2000, from the Department of Public Safety (DPS) to the Department of Health (DOH).

These proposals are quite supported but will need some swift, **JOINT** decisions, while making honest, realistic and compassionate judgments, **that finally cares FIRST, about the Qualified Patients, their Caregiver, their Physician, results'** in the General Public's Safety, **reducing drug use in our Youth and in our Schools** and less crime and incarcerations, due to less addicts becoming a part of the program.

**ALL Licensed Dispensers or Farmers, can only be Licensed by the State of Hawai'i under these amendments and Individual Growers and Land Owners, working for the State of Hawaii as such, CANNOT be a CONVICTED Felon FOR the Manufacturing or/and Distribution of ANY Controlled Dangerous Substance or Dangerous Hazardous Substance.**

This will keep all illegal Schedule I (one) Drugs **AWAY** from **ALL** of our Public & Private Schools in turn keeping any of it OUT of the hands of our Keiki' & Ohanas, **OUT of the King Pins Greedy Group PLAYERS & Pushers hands, who are already used to doing this for a living in Hawai'i**, and puts it in the hands of only Patients' and Caregivers wishing to continue growing (within the parameters of Law)leaves, and all State employed **Farmers, and with the Pineapple and Sugarcane Fields** all gone, and with so many out of work, what a way to build up our State Economy, by Stimulating it with jobs that pay an average hourly salaries of (\$9.00-\$15.00), while enforcing their almost impossibility of infiltrating, by using a uniquely hidden transparency of them, **NEVER** allowing the bad seeds to get close in any way, shape or form to this new part of Hawai'i State's Medical Cannabis Distribution Program/System, gearing up for a Medicinal/Pharmaceutical Program to emerge from Hawai'i, so we can eventually Dispense Cannabis

from already based Pharmacy's instead of State run Dispensaries. The Medical Cannabis Advisory Board will be reporting Annually before Session begins, on the progress and procedures that may need amending or of any wrong doing by anyone involved, just in case.

**CANNABIS**, which is the proper terminology for the Street Slang word Marijuana, actually English, which is in the Report Title of this Senate Bill, *and* references the true and Medical FDA Definition for the presently used street word 'Marijuana', in to CHANGING any reference to the MEDICINE in the Cannabis plant (the MEDICINE is the THC from female Flowering Buds, at different Strains and at lower and higher percentages) [which in MARINOL is 5.9% of the SAME strain, which is primarily used to control the Nausea incurred by Cancer, AIDS and Glaucoma Patients and NOT FOR HUNGER , APPETITE OR PAIN] should be only Dispensed by a Licensed Dispenser that has been CLEARED by DPS, REGISTERED & MONTORED by the DOH, so that the pertinent information and possibly incriminating *things*, NOT be disclosed in the future, and is to be held by DPS as discussed.

All other information will be under the strict Federal Guidelines that HIPAA protects and that DPS will no longer need to follow or keep, which is why I am so SUPPORTIVE of the DOH being required to TAKE CONTROL over the Program, including OVERSIGHT.

This way, DPS in their infamous wisdom, will run the background checks on ALL Patients, Caregivers , as they already do, & I as a Patient, wasn't ever made aware of nor signed any releases for, as an already seasoned Medical Cannabis Patient in Hawai'i for 4 year now.

Under these amendments and the complete text of SB 418, Patients will have the choice of deciding whether or not to grow their own medicine, which in itself, is a science, **outdoor, indoor or Hydroponically**, or become part of the Distribution Program, ALL the Dispensers and workers taking home wages not so outrageous, because NO INDIVIDUAL can be a Producer for the Department of Health, unless they are part of a Nursing Home or Home Care Facility, OR a Not for Profit Agency, in the industry of taking care of and Servicing, Patients with ALL Licensed Dispensers or Farmers, Licensed by the State of Hawai'i. Under these amendments and Individual Growers, in present Law, CANNOT be a convicted Felon FOR the Manufacturing or/and Distribution of ANY Controlled Dangerous Substance or Dangerous Hazardous Substance.

What needs to also be amended or actually added from the text of SB 418, is the creation of a **24 Hour HOTLINE**, formed by the DPS and can be used by both the DPS and DOH because DOH will now have the rest of their PERSONAL information, (e.g. ADDRESS, DOB, DOCTOR'S NAME.....), NO LONGER TO BE PRINTED ON LICENSES, is finally providing transparency to local law enforcement, the DEA and NED for the sake of VERIFICATION ONLY, and only in the case of a WARRANT or an INVESTIGATIVE PROCESS, will they be afforded the right to any more Identifying information.

