



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

HOUSE COMMITTEE ON HEALTH, HOUSE COMMITTEE ON PUBLIC SAFETY

HB 668, RELATING TO HEALTH

Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.

Director of Health

February 8, 2013

1 **Department's Position:** COMMENTS.

2 **Fiscal Implications:** Approximately \$100,000 in FY2013-14 and \$200,000 in FY2014-15 is estimated
3 to transition and implement the program. Any appropriation must not adversely impact the priorities
4 described in the Governor's Executive Budget request.

5 **Purpose and Justification:** The purpose of HB668 is to move administration of the Medical Marijuana
6 Program from the Public Safety Department to the Department of Health (DOH).

7

8 If sufficient time and resources are provided, the Department of Health will administer the medical
9 marijuana permitting program with a primary focus on patient. However, significant organizational,
10 regulatory, and programmatic changes are required to establish the program envisioned by the
11 department.

12

13 The proposed implementation date for the program is July 1, 2015. General funds of approximately
14 \$100,000 in FY 2013-14 and \$200,000 in FY 2014-15 are required for startup to:

- 1 • Coordinate with community and government stakeholders, including advocacy and law
- 2 enforcement
- 3 • Assure robust privacy, confidentiality, and information security policies and infrastructure
- 4 • Complete internal reorganization through the budget process, establishing function, program and
- 5 positions
- 6 • Promulgate new medical marijuana administrative rules
- 7 • Establish database, web interfaces, and other IT infrastructure
- 8 • Hire and train new staff and establish an appropriately secure physical office space

9
10 A new special fund into which permit fees are deposited needs to be established by January 1, 2015.

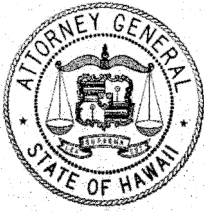
11 Until sufficient special funds are available for program self-sufficiency, general funds will be required.

12 5.0 FTE are necessary beginning from July 1, 2014 for the Department to implement and manage the
13 medical marijuana program.

14
15 Further specificity is requested in statute of the department's required responsibilities under chapter 329,
16 part IX, Hawaii Revised Statutes, to assure all legal and appropriate functions are accounted for and to
17 assess the department's capacity to administer them effectively.

18
19 The Department of Health is open to further discussion on the appropriate placement for the medical
20 marijuana permit program should this bill advance but strongly emphasizes that sufficient time and
21 resources to implement and sustain the program are required.

22
23 Thank you for the opportunity to testify on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013**

ON THE FOLLOWING MEASURE:
H.B. NO. 668, RELATING TO HEALTH.

BEFORE THE:
HOUSE COMMITTEES ON HEALTH AND ON PUBLIC SAFETY

DATE: Friday, February 08, 2013 **TIME:** 8:30 a.m.
LOCATION: State Capitol, Room 329
TESTIFIER(S): David M. Louie, Attorney General, or
Lance M. Goto, Deputy Attorney General.

Chairs Belatti and Aquino and Members of the Committees:

The Department of the Attorney General does not oppose the transfer of the medical marijuana program to the Department of Health, but has concerns about other provisions in this bill.

The purpose of this bill is to transfer jurisdiction of the medical marijuana program from the Department of Public Safety to the Department of Health.

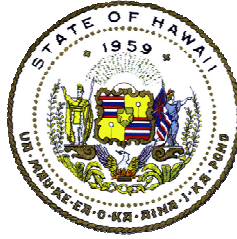
The Department has concerns about two provisions. On page 2, at lines 9-12, the bill provides:

The form may request the address of the location where the marijuana is grown, but the information shall be **confidential** and shall not appear on the registry card issued by the department of health.

As the term "confidential" is not defined, it is not clear who would have access to that information, and who would not.

