
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.

12 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
13 amended by adding two new sections to part IX to be
14 appropriately designated and to read as follows:

15 "§329- Transfers. A qualifying patient or primary
16 caregiver who is registered under section 329-123 may provide
17 usable cannabis or any part of the cannabis plant, including the
18 seeds, seedlings, or clones, to any other qualifying patients or



1 any other registered primary caregivers who are registered under
2 section 329-123; provided that no consideration is paid for the
3 cannabis and that the recipient does not exceed the adequate
4 supply amount specified in section 329-121.

5 §329- Transportation. A qualifying patient who is
6 registered under section 329-123 and who transports cannabis
7 that is intended for medical use shall be immune from searches,
8 seizures, and prosecution for offenses under part IV of chapter
9 712 while in the course of the transport."

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

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

14 "Reimbursement" means consideration provided to primary
15 caregivers as compensation for costs associated with assisting
16 qualifying patients who are registered under section 329-123 to
17 obtain marijuana for medical use. Reimbursement shall not
18 include the sale of controlled substances."

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

21 "Adequate supply" means an amount of [~~marijuana~~] cannabis
22 jointly possessed between the qualifying patient and the primary



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

9 3. By amending the definition of "primary caregiver" to
10 read:

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

20 4. By amending the definition of "written certification"
21 to read:



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

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

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

21 (1) The qualifying patient has been diagnosed by a
22 physician as having a debilitating medical condition;



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

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

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



1 physician shall send a copy of the written certification to the
2 qualifying patient's primary care physician, if any.

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

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

18 The department may require, in rules adopted under
19 chapter 91, that a registration be based on information
20 contained in a designated form completed by or on behalf of a
21 qualifying patient. The form shall only require information



1 from the applicant, primary caregiver, and certifying physician
2 as specifically required or permitted by this chapter.

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

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

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

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

15



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 3 patients at any given time. Allows transfer to another qualified patient and transport of medical marijuana without prosecution. (SD1)

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