The DPS will not have the same IDENTIFYING information OF Patients and Caregivers as they had before. Once any Patient, Caregiver or State LICENSED AND EMPLOYED Producers for Cultivators is CLEARED, only the Names, License Number, Expiration Date and an Emergency Telephone Number, will be available for Law Enforcement to verify Licensing from ANYONE in the Program.

**A bridge between DPS, DOH the DEA and NED for the sake of VERIFICATION ONLY and only in the case of a WARRANT or an INVESTIGATIVE PROCESS, will Agencies be afforded the right to any more Identifying information.**

What is missing and of most importance, is that the present Medical Marijuana (Cannabis) Program inceptioned in 2000, would be amended, as set forth in SB 418, **AND** as well, will be **RUN BY** the State, **PAID FOR** by the State and will be only for the State's Medical Cannabis Patients', **NOT wishing to grow their own Medicine (Cannabis) anymore OR** do not want to grow Cannabis at all to begin with. This then, being **PAID TO THE STATE**, who will now collect a monthly Revenue of either \$84.00 or \$112.00, depending on whether the allowed possession remains at no more than 3 oz. of usable Cannabis {combined amount per Patient & their Caregiver} allowed at one time, or at no more than the proposed amount of four ( 4 ) oz., every 30 days, equaling an Annual Revenue and Funds for the SERVICES of the **Dispensing and Processing of the Medicine** [which the DPS says is against Federal Law, **which it is not true**, after I researched this and spoke directly with some key figures from National Organizations (e.g. NAPWA, AMA, LEAP, NORML and Civil & Criminal Attorneys, because they agree that this Revenue is **not in any way selling**, the actual Medicine or Cannabis, because Hawai'i State in SB 418, will gladly **GIVE** the Medicine to their Patients Registered, for NOMINAL SERVICE FEES.

In either of the monetary proposals desired by the Legislature (3 or 4 oz.) at **.50 cents a gram for each Service**, for a **total** of two Services, a Dispensing and Processing fee that most Pharmacies and Insurance Companies already charge, will bring in Revenue, including cost per year, to between \$5,000,000.00 and \$6,000,000.00 dollars ANNUALLY, which depends on if you RAISE the ANNUAL FEE which now stands at \$25.00, and bring it to \$50.00, which even though complained about by some, claiming heartache and hardship for the lower income families to afford, affords me the right to the question of, " how are they getting their Cannabis or Marijuana now, as it is named in the street, and is it costing them at one of the cheapest Black Market prices in Hawai'i about \$500.00 FOR ONE (1) ounce of marijuana which is really \$1,500.00 for 3 oz. & \$2,000 for the four (4) oz I propose for this SB 418, but it was not written in the original Draft [**accidentally by Senate Majority Office**] and all 4,600 *actual* Patients, Caregivers and Family Members, **had to acquire any of their Medicine (Cannabis) illegally**.

So a \$1.00 per gram for 3 Ounces(as the Law presently allows) is \$84.00 a month CO-PAY and for my proposed and amended amount not yet in this written Bill but agreed upon most of the Senators to increase the amount a month, to 4 ounces a month or every 30 calendar days would equal, monthly, 112 grams X \$1.00 = \$112.00 a month for the Patient every month as their Co-Pay between them and the State for Processing, Dispensing AND Manufacturing the Cannabis for all 4,600 Patients plus the Annual Fee which will Revenue an extra \$250,000.00 to start this Program. By using the amended amount of 4 ounces every 30 days as the grid (because the Feds have said that by THEIR Clinical Trials at the University of South Carolina, which has been going on for 30 years now, of a Trial, and still running, **that it takes 6.65 Pounds of Cannabis a Year**[divide that by 28 oz. and it is about almost 7(SEVEN) ounces a month, so my increase to the present Law by one ounce to an ounce a week or 4 ounces a month on average, is, BELOW the NORM and take it from one who knows, first hand, unfortunately, **is absolutely necessary**, to keep a chronically ill Patient comfortable.

With the packaging, Dispensing and the Transporting, of the Medicine, from each new Growing Facility, to either a **Pharmacy**, [which would need much more FDA Clearance but in the future], or the **Dispensaries on each Island** with Medical Cannabis Patients, which isn't all 7 of them, but six Islands for sure. Cutting down over head even more is that we **do not** need Dispensaries on Lanai or Molokai, when we could Transport it through the Department of PUBLIC SAFETY, **which should have been their kuliana and job all along**, plus now, with their NEW responsibility of the Security of the Facilities, The Department of Public Safety's responsibilities are equally and vitality as important as well as the Department of Health's obligation to keep the Person Information of Medical Cannabis Patients, SACRED!