On page 3, lines 1-3, the bill provides that the physician issuing the written certification shall only attest that the patient has a debilitating medical condition, but shall not identify the condition. It appears to prevent the registering authority from identifying the debilitating medical condition and confirming that the patient qualifies under the law for medical marijuana.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Blvd. 4th Floor
Honolulu, Hawaii 96813

TED SAKAI
INTERIM DIRECTOR

MARTHA TORNEY
Deputy Director
Administration

MAX OTANI
Deputy Director
Corrections

KEITH KAMITA
Deputy Director
Law Enforcement

AMENDED TESTIMONY

No. _____

TESTIMONY ON HOUSE BILL 668 A BILL FOR AN ACT RELATING TO HEALTH

By

Ted Sakai, Interim Director
Department of Public Safety

House Committee on Health
Representative Della Au Belatti, Chair
Representative Dee Morikawa, Vice Chair

House Committee on Public Safety
Representative Henry J.C. Aquino, Chair
Representative Kaniela Ing, Vice Chair

Friday, February 8, 2013, 8:30 AM
State Capitol, Room 329

Chairs Belatti and Aquino, Vice Chairs Morikawa and Ing, and Members of the Committees:

The Department of Public Safety (PSD) **supports** House Bill 668, which transfers the state's medical use of marijuana program from our Department to the Department of Health (DOH). We have administered this program since its inception in 2000, and we are proud of the work of our Narcotics Enforcement Division in building it literally from the ground up. However, the primary focus of this program should be on the health of the qualifying patients. As such the Department of Health is better suited for managing it. We stand ready to assist in the smooth transition of the program from our Department to Health.

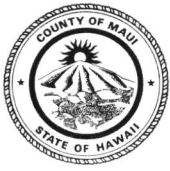
We do note that besides the transfer, this bill would amend several sections of the medical marijuana law. We offer our perspective on some of these proposed amendments. Although it is more than ten years old, the

program remains controversial, and it remains illegal to possess marijuana without the medical certificate. For example, the law requires that we verify that a qualifying patient is registered, and that we provide reasonable access to registry information for official law enforcement purposes. It would then seem to be in the patient's best interest to report changes in informant as soon as possible, so the registry information can be as current as possible. In this context, it does not seem advisable to extend the time for reporting changes from five days to ten days.

With regard to the proposed changes in written certification, registration requirements, and rule requirements, we advise that you proceed with caution. Our Law Enforcement Division has a duty to enforce the laws against the possession, use and distribution of marijuana, with the exception of certified medical marijuana user patients and caregivers. The stringent certification process employed by PSD has made it possible to readily differentiate between legal and illegal users of marijuana, so that access to the needed therapies for certified patients and caregivers remains uninterrupted, while allowing for the apprehension of illegal users and traffickers, in accordance with federal and state laws.

In FY 2012, the Department's Narcotics Enforcement Division conducted 950 medical marijuana verification checks for Federal, State, and County law enforcement agencies. These were conducted by NED Investigators due to the possibility of needing the information for prosecutorial purposes, with each check taking up to 15 minutes. While ensuring increased privacy, the bill's relaxation of required information on certification cards is a concern for Law Enforcement, as it may make it more difficult to conduct the needed verifications.

Thank you for the opportunity to provide our comments.



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

**55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411**

February 07, 2013



GARY A. YABUTA
CHIEF OF POLICE

CLAYTON N.Y.W. TOM
DEPUTY CHIEF OF POLICE

The Honorable Henry J. C. Aquino, Chair
And Members of the Committee on Public Safety
House of Representatives
State Capitol
Honolulu, Hawaii 96813

The Honorable Della Au Belatti, Chair
And Members of the Committee on Health
House of Representatives
State Capitol
Honolulu, Hawaii 96813

RE: House Bill No. 668, RELATING TO HEALTH

Dear Chair Aquino and Au Belatti, and Members of the Committees:

The Maui Police Department OPPOSES the passage of H.B. No. 668.

The passage of this bill transfers departmental jurisdiction of the medical marijuana laws from the Department of Public Safety (DPS) to the Department of Health (DOH) and requires DPS to assist with the transfer, effective July 1, 2013.

The Maui Police Department strongly opposes this bill because it opens the floodgates to abuses in the current medical marijuana laws. This bill has many unanswered questions that would be a result of it passing. These are a few questions and concerns that we would like to poses for the committees to consider:

Why would we allow a patient to be certified by any physician other than their primary physician? This will allow doctor shopping. The potential for multiple prescription abuse could be a result.

Why have the patient register with the Department of Health? The Department of Health is not a law enforcement entity and are not in the position to regulate and enforce medical marijuana violations in conjunction with the issuing of the permit. There is at least a regulating component with Department of Public Safety.

