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# A BILL FOR AN ACT

RELATING TO MEDICAL USE OF MARIJUANA.

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

1           SECTION 1. Chapter 329, Hawaii Revised Statutes, is  
2 amended by adding a new section to part IX to be appropriately  
3 designated and to read as follows:  
4           "§329-       Reports to the legislature; debilitating medical  
5 conditions. Upon the convening of each regular session, the  
6 department of health shall submit a report to the legislature on  
7 recommendations for additions, deletions, or revisions to the list  
8 of authorized debilitating medical conditions. Three months prior  
9 to the convening of each regular session, the department of health  
10 shall post public notice, at the state capitol and in the office  
11 of the lieutenant governor for public inspection, of the  
12 department's recommendations to the legislature regarding any  
13 additions, deletions, or revisions to the list of authorized  
14 debilitating medical conditions. The department of health shall  
15 draft legislation to implement the recommended additions,  
16 deletions, or revisions to the list of authorized debilitating  
17 medical conditions."



1 SECTION 2. Section 329-32, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) Every person who:

5 (1) Manufactures, distributes, prescribes, or dispenses  
6 any controlled substance within this State;

7 (2) Proposes to engage in the manufacture, distribution,  
8 prescription, or dispensing of any controlled  
9 substance within this State; ~~or~~

10 (3) Dispenses or proposes to dispense any controlled  
11 substance for use in this State by shipping, mailing,  
12 or otherwise delivering the controlled substance from  
13 a location outside this State; or

14 (4) Recommends the medical use of marijuana to patients,  
15 shall obtain a registration issued by the department of public  
16 safety in accordance with the department's rules. A licensed or  
17 registered health care professional who acts as the authorized  
18 agent of a practitioner and who administers controlled  
19 substances at the direction of the practitioner shall not be  
20 required to obtain a registration."



1           2. By amending subsection (e) to read:

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

12           SECTION 3. Section 329-121, Hawaii Revised Statutes, is  
13 amended by amending the definitions of "adequate supply",  
14 "debilitating medical condition", "primary caregiver", and  
15 "written certification" to read as follows:

16           "Adequate supply" means an amount of marijuana jointly  
17 possessed between the qualifying patient and the primary  
18 caregiver that is not more than is reasonably necessary to  
19 assure the uninterrupted availability of marijuana for the  
20 purpose of alleviating the symptoms or effects of a qualifying  
21 patient's debilitating medical condition; provided that an  
22 "adequate supply" shall not exceed [~~three mature marijuana~~



1 ~~plants, four immature]~~ seven marijuana plants[~~7~~] and [~~one ounce]~~  
2 three ounces of usable marijuana [~~per each mature plant~~].

3 "Debilitating medical condition" means:

4 (1) Cancer, glaucoma, positive status for human  
5 immunodeficiency virus, acquired immune deficiency  
6 syndrome, epilepsy, multiple sclerosis, Crohn's  
7 disease, or the treatment of these conditions;

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

11 ~~(A) Cachexia or wasting syndrome;~~

12 ~~(B) Severe pain;~~

13 ~~(C) Severe nausea;~~

14 ~~(D) Seizures, including those characteristic of~~  
15 ~~epilepsy; or~~

16 ~~(E) Severe and persistent muscle spasms, including~~  
17 ~~those characteristic of multiple sclerosis or~~  
18 ~~Crohn's disease; or]~~

19 (2) Seizures characteristic of epilepsy;

20 (3) Severe and persistent muscle spasms caused by multiple  
21 sclerosis or Crohn's disease; or



1       ~~[3]~~ (4) Any other medical condition approved by the  
2           department of health pursuant to administrative rules  
3           in response to a request from a physician or  
4           potentially qualifying patient~~[-]~~ that has been  
5           authorized by the legislature.

6           "Primary caregiver" means a person, other than the  
7           qualifying patient and the qualifying patient's physician, who  
8           is eighteen years of age or older who does not have a felony  
9           conviction and has agreed to undertake responsibility for  
10          managing the well-being of the qualifying patient with respect  
11          to the medical use of marijuana. In the case of a minor or an  
12          adult lacking legal capacity, the primary caregiver shall be a  
13          parent, guardian, or person having legal custody.

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



1 certifications comply with a designated form. "Written  
2 certifications" are valid for only one year from the time of  
3 signing[-] of the permit issued by the department."