In Simple terms, Patients' amenities, as well as for Caregivers and Doctors, is not **ever having to be a horticulturists and have a GREEN THUMB in Agriculture** (unless they were born and raised here from before the Hawai'i Cannabis Harvest), with the icing on the Cake, of never dealing with the heat of the sun, AGAIN, which in most cases is a contraindication with their Medications! Caregivers no longer have to worry about there not being enough MEDICINE for their Patient's because the State will guarantee an UNINTERRUPTED service and ACCESS to Patients or their Caregiver, for a NOMINAL COST, depending on your Income, but a co-pay of anymore than \$200.00 a month is **just too high for some**, but half of that is doable by most.

\*\*\*\*The Security, Transport of Medicine and Guarding of the Growing Facilities and Collectives from Patients who continue to grow as opposed to using the Program(which will be easy for the Departments to decipher, and you have excess cannabis (which the law the law is written now, is a guarantee!!) from a plant you want to GIVE(KOKUA), to the State/County Collectives, taking in from them(the Patient's) the balance of USABLE dried Cannabis per License allowed, or if it comes from the Agriculturally Zoned and Fenced Areas which are allowed to grow Cannabis NO more than 98 plants at a time, and holding in abeyance, ONE MONTH or 3-4 ounces of **Medicine for each Registered Patient** with the **Department of Health, with clear Transparency from Dept to Dept**, in gathering the documentation for the **special Log Books as a 2nd check to a Computer Program check as 1st check**, ALL transactions between the 2 Departments, Dispensers and Growing Facilities for the sake of State Audits, Organizational Charts and Oversight, will prove to be one of the most effective part of this Program.

\*\*\*\*The DPS has the unforeseen task of keeping the BRIDGE open with DOH and Patients and Caregivers, while at the same time forcing the STREET WISE, DRUG PUSHERS AND USERS, NOT in RECOVERY, OUT of this NEW Medicinal/Pharmaceutical Program (by amending the present Law), for GOOD, to be used by those who want to switch the kind of license they have (distinctive by 2 different colored cards and separate Rights and Rules to be developed by the new Advisory Board.)

Peace and Aloha and Mahalo nui loa to all of you for your patience and Support in this sensitive matter.

Joseph Rattner, O. D., CSAC

**West O`ahu Hope For A Cure Foundation, Founder and Executive Director**

91-211 Maka`ina Place

Ewa Beach, Hawai'i 96706 Phone: (808)-685-6702 FAX: (808) 685-6840 [jbr@WestOahuHopeForACure.org](mailto:jbr@WestOahuHopeForACure.org)



## **PROPOSED AMENDMENTS FOR SB 418**

- **All Dispensers, Farmers, Workers, Growers, and Landowners Licensed by the State of Hawai`i CANNOT be a convicted Felon for Manufacturing, or/and Distribution of ANY Controlled Dangerous Substance or Dangerous Hazardous Substance.**
  
- **Medical Cannabis Advisory Board Consisting of 7 Physicians, Three Patients, and The Chair or Designee from The Department of Health, Reports to the Legislature.**
  
- **Medical Cannabis FDA definition presently used to define Medicine in the Cannabis Plant (referring to the THC in the female flowering bud) is proper English. The word Marijuana is a street slang word for illegal drugs. (The medicine Marinol FDA approved is made from Cannabis) When used in this context should always be referred to as Medical Cannabis.**
  
- **24 HOUR HOTLINE formed by DPS to be used by both The Department of Health, and The Department Public Safety, provides transparency to local Law Enforcement, The DEA, and NED for the sake of Verification Only, in the case of Investigative Process or Warrants, will they be afforded the right to any more identifying information.**

- **The Medical Marijuana (Cannabis) Program incepted in 2000, will be run by The State, paid for by The State for Patients not wishing to grow their own medicine, paying The State a Monthly Revenue of either \$84.00 or \$112.00 a month, (whether it remains as 3oz. or 4 oz.) Equaling the Annual Revenue and Funds for the services of the dispensing or processing of Medicine. This is not in any way selling the actual medicine or Cannabis because Hawai'i State will be GIVING THE MEDICAL CANNABIS TO ALL LICENSED PATIENTS. Revenue estimates at \$1 per gram for 3 ounces as the law allows would be \$84.00 Dollars a month, We propose 4 oz a month every 30 days which would equal 112 grams x \$1 =\$112.00 with 4,600 patients plus annual fee from \$25 to \$50 Dollars for licensing which will bring in \$250,000.00 to start the program, and an annual income between \$5,000,000 to \$6,000,000 a year.**
  
- **Packaging, Dispensing, and Transportation from growing facilities to Dispensary's on Islands with Medical Cannabis Patients would be through The Department of Public Safety.**
  
- **This Bill would put the Black Market Profiteers out of business. The average pricing by drug pushers, we believe is around \$500.00-\$600.00 for one ounce of Cannabis (Marijuana). Patient's have a right to have a safe haven to receive their medication, Physician prescribed and licensed by the State under its law, and will protect the Public at Large, as they should, for all who live here.**

COMMITTEE ON HEALTH

Senator David Y. Ige, Chair

Senator Josh Green, M.D., Vice Chair

COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Senator Will Espero, Chair

Senator Robert Bunda, Vice Chair

HEARING DATE: February 17, 2009

TIME: 3:30 PM

PLACE: Conference Room 229

BILL NUMBER: SB 418

IN STRONG SUPPORT WITH AMENDMENTS INCLUDED IN THIS AND OTHER'S TESTIMONY.

