

JAN 20 2010

S.B. NO. 214

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, or cannabis, program was enacted into law in 2000 as
3 a public health program conceived out of compassion for the
4 health and welfare of the seriously ill. After nine years in
5 effect, the experience of the program indicates that
6 improvements to the law will help to fulfill its original intent
7 by clarifying provisions and removing serious obstacles to the
8 patient access and physician participation contemplated by the
9 legislature when the law was initially enacted.

10 The purpose of this Act is to make certain amendments to
11 the medical use of cannabis law to address the concerns of
12 Hawaii's seriously ill patients. These amendments will help
13 qualifying patients by:

14 (1) Increasing the caregiver-patient ratio. Because many
15 qualifying patients are too incapacitated or otherwise
16 unable to grow their own supply of marijuana, they
17 must rely on caregivers. However, there are not



1 enough caregivers to meet the demand. Therefore, this
2 Act will increase the ratio of patient to caregiver
3 from one-to-one to four-to-one. This will also assist
4 qualifying patients who share housing and are
5 therefore in good position to share caregivers;

6 (2) Increasing the amount of cannabis permitted per
7 patient or caregiver to amounts consistent with those
8 in other states to better meet the therapeutic needs
9 of the patient and that recognizes the difficulty of
10 maintaining a consistent and adequate supply;

11 (3) Enhancing patient confidentiality and security by
12 requiring that the location of where the marijuana is
13 grown be kept confidential and omitted from the
14 registry card issued by the department of public
15 safety; and

16 (4) Clarifying that the department of public safety's
17 forms may not require more information than is
18 required by the medical use of cannabis law and by
19 clarifying that the department may not require that
20 the qualifying patient's physician be the primary care
21 physician.



1 SECTION 2. Section 329-121, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending the definition of "adequate supply" to
4 read:

5 ""Adequate supply" means an amount of [~~marijuana~~] cannabis
6 jointly possessed between the qualifying patient and the primary
7 caregiver that is not more than is reasonably necessary to
8 assure the uninterrupted availability of [~~marijuana~~] cannabis
9 for the purpose of alleviating the symptoms or effects of a
10 qualifying patient's debilitating medical condition; provided
11 that an "adequate supply" shall not exceed [~~three mature~~
12 ~~marijuana~~] ten cannabis plants[, ~~four immature marijuana plants,~~
13 ~~and one ounce~~] and five ounces of usable [~~marijuana per each~~
14 ~~mature plant.~~] cannabis at any given time."

15 2. By amending the definition of "written certification"
16 to read:

17 ""Written certification" means the qualifying patient's
18 medical records or a statement signed by a qualifying patient's
19 physician, stating that in the physician's professional opinion,
20 the qualifying patient has a debilitating medical condition and
21 the potential benefits of the medical use of [~~marijuana~~]
22 cannabis would likely outweigh the health risks for the



1 qualifying patient. The department of public safety may
2 require, through its rulemaking authority, that all written
3 certifications comply with a designated form. The form may not
4 require that the signing physician be the patient's primary care
5 physician. The form may request the address of the location
6 where the marijuana is grown, but the information shall be
7 confidential and shall not appear on the registry card issued by
8 the department. "Written certifications" are valid for only one
9 year from the time of signing."

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

12 "(a) Notwithstanding any law to the contrary, the medical
13 use of [~~marijuana~~] cannabis by a qualifying patient shall be
14 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 possessed by the
2 qualifying patient does not exceed an adequate
3 supply."

4 SECTION 4. Section 329-123, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "~~[+]§329-123[+]~~ **Registration requirements.** (a)

7 Physicians who issue written certifications shall [~~register the~~
8 ~~names, addresses, patient identification numbers,~~] provide, in
9 each certification, the name, address, patient identification
10 number, and other identifying information of the qualifying
11 patients [~~issued written certifications with the department of~~
12 ~~public safety~~]. The information shall include the physician's
13 attestation that the patient has one of the debilitating medical
14 conditions defined in section 329-121 but shall not name or
15 describe the particular condition.

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



1 qualifying patient shall have only one primary caregiver at any
2 given time. The department shall ~~[then]~~ issue to the qualifying
3 patient a registration certificate~~[r]~~ and may charge a
4 reasonable fee not to exceed \$25~~[r]~~ per year.

5 (c) Primary caregivers shall register with the department
6 of public safety. ~~[Every]~~ No primary caregiver shall be
7 responsible for the care of ~~[only one]~~ more than four qualifying
8 ~~[patient]~~ patients at any given time.

9 (d) The department may require, in rules adopted under
10 chapter 91, that a registration shall be based on information
11 contained in a designated form completed by or on behalf of a
12 qualifying patient. The form shall only require information
13 from the applicant, primary caregiver, and certifying physician
14 as specifically required or permitted by this chapter.

15 ~~[(d)]~~ (e) Upon ~~[an]~~ inquiry by a law enforcement agency,
16 the department of public safety shall verify whether the
17 ~~[particular qualifying patient]~~ subject of the inquiry has
18 registered with the department and may provide reasonable access
19 to the registry information for official law enforcement
20 purposes."



1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 6. If any provision of this Act, or the
5 application thereof to any person or circumstance is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act, which can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

10 SECTION 7. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Medical Cannabis

Description:

Increases the amount of cannabis that constitutes an adequate amount by allowing a qualifying patient to possess 10 cannabis plants and 5 ounces of cannabis at any given time. Makes identification of the site where cannabis is grown confidential. Prohibits the department of public safety from requiring that a certifying physician be the patient's primary care physician. Prohibits certifying physicians from naming or describing a patient's particular debilitating condition. Increases the permissible ratio of patients to caregivers by allowing a caregiver to grow cannabis for no more than 4 patients.

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