
A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

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

1 SECTION 1. Chapter 329, Hawaii Revised Statutes, is
2 amended by adding two new sections to part IX to be
3 appropriately designated and to read as follows:

4 "§329- Records of registrants. Every physician
5 authorized to recommend the medical use of marijuana under part
6 IX of this chapter shall maintain a copy of each "written
7 certification" issued, for a period of five years.

8 §329- Prohibited acts; penalties. (a) It is unlawful
9 for any physician:

10 (1) Who is authorized to recommend the medical use of
11 marijuana under part IX to do so in violation of
12 section 329-122 and 329-123;

13 (2) Who is authorized to recommend medical use of
14 marijuana under part IX to distribute, dispense or
15 sell marijuana or marijuana concentrates to any person
16 in violation of this chapter and chapter 712, part IV;

17 (3) To knowingly keep or maintain any store, shop,
18 warehouse, dwelling, building, vehicle, boat,



1 aircraft, or other structure or place for the purpose
2 of cultivating, storing, administering, distributing
3 or selling marijuana or marijuana concentrate in
4 violation of this chapter or chapter 712, part IV;

5 (4) To refuse or fail to make available, keep, or furnish
6 any record, written certification, statement, or
7 information in patient charts relating to the
8 recommendation for a patient to utilize marijuana
9 under part IX and rules issued by the department;

10 (5) To refuse any lawful entry into any premises for any
11 inspection authorized by this chapter; or

12 (6) Who is authorized to recommend the medical use of
13 marijuana under part IX to predate or pre-sign written
14 certification forms for patients.

15 (b) It shall be unlawful for any person subject to part IX
16 to administer, prescribe, or dispense any controlled substance
17 without a bona fide physician-patient relationship.

18 (c) Any person who violates this section is guilty of a
19 class C felony. This penalty shall be in addition to any other
20 penalties that may apply for the non-medical use of marijuana."

21 SECTION 2. Section 329-121, Hawaii Revised Statutes, is
22 amended by amending the definitions of "debilitating medical



1 condition", "usable marijuana", and "written certificate" to
2 read as follows:

3 "Debilitating medical condition" means:

4 (1) Cancer, glaucoma, positive status for human
5 immunodeficiency virus, acquired immune deficiency
6 syndrome, or the treatment of these conditions;

7 (2) [A] Treatment of a chronic or debilitating disease or
8 medical condition [~~or its treatment~~] listed in
9 paragraph (1) that produces one or more of the
10 following:

11 (A) Cachexia or wasting syndrome;

12 (B) Severe pain;

13 (C) Severe nausea;

14 (D) Seizures, including those characteristic of
15 epilepsy; or

16 (E) Severe and persistent muscle spasms, including
17 those characteristic of multiple sclerosis or
18 Crohn's disease; or

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



1 "Usable marijuana" means the [~~dried~~] leaves and flowers of
2 the plant Cannabis family Moraceae, and any mixture [~~+~~or~~+~~]
3 preparation thereof, that are appropriate for the medical use of
4 marijuana. "Usable marijuana" does not include the seeds,
5 stalks, and roots of the plant.

6 "Written certification" [~~means~~]:

7 (1) Means the [~~qualifying patient's medical records or a~~
8 statement] written certification or registry
9 identification forms for the medical use of marijuana
10 issued by the department and signed by a qualifying
11 patient's physician, stating that in the physician's
12 professional opinion, the qualifying patient has a
13 debilitating medical condition and the potential
14 benefits of the medical use of marijuana would likely
15 outweigh the health risks for the qualifying patient.
16 The department of public safety may require, through
17 its rulemaking authority, that all written
18 certifications comply with a designated form[~~-~~
19 ~~"Written certifications" are]; and~~

20 (2) Is valid for only one year from the time of signing."

21 SECTION 3. Section 329-122, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) Notwithstanding any law to the contrary, the medical
2 use of marijuana by a qualifying patient shall be permitted only
3 if:

4 (1) The qualifying patient has been physically examined
5 and diagnosed by a physician as having a debilitating
6 medical condition;

7 (2) The qualifying patient's physician has certified in
8 writing that, in the physician's professional opinion,
9 the potential benefits of the medical use of marijuana
10 would likely outweigh the health risks for the
11 particular qualifying patient; and

12 (3) The amount of marijuana does not exceed an adequate
13 supply."

14 SECTION 4. Section 329-123, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) Qualifying patients shall register with the
17 department of public safety. [~~Such~~] The registration shall be
18 effective until the expiration of the certificate issued by the
19 department and signed by the physician. Every qualifying
20 patient shall provide sufficient identifying information to
21 establish personal identity of the qualifying patient and the
22 primary caregiver. Qualifying patients shall report changes in



1 information within five working days. Every qualifying patient
2 shall have only one primary caregiver at any given time. The
3 department shall then issue to the qualifying patient a
4 registration certificate, and may charge a reasonable fee not to
5 exceed [~~\$25.~~] \$75."

6 SECTION 5. Section 329-126, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~[§]~~ **§329-126** ~~[§]~~ **Protections afforded to a treating**
9 **physician.** No physician shall be subject to arrest or
10 prosecution, penalized in any manner, or denied any right or
11 privilege for providing written certification for the medical
12 use of marijuana for a qualifying patient; provided that:

- 13 (1) The physician has physically examined and diagnosed
14 the patient as having a debilitating medical
15 condition, as defined in section 329-121;
- 16 (2) The physician has explained the potential risks and
17 benefits of the medical use of marijuana, as required
18 under section 329-122;
- 19 (3) The written certification is based upon the
20 physician's professional opinion after having
21 completed a full physical assessment of the patient
22 and a review of the patient's medical history and



1 current medical condition, made in the course of a
2 bona fide physician-patient relationship; and

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

5 SECTION 6. Section 329-128, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

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 shall be a [~~misdemeanor.~~] class C felony. This
12 penalty shall be in addition to any other penalties that may
13 apply for the non-medical use of marijuana. Nothing in this
14 section is intended to preclude the conviction of any person
15 under section 710-1060 or for any other offense under part V of
16 chapter 710."

17 SECTION 7. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun, before its effective date.

20 SECTION 8. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22



1 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Controlled Substances; Medical Marijuana

Description:

Establishes new recordkeeping requirements and establishes penalties; amends and adds definitions; requires physical examination of patient by physician; and increases penalties relating to medical marijuana.