I am writing in support of SB 418. I believe in transferring the Medical Marijuana (Cannabis) licensing to the Department of Health. I believe that any program that has to do with medical patients or question should be in the department that deals with these issues on a day to day basis. The Department of Health also knows about the HIPPA Laws.

The Department of Public Safety without thinking sent all of the licensed patients, caregivers, Doctors, diagnosis, and addresses of their homes and growing facilities to a reporter of a newspaper. The State should only allow the Department of Public Safety to be responsible for the security of the growing facilities and for the transportation to dispensaries' and the protection to the general public from illegal drug pushers.

The State of Hawai'i should ask for bids from farmer and cultivators of both outside and inside facilities including hydroponic growers. All would be licensed by the same standards as Patients, Physicians, and Caretakers with one major change to their requirements.

ALL THE LICENCED GROWERS, LANDOWNERS, DISPENCERS AND WORKERS  
CANNOT BE CONVICTED FELONS FOR THE MANUFACTURING AND/OR GROWING,  
DISTRIBUTING OF ANY CONTROLLED, DANGEROUS, OR HAZARDOUS  
SUBSTANCES.

I believe that legitimate patients and their caregivers have the same rights as the general public does when it comes to filling a Physicians prescription when they have already been approved by the State through the licensing and fees paid. I also believe in tightening the laws so that the public and the state profit, while the profiteers who try to make money from the suffering of others are no longer in the picture.

There is also a 4 ounce limit for each patient or caregiver of usable medical cannabis allowed every thirty (30) days that will be dispensed to allow them to have a more normal life as they try to survive their various illnesses.

Also in the Bill is a 24 HOUR HOT LINE so that the authorities will be able to use it to check for proper information. There is also the advisory board made up of several physicians and patients that report to the legislature so that all are informed about the program.

The State of Hawai'i can oversee all of this, keeping the Islands safe, helping the field workers who lost their jobs when the sugar cane and pineapple fields stopped producing and the fields remain empty today. Everyone gains including the State and the people who sell the illegal drugs lose.

For these amended reasons, I strongly urge you to pass this Bill..

Thank you for allowing me the Opportunity to Testify.

Lila Rattner

Director-Advisory Board of West O`ahu Hope For A Cure Foundation

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**From:** Matt Rifkin [mailto:mattrifkin28@gmail.com]  
**Sent:** Monday, February 16, 2009 3:32 PM  
**To:** PSM Testimony  
**Subject:** Testimony

Testimony submitted by Matthew Rifkin

Senate Committee on Health  
Senate Committee on Public Safety and Military Affairs

February 17, 2009 at 3:30pm

SB 418 – Relating to Medical Cannabis

SUPPORT THE INTENT

Aloha to the members of the Senate.

I am a medical marijuana patient residing on the Big Island, and a member of Americans For Safe Access.

The positive aspects to SB 418 include:

Changing administration of the program from the Department of Public Safety (Narcotics Enforcement Division) to the Department of Health is a great idea, as they will be better suited to this task. Creating an advisory board to oversee the program is also an excellent idea. The medical marijuana program has remained static since its inception in 2000. Having a group focus on issues and ways to improve the program is long overdue.

The negative aspects include;

Raising the application fee to \$50 will impose hardship on low income patients.

Requiring the Department of Health to notify the Department of Public Safety about patients and primary caregivers on a weekly basis is unreasonable, and could intrude on the privacy of those people.

There are two other bills that the Senate is considering this year relating to medical cannabis, SB401 and SB223. Both have positive aspects, and I wish they could be included in one bill that would address all the needs of all patients. A dispensary system for patients who are unable to grow their own medicine should be a top priority.

One item that has not been included in any bill this year is inter-island travel. There are patients who need to travel from the neighbor islands to Oahu for medical treatment, and they should be allowed to take their medical marijuana with them, the same way that someone can travel with their OxyContin or other medication that has been prescribed by a doctor. A patient who is in compliance with state law should not fear being arrested by the Federal authorities, such as the DEA or county of Hawaii police officers who have been deputized.

I SUPPORT THE INTENT OF SB 418

Respectfully submitted,

Matthew Rifkin  
Keaau, HI 96749