

JAN 20 2011

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# 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 ten years, 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 patient access and  
8 physician participation.

9           The purpose of this Act is to amend the medical use of  
10 marijuana law to address the concerns of Hawaii's seriously ill  
11 patients. These amendments will help qualifying patients by:

12           (1) Increasing the caregiver-patient ratio. Because many  
13 qualifying patients are too incapacitated or otherwise  
14 unable to grow their own supply of cannabis, they must  
15 rely on caregivers. However, there are not enough  
16 caregivers to meet the demand. Therefore, this Act  
17 will increase the patient to caregiver ratio from one-  
18 to-one to four-to-one. This will also assist



1           qualifying patients who share housing and are  
2           therefore in a good position to share caregivers;

3           (2) Increasing the amount of cannabis permitted per  
4           patient or caregiver to amounts consistent with other  
5           states to better meet the therapeutic needs of the  
6           patient and in recognition of the difficulty of  
7           maintaining a consistent and adequate supply;

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

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

19          SECTION 2. Chapter 329, Hawaii Revised Statutes, is  
20          amended by adding a new section to part IX to be appropriately  
21          designated and to read as follows:



1           "§329- Transfers. A registered qualifying patient or  
2 registered primary caregiver may provide usable cannabis or any  
3 part of the cannabis plant to any other registered qualifying  
4 patients or any other registered primary caregivers; provided  
5 that no consideration is paid for the cannabis and that the  
6 recipient does not exceed the adequate supply amount specified  
7 in section 329-121."

8           SECTION 3. Section 329-121, Hawaii Revised Statutes, is  
9 amended as follows:

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

12           "Reimbursement" means consideration provided to primary  
13 caregivers as compensation for costs associated with assisting  
14 registered qualifying patients' medical use of marijuana.

15 Reimbursement shall not include the sale of controlled  
16 substances."

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

19           "Adequate supply" means an amount of [marijuana] cannabis  
20 jointly possessed between the qualifying patient and the primary  
21 caregiver that is not more than is reasonably necessary to  
22 assure the uninterrupted availability of [marijuana] cannabis



1 for the purpose of alleviating the symptoms or effects of a  
2 qualifying patient's debilitating medical condition; provided  
3 that an "adequate supply" shall not exceed [~~three mature~~  
4 ~~marijuana~~] ten cannabis plants [~~, four immature marijuana plants,~~  
5 ~~and one ounce~~] and five ounces of usable [~~marijuana per each~~  
6 ~~mature plant.~~] cannabis at any given time."

7 3. By amending the definition of "primary caregiver" to  
8 read:

9 "Primary caregiver" means a person [~~7~~] eighteen years of  
10 age or older, other than the qualifying patient and the  
11 qualifying patient's physician, [~~who is eighteen years of age or~~  
12 ~~older~~] who has agreed, with or without reimbursement, to  
13 undertake responsibility for managing the well-being of the  
14 qualifying patient with respect to the medical use of marijuana.  
15 In the case of a minor or an adult lacking legal capacity, the  
16 primary caregiver shall be a parent, guardian, or person having  
17 legal custody."

18 4. By amending the definition of "written certification"  
19 to read:

20 "Written certification" means the qualifying patient's  
21 medical records or a statement signed by a qualifying patient's  
22 physician, stating that in the physician's professional opinion,



1 the qualifying patient has a debilitating medical condition and  
2 the potential benefits of the medical use of [marijuana]  
3 cannabis would likely outweigh the health risks for the  
4 qualifying patient. The department of public safety may  
5 require, through its rulemaking authority, that all written  
6 certifications comply with a designated form. The form may not  
7 require that the signing physician be the qualifying patient's  
8 primary care physician. The form may request the address of the  
9 location where the cannabis is grown, but the information shall  
10 be confidential and shall not appear on the registry card issued  
11 by the department. "Written certifications" are valid for only  
12 one year from the time of signing."

13 SECTION 4. Section 329-122, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) Notwithstanding any law to the contrary, the medical  
16 use of [marijuana] cannabis by a qualifying patient shall be  
17 permitted only if:

- 18 (1) The qualifying patient has been diagnosed by a  
19 physician as having a debilitating medical condition;
- 20 (2) The qualifying patient's physician has certified in  
21 writing that, in the physician's professional opinion,  
22 the potential benefits of the medical use of



1           [marijuana] cannabis would likely outweigh the health  
2 risks for the particular qualifying patient; and  
3           (3) The amount of [marijuana] cannabis possessed by the  
4           qualifying patient does not exceed an adequate  
5           supply."

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

8           "[~~§~~329-123~~]~~ **Registration requirements.** (a)  
9 Physicians who issue written certifications shall [~~register the~~  
10 ~~names, addresses, patient identification numbers,~~] provide, in  
11 each certification, the name, address, patient identification  
12 number, and other identifying information of the qualifying  
13 patients [~~issued written certifications with the department of~~  
14 public safety]. The information shall include the physician's  
15 attestation that the qualifying patient has one of the  
16 debilitating medical conditions defined in section 329-121 but  
17 shall not name or describe the particular condition. If the  
18 physician issuing the written certification is not the  
19 qualifying patient's primary care physician, the issuing  
20 physician shall send a copy of the written certification to the  
21 qualifying patient's primary care physician, if any.



1 (b) Qualifying patients shall register with the department  
2 of public safety. [~~Such~~] The registration shall be effective  
3 until the expiration of the certificate issued by the physician.  
4 Every qualifying patient shall provide sufficient identifying  
5 information to establish the personal identity of the qualifying  
6 patient and the primary caregiver. Qualifying patients shall  
7 report changes in information within five working days. Every  
8 qualifying patient shall have only one primary caregiver at any  
9 given time. The department shall [~~then~~] issue to the qualifying  
10 patient a registration certificate[~~7~~] and may charge a  
11 reasonable fee not to exceed \$25[~~-~~] per year.

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

16 (d) The department may require, in rules adopted under  
17 chapter 91, that a registration be based on information  
18 contained in a designated form completed by or on behalf of a  
19 qualifying patient. The form shall only require information  
20 from the applicant, primary caregiver, and certifying physician  
21 as specifically required or permitted by this chapter.



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1           ~~[(d)]~~ (e) Upon ~~[an]~~ inquiry by a law enforcement agency,  
 2 the department of public safety shall verify whether the  
 3 ~~[particular qualifying patient]~~ subject of the inquiry has  
 4 registered with the department and may provide reasonable access  
 5 to the registry information for official law enforcement  
 6 purposes."

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

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 supply 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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

