
A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

1 SECTION 1. The legislature finds that the State's medical
2 marijuana program was enacted into law in 2000 as a public
3 health program conceived out of compassion for the health and
4 welfare of the seriously ill. After twelve 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 three 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 marijuana or any part of the marijuana plant, including
18 seeds, seedlings, or clones, to any other qualifying patient or



1 any other primary caregiver who is registered under section 329-
2 123; provided that no consideration is paid for the marijuana
3 and that the total amount of marijuana possessed by the
4 recipient does not exceed the adequate supply amount specified
5 in section 329-121.

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

11 **§329- Authorized conduct by a visiting qualifying**
12 **patient.** A qualifying patient who is visiting the State from
13 another jurisdiction that authorizes the medical use of
14 marijuana pursuant to a law recognized by the department of
15 health and who possesses a valid registry identification card or
16 its equivalent and photographic identification from that
17 jurisdiction may for thirty days after entering the State engage
18 in conduct authorized for a qualifying patient under this
19 chapter."

20 SECTION 3. Section 329-121, Hawaii Revised Statutes, is
21 amended to read as follows:

22 **"§329-121 Definitions.** As used in this part:



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

11 "Debilitating medical condition" means:

- 12 (1) Cancer, glaucoma, positive status for human
13 immunodeficiency virus, acquired immune deficiency
14 syndrome, or the treatment of these conditions;
- 15 (2) A chronic or debilitating disease or medical condition
16 or its treatment that produces one or more of the
17 following:
- 18 (A) Cachexia or wasting syndrome;
 - 19 (B) Severe pain;
 - 20 (C) Severe nausea;
 - 21 (D) Seizures, including those characteristic of
22 epilepsy; or



1 (E) Severe and persistent muscle spasms, including
2 those characteristic of multiple sclerosis or
3 Crohn's disease; or

4 (3) Any other medical condition approved by the department
5 of health pursuant to administrative rules in response
6 to a request from a physician or potentially
7 qualifying patient.

8 "Marijuana" shall have the same meaning as "marijuana" and
9 "marijuana concentrate" as provided in sections 329-1 and 712-
10 1240.

11 "Medical use" means the acquisition, possession,
12 cultivation, use, distribution, or transportation of marijuana
13 or paraphernalia relating to the administration of marijuana to
14 alleviate the symptoms or effects of a qualifying patient's
15 debilitating medical condition. For the purposes of "medical
16 use", the term distribution is limited to the transfer of
17 marijuana and paraphernalia [~~from the primary caregiver to the~~
18 ~~qualifying patient.~~] among qualifying patients and primary
19 caregivers.

20 "Physician" means a person who is licensed to practice
21 under chapter 453 and is licensed with authority to prescribe
22 drugs and is registered under section 329-32. "Physician" does



1 not include physician's assistant or advanced practice
2 registered nurse with prescriptive authority as described in
3 section 453-5.3 or 457-8.6.

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

13 "Qualifying patient" means a person who has been diagnosed
14 by a physician as having a debilitating medical condition.

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

20 "Usable marijuana" means the dried leaves and flowers of
21 the plant Cannabis family Moraceae, and any mixture [+]or[+]
22 preparation thereof, that are appropriate for the medical use of



1 marijuana. "Usable marijuana" does not include the seeds,
2 stalks, and roots of the plant.

3 "Written certification" means the qualifying patient's
4 medical records or a statement signed by a qualifying patient's
5 physician, stating that in the physician's professional opinion,
6 the qualifying patient has a debilitating medical condition and
7 the potential benefits of the medical use of marijuana would
8 likely outweigh the health risks for the qualifying patient.
9 The department of [~~public safety~~] health may require, through
10 its rulemaking authority, that all written certifications comply
11 with a designated form. "Written certifications" are valid for
12 only 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 by a qualifying patient shall be permitted only
17 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 marijuana



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

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

7 "**§329-123 Registration requirements.** (a) Physicians who
8 issue written certifications shall [~~register the names,~~
9 ~~addresses, patient identification numbers,~~] provide, in each
10 written certification, the name, address, patient identification
11 number, and other identifying information of the [patients
12 ~~issued written certifications with the department of public~~
13 ~~safety.]~~ qualifying patient. The department of health may
14 require, in rules adopted pursuant to chapter 91, that all
15 written certifications comply with a designated form completed
16 by or on behalf of a qualifying patient. The form shall only
17 require information from the applicant, primary caregiver, and
18 certifying physician as specifically required or permitted by
19 this chapter. The form may request the address of the location
20 where the marijuana is grown, but that information shall be
21 confidential and shall not appear on the registry card issued by
22 the department of health. The information required shall



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

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



1 (c) Primary caregivers shall register with the department
 2 of [~~public safety~~] health. Every primary caregiver shall be
 3 responsible for the care of [~~only one~~] not more than five
 4 qualifying [~~patient~~] patients at any given time.

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

11 SECTION 6. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

13 SECTION 7. This Act does not affect rights and duties that
 14 matured, penalties that were incurred, and proceedings that were
 15 begun before its effective date.

16 SECTION 8. This Act shall take effect on July 1, 2013.

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INTRODUCED BY: Willa A. Beloffi

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H.B. NO. 667

Report Title:

Medical Marijuana; Uniform Controlled Substances Act

Description:

Amends aspects of the Medical Use of Marijuana regime: defining adequate supply, confidentiality of growing sites, certifying physician requirements, confidentiality of patient's condition, caregiver to patient ratio, transportation of medical marijuana, qualifying visitors, and registration requirements. Effective July 1, 2013.

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