
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 in the interest of
2 public health and safety, regulatory oversight is needed
3 regarding the State's medical use of marijuana statutes. While
4 the legislature affirmed the need of qualified patients to
5 utilize this controlled substance for medical purposes, the lack
6 of regulation regarding potency, dosage, quality control, and
7 distribution leaves those same citizens lacking in effective
8 care.

9 The purpose of this Act is to:

- 10 (1) Further define marijuana for medical use;
11 (2) Create standards for dosage and potency regarding
12 qualifying conditions; and
13 (3) Create licensing and operational regulations for
14 manufacturers and dispensaries for medical marijuana.

15 SECTION 2. Section 329-121, Hawaii Revised Statutes, is
16 amended to read as follows:

17 " [+] PART IX. [+] **MEDICAL USE OF MARIJUANA**



1 **§329-121 Definitions.** As used in this part:

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



1 (D) Seizures, including those characteristic of
2 epilepsy; or

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

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

10 "Dispensary" means an entity registered with the department
11 of public safety and licensed by the department of health to
12 dispense marijuana for medical use.

13 "Manufacturer" means an entity registered with the
14 department of public safety and licensed by the department of
15 health to cultivate, acquire, manufacture, possess, prepare,
16 transfer, transport, or supply marijuana for medical use.

17 "Marijuana for medical use" or "medical marijuana" means
18 any species of the genus cannabis plant, or any mixture or
19 preparation of them, including whole plant extracts and resins,
20 and is delivered in the form of:

21 (1) Liquid, including, but not limited to, oil;



- 1 (2) Pill;
- 2 (3) Vaporized delivery method with use of liquid or oil
- 3 but which does not require the use of dried leaves or
- 4 plant form; or
- 5 (4) Any other method, excluding smoking, as approved by
- 6 the department of health.

7 [~~"Marijuana" shall have the same meaning as "marijuana" and~~

8 ~~"marijuana concentrate" as provided in sections 329-1 and 712-~~

9 ~~1240.]~~

10 [~~"Medical use" means the acquisition, possession,~~

11 ~~cultivation, use, distribution, or transportation of marijuana~~

12 ~~or paraphernalia relating to the administration of marijuana to~~

13 ~~alleviate the symptoms or effects of a qualifying patient's~~

14 ~~debilitating medical condition. For the purposes of "medical~~

15 ~~use", the term distribution is limited to the transfer of~~

16 ~~marijuana and paraphernalia.]~~

17 "Physician" means a person who is licensed to practice

18 under chapter 453 and is licensed with authority to prescribe

19 drugs and is registered under section 329-32. "Physician" does

20 not include physician's assistant or advanced practice



1 registered nurse with prescriptive authority as described in
2 section 453-5.3 or 457-8.6.

3 "Primary caregiver" means a person eighteen years of age or
4 older, other than the qualifying patient and the qualifying
5 patient's physician, who has agreed to undertake responsibility
6 for managing the well-being of the qualifying patient with
7 respect to the medical use of marijuana. In the case of a minor
8 or an adult lacking legal capacity, the primary caregiver shall
9 be a parent, guardian, or person having legal custody.

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

12 [~~"Usable marijuana" means the dried leaves and flowers of
13 the plant Cannabis family Moraceae, and any mixture or
14 preparation thereof, that are appropriate for the medical use of
15 marijuana. "Usable marijuana" does not include the seeds,
16 stalks, and roots of the plant.]~~

17 "Written certification" means the qualifying patient's
18 medical records or a statement signed by a qualifying patient's
19 physician, stating that in the physician's professional opinion,
20 the qualifying patient has a debilitating medical condition and
21 the potential benefits of the medical use of marijuana would



1 likely outweigh the health risks for the qualifying patient.
2 The department of health may require, through its rulemaking
3 authority, that all written certifications comply with a
4 designated form. "Written certifications" are valid for only
5 one year from the time of signing."

6 SECTION 3. Chapter 329, Hawaii Revised Statutes, is
7 amended by adding 4 new sections to be appropriately designated
8 and to read as follows:

9 "§329-A Potency and Dosage. The department of health
10 shall review and publicly report the medical and scientific
11 findings regarding potency requirements, dosage recommendations,
12 and chemical compositions of any plant of the genus cannabis
13 that could be beneficial for each debilitating medical
14 condition. The department shall submit its first report to the
15 legislature no later than twenty days before the convening of
16 the regular session of 2016. The information shall then be made
17 available and distributed to qualifying patients, primary
18 caregivers, physicians, dispensaries, and manufacturers by
19 January 31, 2016. The information in this report shall be
20 updated and distributed annually.



1 §329-B Manufacturer Licensing. (a) In accordance with
2 sections 329-32 and 329-33, a manufacturer of marijuana for
3 medical use must be registered with the department of public
4 safety. Due to the nature of marijuana as a controlled
5 substance, a manufacturer must also be licensed by the
6 department of health. No more than two manufacturers shall be
7 licensed at any one time in the State, and one manufacturer must
8 be licensed prior to December 31, 2015. The department shall
9 consider for licensing only those entities meeting, at a
10 minimum, the following requirements:

11 (1) A manufacturer shall contract with a laboratory for
12 purposes of testing its product for content,
13 contamination, and consistency to verify that the
14 marijuana fulfills the guidelines of the potency and
15 dosage report as defined by section 329-A and
16 distributed by the department of health. The cost of
17 laboratory testing shall be paid by the manufacturer.

