

JAN 23 2009

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 as follows:



1 a. By adding a new definition to be appropriately
2 inserted and to read:

3 "Marijuana concentrate" shall have the same meaning as in
4 section 712-1240."

5 b. By amending the definitions of "debilitating medical
6 condition" and "marijuana" to read:

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] Treatment of a chronic or debilitating disease or
12 medical condition [or its treatment] listed in
13 paragraph (1) that produces one or more of the
14 following:

15 (A) Cachexia or wasting syndrome;

16 (B) Severe pain;

17 (C) Severe nausea;

18 (D) Seizures, including those characteristic of
19 epilepsy; or

20 (E) Severe and persistent muscle spasms, including
21 those characteristic of multiple sclerosis or

22 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 c. By amending the definitions of "usable marijuana" and
9 "written certification" to read:

10 "Usable marijuana" [means]:

11 (1) Means the [~~dried~~] leaves and flowers of the plant
12 Cannabis family Moraceae, and any mixture [~~+~~or~~+~~]
13 preparation thereof, that are appropriate for the
14 medical use of marijuana[~~— "Usable marijuana" does~~
15 ~~not include~~];

16 (2) Does not include hashish, tetrahydrocannabinol, and
17 any alkaloid, salt, derivative, preparation, compound,
18 or mixture, whether natural or synthesized, of
19 tetrahydrocannabinol, or the seeds, stalks, and roots
20 of the plant.

21 "Written certification" [means]:



1 (2) The qualifying patient's physician has certified in
2 writing that, in the physician's professional opinion,
3 the potential benefits of the medical use of marijuana
4 would likely outweigh the health risks for the
5 particular qualifying patient; and

6 (3) The amount of marijuana does not exceed an adequate
7 supply."

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

10 "(b) Qualifying patients shall register with the
11 department of public safety. [~~Sueh~~] The registration shall be
12 effective until the expiration of the certificate issued by the
13 department and signed by the physician. Every qualifying
14 patient shall provide sufficient identifying information to
15 establish personal identity of the qualifying patient and the
16 primary caregiver. Qualifying patients shall report changes in
17 information within five working days. Every qualifying patient
18 shall have only one primary caregiver at any given time. The
19 department shall then issue to the qualifying patient a
20 registration certificate, and may charge a reasonable fee not to
21 exceed [~~\$25.~~] \$75."



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

3 " [H] §329-126 [H] Protections afforded to a treating
4 physician. No physician shall be subject to arrest or
5 prosecution, penalized in any manner, or denied any right or
6 privilege for providing written certification for the medical
7 use of marijuana for a qualifying patient; provided that:

8 (1) The physician has physically examined and diagnosed
9 the patient as having a debilitating medical
10 condition, as defined in section 329-121;

11 (2) The physician has explained the potential risks and
12 benefits of the medical use of marijuana, as required
13 under section 329-122;

14 (3) The written certification is based upon the
15 physician's professional opinion after having
16 completed a full physical assessment of the patient
17 and a review of the patient's medical history and
18 current medical condition, made in the course of a

19 bona fide physician-patient relationship; and

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



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

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

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

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

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

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INTRODUCED BY: Arvid N. Ige (BR)



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.

