

JAN 23 2009

---

---

# A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

10           The purpose of this Act is to make certain amendments to  
11 the medical use of marijuana 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  
18 enough caregivers to meet the demand. Therefore, this



1 Act will increase the ratio of patient to caregiver  
2 from one-to-one to five-to-one. This will also assist  
3 qualifying patients who share housing and are  
4 therefore in good position to share caregivers;

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

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

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

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



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

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

13           2.    By amending the definition of "written certification"  
14 to read:

15            "Written certification" means the qualifying patient's  
16 medical records or a statement signed by a qualifying patient's  
17 physician, stating that in the physician's professional opinion,  
18 the qualifying patient has a debilitating medical condition and  
19 the potential benefits of the medical use of marijuana would  
20 likely outweigh the health risks for the qualifying patient.  
21 The department of public safety may require, through its  
22 rulemaking authority, that all written certifications comply



1 with a designated form. The form may not require that the  
2 signing physician be the patient's primary care physician. The  
3 form may request the address of the location where the marijuana  
4 is grown, but the information shall be confidential and shall  
5 not appear on the registry card issued by the department.  
6 "Written certifications" are valid for only one year from the  
7 [~~time~~] date of signing unless the physician specifies a shorter  
8 duration."

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

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

- 14 (1) The qualifying patient has been diagnosed by a  
15 physician as having a debilitating medical condition;
- 16 (2) The qualifying patient's physician has certified in  
17 writing that, in the physician's professional opinion,  
18 the potential benefits of the medical use of marijuana  
19 would likely outweigh the health risks for the  
20 particular qualifying patient; and
- 21 (3) The amount of marijuana possessed by the qualifying  
22 patient does not exceed an adequate supply."



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

3 "[+] §329-123 [+] Registration requirements. (a)

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

13 (b) Qualifying patients shall register with the department  
14 of public safety. ~~[Such]~~ The registration shall be effective  
15 until the expiration of the certificate issued by the physician.  
16 Every qualifying patient shall provide sufficient identifying  
17 information to establish the personal identity of the qualifying  
18 patient and the primary caregiver. Qualifying patients shall  
19 report changes in information within five working days. Every  
20 qualifying patient shall have only one primary caregiver at any  
21 given time. The department shall ~~[then]~~ issue to the qualifying



1 patient a registration certificate~~[7]~~ and may charge a  
2 reasonable fee not to exceed \$25 per year.

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

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

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

19 SECTION 5. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun, before its effective date.



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

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

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

10

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Robert B. ...", is written over a horizontal line.



**Report Title:**

Medical Marijuana

**Description:**

Allows a qualifying patient to possess 12 marijuana plants and 7 ounces of marijuana at one time. Prohibits identification of the site where marijuana is grown on a registry card. Prohibits a certifying physician from naming a patient's particular debilitating condition. Allows a caregiver to grow marijuana for no more than 5 patients.

