
A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

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

1 SECTION 1. The legislature finds that the current language
2 of the state's medical use of marijuana law is unclear. For
3 instance, there is no clear requirement that physicians that
4 participate in the program actually have physical offices to see
5 and treat their patients. The lack of such a safeguard could
6 lead to physicians that simply rent locations for the day or set
7 up virtual offices in order to simply process permit
8 applications, making a mockery of the doctor-patient
9 relationship.

10 The legislature also finds that other clarifications,
11 including the need for the physician to actually sign the
12 medical use of marijuana permit that is issued by the department
13 of health, as well as making the penalties for falsification of
14 an application form consistent with those set for crimes
15 relating to fraudulent acquisition of a controlled substance,
16 are desirable.



1 Thus, the purpose of this Act is to effect those
2 clarifications and consistencies in an effort to improve the
3 state's medical use of marijuana law.

4 SECTION 2. Section 329-32, Hawaii Revised Statutes, is
5 amended by amending subsection (e) to read as follows:

6 "(e) A separate registration shall be required at each
7 principal place of business or professional practice where the
8 applicant manufactures, distributes, prescribes, or dispenses
9 controlled substances, recommends the medical use of marijuana,
10 except an office used by a practitioner (who is registered at
11 another location) where controlled substances are prescribed but
12 neither administered nor otherwise dispensed as a regular part
13 of the professional practice of the practitioner at such office,
14 and where no supplies of controlled substances are maintained."

15 SECTION 3. Section 329-121, Hawaii Revised Statutes, is
16 amended by amending the definitions of "debilitating medical
17 condition" and "written certification" to read as follows:

18 "Debilitating medical condition" means:

- 19 (1) Cancer, glaucoma, positive status for human
20 immunodeficiency virus, acquired immune deficiency
21 syndrome, or the treatment of these conditions[+] that
22 produces one or more of the following:



- 1 (A) Cachexia or wasting syndrome;
- 2 (B) Severe pain;
- 3 (C) Severe nausea;
- 4 (D) Seizures, including those characteristic of
- 5 epilepsy; or
- 6 (E) Severe and persistent muscle spasms, including
- 7 those characteritic of multiple sclerosis or Crohn's
- 8 disease; or

9 ~~[(2) A chronic or debilitating disease or medical condition~~
10 ~~or its treatment that produces one or more of the~~
11 ~~following:~~

- 12 ~~(A) Cachexia or wasting syndrome;~~
- 13 ~~(B) Severe pain;~~
- 14 ~~(C) Severe nausea;~~
- 15 ~~(D) Seizures, including those characteristic of~~
- 16 ~~epilepsy; or~~
- 17 ~~(E) Severe and persistent muscle spasms, including~~
- 18 ~~those characteristic of multiple sclerosis or~~
- 19 ~~Crohn's disease; or~~

20 ~~(3)]~~ (2) Any other medical condition approved by the
21 department of health pursuant to administrative rules

1 in response to a request from a physician or
2 potentially qualifying patient.

3 "Written certification" means the [~~qualifying patient's~~
4 ~~medical records or~~] medical use of marijuana application form
5 and issued permit provided by the department that includes a
6 statement signed by a qualifying patient's physician, stating
7 that in the physician's professional opinion, the qualifying
8 patient has a debilitating medical condition and the potential
9 benefits of the medical use of marijuana would likely outweigh
10 the health risks for the qualifying patient. The department of
11 public safety may require, through its rulemaking authority,
12 that all written certifications comply with a designated form.
13 "Written certifications" are valid for only one year from the
14 time of signing of the permit issued by the department."

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

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



1 primary caregiver. Qualifying patients shall report changes in
2 information within five working days. Every qualifying patient
3 shall have only one primary caregiver at any given time. The
4 department shall then issue to the qualifying patient a
5 registration certificate, and may charge a reasonable fee not to
6 exceed [~~\$25~~] \$50."

7 SECTION 5. Section 329-125, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~§329-125~~ **Protections afforded to a qualifying patient**
10 **or primary caregiver.** (a) A qualifying patient or the primary
11 caregiver may assert the medical use of marijuana as an
12 affirmative defense to any prosecution involving marijuana under
13 this [part] or chapter 712; provided that the qualifying patient
14 or the primary caregiver strictly complied with the requirements
15 of this part.

16 (b) Any qualifying patient or primary caregiver not
17 complying with the permitted scope of the medical use of
18 marijuana shall not be afforded the protections against searches
19 and seizures pertaining to the misapplication of the medical use
20 of marijuana.

21 (c) Any qualifying patient or primary caregiver violating
22 the "adequate supply" provision of this section shall be deemed



1 in violation of the provisions of the medical use of marijuana
2 program and will not be afforded any protection against arrest
3 or the seizure of all the marijuana recovered.

4 [-(e)] (d) No person shall be subject to arrest or
5 prosecution for simply being in the presence or vicinity of the
6 medical use of marijuana as permitted under this part."

7 SECTION 6. Section 329-128, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~§329-128~~ **Fraudulent misrepresentation; penalty.** (a)

10 Notwithstanding any law to the contrary, fraudulent
11 misrepresentation on the department issued medical use of
12 marijuana application form or statements made to a law
13 enforcement official of any fact or circumstance relating to the
14 medical use of marijuana to avoid arrest or prosecution under
15 this part or chapter 712 shall be a ~~[petty misdemeanor and~~
16 ~~subject to a fine of \$500]~~ class C felony.

17 (b) Notwithstanding any law to the contrary, fraudulent
18 misrepresentation on the department issued medical use of
19 marijuana application form or statements made to a law
20 enforcement official of any fact or circumstance relating to the
21 issuance of a written certificate by a physician not covered
22 under section 329-126 for the medical use of marijuana shall be



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

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

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

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

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INTRODUCED BY:

Craig

[Signature]

Elaine
Ken Ward
[Signature]
Barbara Mammato

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Report Title:

Controlled substances

Description:

Clarifies the state's medical use of marijuana law. Increases penalties for fraudulent application to make consistent with penalties for other controlled substances.

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