The Honorable Henry J. C. Aquino, Chair
And Members of the Committee on Public Safety

The Honorable Della Au Belatti, Chair
And Members of the Committee on Health
February 7, 2013
Page 2

Allowing a caregiver the opportunity to grow marijuana for up to five qualifying patients is an invitation for criminals to rob or steal from the property. It should be only one caregiver to one patient.

The Maui Police Department again asks that you OPPOSE the passage of H.B. No. 668.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary A. Yabuta', with a stylized flourish at the end.

GARY A. YABUTA *GA*
Chief of Police



Committee: Committee on Health
Committee on Public Safety
Hearing Date/Time: Friday, February 8, 2013, 8:30 a.m.
Place: Conference Room 329
Re: Testimony of the ACLU of Hawaii in Support of H.B. 668,
Relating to Health

Dear Chairs Belatti and Aquino and Members of the Committee:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of H.B. 668, Relating to Health, which transfers jurisdiction over Hawaii’s medical cannabis program from the Department of Public Safety to the Department of Health.

In June of 2000, the Hawaii legislature made the unprecedented decision to legalize cannabis for medical reasons—the first state to do so without a voter initiative. By recognizing the value of medical cannabis and giving it a legal status, the state gave credence to the needs of pained and ailing patients and recognized the comprehensive research conducted by the Congressionally chartered Institute of Medicine (IOM) and the support and analysis of numerous professional and medical organizations.¹

Despite widespread recognition that cannabis has medicinal value and despite state recognition that qualifying individuals should have access to it, the current Hawaii medical cannabis program is flawed. As a member of the Medical Cannabis Working Group, the ACLU of Hawaii is aware of many problems that patients have with the medical marijuana program – including incidents such as the Department of Public Safety’s release of patient names and addresses to a Hilo newspaper in June 2008. This incident compromised the safety and privacy of medical cannabis patients and is just one indication that a health-related program like Hawaii’s medical cannabis program ought to be housed in the Department of Health, rather than the Department of Public Safety. As the Working Group reported:

Hawai‘i medical cannabis regulations are best handled through the Hawai‘i State Department of Health (“DOH”), not [the Department of Public Safety’s Narcotics Enforcement Division], to ensure the protection of qualified patients, caregivers, and dispensaries. General regulatory

¹ Janet E. Joy, Stanley J. Watson, Jr., and John A. Benson, Jr. Marijuana and Medicine: Assessing the Science Base, Division of Neuroscience and Behavioral Research, Institute of Medicine (Washington DC: National Academy Press, 1990).

American Civil Liberties Union of Hawai‘i
P.O. Box 3410
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Chairs Belatti and Aquino and HLT-PBS Committee Members
February 8, 2013
Page 2 of 2

oversight duties – including permitting, record maintenance and related protocols - should be the responsibility of DOH. Given the statutory mission and responsibilities of DOH, it is the natural choice and best-suited agency to address the regulation of any medical cannabis dispensing model. Law enforcement agencies are ill suited for handling such matters, having little or no expertise in horticultural, health and medical affairs.

The full report is available at <http://www.acluhawaii.org/downloads/1002MCWG.pdf>. The responsibility of regulating and monitoring Hawaii's medical marijuana program should be placed in the right hands and we urge you to support H.B. 688.

Thank you for this opportunity to testify.

Sincerely,
Laurie A. Temple
Staff Attorney and Legislative Program Director
ACLU of Hawaii

The American Civil Liberties Union of Hawaii ("ACLU") has been the state's guardian of liberty for 47 years, working daily in the courts, legislatures and communities to defend and preserve the individual rights and liberties equally guaranteed to all by the Constitutions and laws of the United States and Hawaii. The ACLU works to ensure that the government does not violate our constitutional rights, including, but not limited to, freedom of speech, association and assembly, freedom of the press, freedom of religion, fair and equal treatment, and privacy. The ACLU network of volunteers and staff works throughout the islands to defend these rights, often advocating on behalf of minority groups that are the target of government discrimination. If the rights of society's most vulnerable members are denied, everyone's rights are imperiled.

American Civil Liberties Union of Hawaii
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