

JAN 18 2013

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

11           The purpose of this Act is to transfer the State's medical  
12 use of marijuana program to the department of health and to make  
13 the administration of the program more efficient.

14           SECTION 2. Section 329-121, Hawaii Revised Statutes, is  
15 amended by amending the definition of "written certification" 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; provided that the information  
11 shall be confidential and shall not appear on the registry card  
12 issued by the department of health. "Written certifications"  
13 are valid 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 [~~patients issued~~  
21 ~~written certifications with the department of public safety.~~]  
22 qualifying patient. The certification shall include the



1 physician's attestation that the qualifying patient has one of  
2 the debilitating medical conditions defined in 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 shall [~~then~~] issue to the qualifying patient a  
18 registration certificate[~~7~~] and may charge a reasonable fee not  
19 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, pursuant to  
4 rules adopted under 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 part.

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 and may provide reasonable access  
14 to the registry information for official law enforcement  
15 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 to implement provisions of the Hawaii Revised  
20 Statutes which are reenacted or made applicable to the  
21 department of health by this Act, shall remain in full force and  
22 effect until amended or repealed by the department of health



1 pursuant to chapter 91, Hawaii Revised Statutes. In the  
2 interim, every reference to the department of public safety or  
3 director of public safety in those rules, policies, procedures,  
4 guidelines, and other material is amended to refer to the  
5 department of health or director of health as appropriate.

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

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

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

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INTRODUCED BY: Will Espero  
Ronald de Bebe





# S.B. NO. 685

**Report Title:**

Medical Use of Cannabis; Transfer of Program Administration

**Description:**

Transfers departmental jurisdiction of the medical marijuana laws from PSD to DOH and requires PSD to assist with the transfer. Effective 07/01/2013.

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

