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## A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. The legislature finds that the one of the top  
2 recommendations of the "Medical Cannabis Working Group Report to  
3 the Hawaii State Legislature" in 2010 was the transfer of the  
4 administration of Hawaii's medical marijuana law from the  
5 department of public safety to the department of health. The  
6 status of the medical marijuana program as a public health  
7 program is more in keeping with the mission and expertise of the  
8 department of health. The department of health is experienced  
9 in working with patients and health programs, including such  
10 important tasks as public outreach and education, and  
11 safeguarding patient privacy.

12           The purpose of this Act is to transfer the state's medical  
13 use of marijuana program to the department of health.

14           SECTION 2. Section 329-121, Hawaii Revised Statutes, is  
15 amended by amending the definition of "written clarification" to  
16 read as follows:

17           ""Written certification" means the qualifying patient's  
18 medical records or a statement signed by a qualifying patient's



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

14 SECTION 3. Section 329-123, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§329-123 Registration requirements.** (a) Physicians who  
17 issue written certifications shall [~~register the names,~~  
18 ~~addresses, patient identification numbers,~~] provide, in each  
19 certification, the name, address, patient identification number,  
20 and other identifying information of the qualifying patients  
21 [~~issued written certifications with the department of public~~  
22 safety]. The information shall include the physician's



1 attestation that the qualifying patient has one of the  
2 debilitating medical conditions defined under section 329-121  
3 but shall not name or describe the particular condition. If the  
4 physician issuing the written certification is not the  
5 qualifying patient's primary care physician, the issuing  
6 physician shall send a copy of the written certification to the  
7 qualifying patient's primary care physician, if any.

8 (b) Qualifying patients shall register with the department  
9 of [~~public safety.~~] health. The registration shall be effective  
10 until the expiration of the certificate issued by the department  
11 and signed by the physician. Every qualifying patient shall  
12 provide sufficient identifying information to establish the  
13 personal identities of the qualifying patient and the primary  
14 caregiver. Qualifying patients shall report changes in  
15 information within [~~five~~] ten working days. Every qualifying  
16 patient shall have only one primary caregiver at any given time.  
17 The department of health shall [~~then~~] issue to the qualifying  
18 patient a registration certificate[~~7~~] and may charge a  
19 reasonable fee not to exceed \$35[~~7~~] per year.

20 (c) Primary caregivers shall register with the department  
21 of [~~public safety.~~] health. Every primary caregiver shall be



1 responsible for the care of [~~only one~~] not more than five  
2 qualifying [~~patient~~] patients at any given time.

3 (d) The department of health may require, in rules adopted  
4 pursuant to chapter 91, that a registration be based on  
5 information contained in a designated form completed by or on  
6 behalf of a qualifying patient. The form shall only require  
7 information from the applicant, primary caregiver, and  
8 certifying physician as specifically required or permitted by  
9 this chapter.

10 [~~(d)~~] (e) Upon [~~an~~] inquiry by a law enforcement agency,  
11 the department of [~~public safety~~] health shall verify whether  
12 the [~~particular qualifying patient~~] subject of the inquiry has  
13 registered with the department of health and may provide  
14 reasonable access to the registry information for official law  
15 enforcement purposes."

16 SECTION 4. The department of public safety shall  
17 facilitate the transfer of functions pursuant to this Act by  
18 collaborating with, cooperating with, and assisting the  
19 department of health with assuming jurisdiction of and  
20 responsibility for the medical marijuana program as contained in  
21 this Act.



1           In order to facilitate the transfer of functions pursuant  
2 to this Act, until all relevant records are transferred to the  
3 department of health, the duties of the department of public  
4 safety shall include but not be limited to maintaining a  
5 confirmation service of the registration and certification of  
6 physicians, qualifying patients, and primary caregivers,  
7 pursuant to section 329-123, Hawaii Revised Statutes, that is  
8 full time, operating twenty-four hours per day and seven days  
9 per week, and is accessible to the department of health.

10           SECTION 5. All rights, powers, functions, and duties of  
11 the department of public safety relating to the medical use of  
12 marijuana under chapter 329, part IX, Hawaii Revised Statutes,  
13 are transferred to the department of health.

14           All officers and employees whose functions are transferred  
15 by this Act shall be transferred with their functions and shall  
16 continue to perform their regular duties upon their transfer,  
17 subject to the state personnel laws and this Act.

18           All employees who occupy civil service positions and whose  
19 functions are transferred to the department of health by this  
20 Act shall retain their civil service status, whether permanent  
21 or temporary. Employees shall be transferred without loss of  
22 salary, seniority, retention points, prior service credit, any



1 vacation and sick leave credits previously earned, and other  
2 rights, benefits, and privileges in accordance with state  
3 personnel laws and this Act; provided that the employees possess  
4 the minimum qualifications and public employment requirements  
5 for the class or position to which transferred or appointed, as  
6 applicable; and provided further that subsequent changes in  
7 status may be made pursuant to applicable civil service and  
8 compensation laws.

9 Any employee who, prior to this Act, is exempt from civil  
10 service and is transferred as a consequence of this Act, may  
11 continue to retain the employee's exempt status, but shall not  
12 be appointed to a civil service position because of this Act.  
13 An exempt employee who is transferred by this Act shall not  
14 suffer any loss of prior service credit, any vacation and sick  
15 leave credits previously earned, or other employee benefits or  
16 privileges as a consequence of this Act; provided that the  
17 employee possesses legal and public employment requirements for  
18 the position to which the employee is transferred or appointed,  
19 as applicable; and provided further that subsequent changes in  
20 status may be made pursuant to applicable employment and  
21 compensation laws. The director of health may prescribe the



1 duties and qualifications of such employees and fix their  
2 salaries without regard to chapter 76, Hawaii Revised Statutes.

3 If an office or position held by an officer or employee  
4 having tenure is abolished, the officer or employee shall not  
5 thereby be separated from public employment, but shall remain in  
6 the employment of the State with the same pay and classification  
7 and shall be transferred to some other office or position for  
8 which the officer or employee is eligible under the personnel  
9 laws of the State as determined by the head of the department or  
10 the governor.

11 SECTION 6. All appropriations, fees, records, equipment,  
12 machines, files, supplies, contracts, books, papers, documents,  
13 maps, and other personal property heretofore made, used,  
14 acquired, or held by the department of public safety relating to  
15 the functions transferred to the department of health shall be  
16 transferred with the functions to which they relate.

17 SECTION 7. All rules, policies, procedures, guidelines,  
18 and other material adopted or developed by the department of  
19 public safety that are reenacted or made applicable to the  
20 department of health by this Act shall remain in full force and  
21 effect until amended or repealed by the department of health  
22 pursuant to chapter 91, Hawaii Revised Statutes. In the



1 interim, every reference to the department of public safety or  
 2 director of public safety in those rules, policies, procedures,  
 3 guidelines, and other material is amended to refer to the  
 4 department of health or director of health.

5 SECTION 8. All designated forms for written certifications  
 6 issued by the department of public safety shall be valid under  
 7 the department of health until the department of health issues  
 8 new designated forms.

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

11 SECTION 10. This Act shall take effect on July 1, 2013.

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JAN 19 2013





# H.B. NO. 668

**Report Title:**

Medical Marijuana; Department of Health; Department of Public Safety

**Description:**

Transfers departmental jurisdiction of the medical marijuana laws from the Department of Public Safety (DPS) to the Department of Health and requires DPS to assist with the transfer. Effective July 1, 2013.

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