4 SECTION 4. Section 329-122, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§329-122 Medical use of marijuana; conditions of use[-];**  
7 **suspension.** (a) Notwithstanding any law to the contrary, the  
8 medical use of marijuana by a qualifying patient shall be  
9 permitted only if:

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

19 (b) Subsection (a) shall not apply to a qualifying patient  
20 under the age of eighteen years, unless:

- 21 (1) The qualifying patient's physician has explained the  
22 potential risks and benefits of the medical use of



1 marijuana to the qualifying patient and to a parent,  
2 guardian, or person having legal custody of the  
3 qualifying patient; and

4 (2) A parent, guardian, or person having legal custody  
5 consents in writing to:

6 (A) Allow the qualifying patient's medical use of  
7 marijuana;

8 (B) Serve as the qualifying patient's primary  
9 caregiver; and

10 (C) Control the acquisition of the marijuana, the  
11 dosage, and the frequency of the medical use of  
12 marijuana by the qualifying patient.

13 (c) The authorization for the medical use of marijuana in  
14 this section shall not apply to:

15 (1) The medical use of marijuana that endangers the health  
16 or well-being of another person;

17 (2) The medical use of marijuana:

18 (A) In a school bus, public bus, or any moving  
19 vehicle;

20 (B) In the workplace of one's employment;

21 (C) On any school grounds;



1 (D) At any public park, public beach, public  
2 recreation center, or recreation or youth center;  
3 or

4 (E) [~~Other~~] At any other place open to the public;  
5 [~~and~~]

6 (3) The use of marijuana by a qualifying patient, parent,  
7 or primary caregiver for purposes other than medical  
8 use permitted by this part[-]; and

9 (4) A qualifying patient or caregiver who maintains or  
10 possesses marijuana plants or usable marijuana at a  
11 particular address or property with other patients or  
12 caregivers, if there are more than twenty-one  
13 marijuana plants or more than nine ounces of usable  
14 marijuana at that location, regardless of the number  
15 of qualifying patients or caregivers who are  
16 maintaining or possessing marijuana at that location.

17 (d) Any person who violates any section under this part  
18 may be suspended from participating in the program by the  
19 administrator for a period of up to three years."

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





1           " ~~[+]~~§329-125~~[+]~~   **Protections afforded to a qualifying**  
2 **patient or primary caregiver.** (a) A qualifying patient or the  
3 primary caregiver may assert the medical use of marijuana as an  
4 affirmative defense to any prosecution involving marijuana under  
5 this ~~[+]~~part~~[+]~~ or chapter 712; provided that the qualifying  
6 patient or the primary caregiver strictly complied with the  
7 requirements of this part.

8           (b) Any qualifying patient or primary caregiver not  
9 complying with the permitted scope of the medical use of  
10 marijuana shall not be afforded the protections against searches  
11 and seizures pertaining to the misapplication of the medical use  
12 of marijuana.

13           (c) Any qualifying patient or primary caregiver who  
14 possesses more than an adequate supply at any given time shall  
15 be in violation of the medical use of marijuana program and  
16 shall not be afforded any protection against arrest or the  
17 seizure of any marijuana recovered.

18           ~~[+e)]~~ (d) No person shall be subject to arrest or  
19 prosecution for simply being in the presence or vicinity of the  
20 medical use of marijuana as permitted under this part."

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



1           " ~~[+]§329-128[+]~~ **Fraudulent misrepresentation; penalty.**

2       (a) Notwithstanding any law to the contrary, fraudulent  
3       misrepresentation in the medical use of marijuana application  
4       form issued by the department or in statements made to a law  
5       enforcement official of any fact or circumstance relating to the  
6       medical use of marijuana to avoid arrest or prosecution under  
7       this part or chapter 712 shall be a ~~[petty misdemeanor and~~  
8       ~~subject to a fine of \$500.]~~ class C felony.

9           (b) Notwithstanding any law to the contrary, fraudulent  
10       misrepresentation in the medical use of marijuana application  
11       form issued by the department or in statements made to a law  
12       enforcement official of any fact or circumstance relating to the  
13       issuance of a written certificate by a physician not covered  
14       under section 329-126 for the medical use of marijuana shall be  
15       a ~~[misdemeanor.]~~ class C felony. This penalty shall be in  
16       addition to any other penalties that may apply for the non-  
17       medical use of marijuana. Nothing in this section is intended  
18       to preclude the conviction of any person under section 710-1060  
19       or for any other offense under part V of chapter 710."

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

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



**Report Title:**

Medical Use of Marijuana

**Description:**

Updates the law relating to the medical use of marijuana by: (1) requiring the Department of Health to submit a report, including draft legislation, to the Legislature on recommendations to the list of authorized debilitating medical conditions; (2) requiring a separate registration at each principal place of business where an applicant recommends the medical use of marijuana; (3) clarifying definitions with respect to medical use of marijuana; (4) establishing a suspension period for those violating the medical marijuana program conditions; (5) limiting the amount of marijuana that can be possessed at a location; and (6) increasing the penalties for fraudulent misrepresentations about the medical use of marijuana. (HB1963 HD1)

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