18 (2) A manufacturer must be able to consistently supply
19 marijuana for medical use in the approved forms as
20 defined in this section.



- 1 (3) A manufacturer is subject to sections 329-35, 329-36,
2 329-37, 329-38, and 329-39, and accordingly, must
3 develop and maintain:
- 4 (A) Procedures for internal oversight;
5 (B) Procedures to ensure accurate record keeping;
6 (C) Procedures for prescription tracking and product
7 labeling; and
- 8 (D) Procedures for the implementation of appropriate
9 security measures to deter and prevent the theft
10 of marijuana for medical use and unauthorized
11 entrance into areas containing the controlled
12 substance, including a fully operational security
13 alarm system, facility access controls, perimeter
14 intrusion detection systems, and a personnel
15 identification system.
- 16 (4) A manufacturer shall not share office space with,
17 refer patients to a physician, or have any financial
18 relationship with a physician.
- 19 (5) A manufacturer may not employ any person who is under
20 twenty-one years of age or who has been convicted of a
21 felony offense under section 329, or part IV of



1 chapter 712. Each employee must submit a completed
2 criminal history record check consent form and a full
3 set of classifiable fingerprints for submission to the
4 department of health according to the criminal
5 background check requirements of section 846-2.7. The
6 department must conduct a Hawaii criminal history
7 record check and is authorized to exchange the
8 fingerprints with the Federal Bureau of Investigation
9 to obtain the applicant's national criminal history
10 record information.

11 (b) A manufacturer shall operate a single location for
12 cultivation, harvesting, manufacturing, packaging, and
13 processing of marijuana for medical use. The facility must be
14 operational and begin distribution of marijuana for medical use
15 by July 1, 2016.

16 (c) Each manufacturer shall report to the department of
17 health on a monthly basis:

18 (1) The amount, dosages, and chemical composition of
19 marijuana for medical use that the manufacturer
20 distributed; and



1 (2) The tracking number assigned to the marijuana for
2 medical use that the manufacturer distributed.

3 (d) Each manufacturer shall be reviewed annually for
4 license renewal by the department of health to ensure regulatory
5 compliance.

6 (e) A manufacturer shall pay to the department of health
7 fees of \$5,000 for its initial licensing application and \$2,500
8 per year thereafter to retain its license.

9 §329-C Dispensary Licensing. (a) In accordance with
10 sections 329-32 and 329-33, a dispensary of marijuana for
11 medical use must be registered with the department of public
12 safety. Due to the nature of marijuana as a controlled
13 substance, a dispensary must also be specially licensed as a
14 dispenser of medical marijuana by the department of health. No
15 more than three dispensaries shall be licensed per county at any
16 one time, and no more than ten dispensaries licensed at any one
17 time in the State. No less than two dispensaries must be
18 licensed prior to December 31, 2015. The department shall
19 consider for licensing only those entities meeting, at a
20 minimum, the following requirements:



- 1 (1) A dispensary shall have functioned as a pharmacy in
2 accordance with chapter 461, or as a clinic in
3 accordance with section 329-31.5, for no less than
4 five years.
- 5 (2) A dispensary shall have in their employ no more than
6 four registered pharmacists to be listed in their
7 license as authorized dispensers. No other employee
8 of the dispensary is permitted to handle, process,
9 dispense, or distribute marijuana for medical use.
- 10 (3) A dispensary may not employ a registered pharmacist
11 who is under twenty-one years of age or who has been
12 convicted of a felony offense under section 329, or
13 part IV of chapter 712. Each pharmacist must submit a
14 completed criminal history record check consent form
15 and a full set of classifiable fingerprints for
16 submission to the department of health according to
17 the criminal background check requirements of section
18 846-2.7. The department must conduct a Hawaii
19 criminal history record check and is authorized to
20 exchange the fingerprints with the Federal Bureau of



1 Investigation to obtain the applicant's national
2 criminal history record information.

3 (4) A dispensary is subject to sections 329-35, 329-36,
4 329-37, 329-38, 329-39 and, in accordance, must show
5 proof of:

6 (A) Procedures for internal oversight;

7 (B) Procedures to ensure accurate record keeping;

8 (C) Procedures for prescription tracking and product
9 labeling; and

10 (D) Procedures for the implementation of appropriate
11 security measures to deter and prevent the theft
12 of marijuana for medical use and unauthorized
13 entrance into areas containing the controlled
14 substance, including a fully operational security
15 alarm system, facility access controls, perimeter
16 intrusion detection systems, and a personnel
17 identification system.

18 (b) A dispensary shall utilize the guidelines of the
19 potency and dosage report as defined by section 329-A to
20 determine the correct treatment for the qualifying patient
21 according to the diagnosis of the physician.



1 (c) A dispensary shall only dispense marijuana for medical
2 use to a registered qualifying patient or their registered
3 primary caregiver.

4 (d) Each dispensary shall report to the department of
5 health on a monthly basis:

6 (1) The amount, dosages, and chemical composition of
7 marijuana for medical use dispensed; and

8 (2) The tracking number assigned to the marijuana for
9 medical use dispensed.

10 (e) Each dispensary shall be reviewed annually for license
11 renewal by the department of health to ensure compliance with
12 all of the above regulations.

13 (f) A dispensary shall pay to the department of health
14 fees of \$2,500 for its initial licensing application and \$1,000
15 per year thereafter to retain its license.

16 **§329-D Intentional diversion; penalty.** (a)
17 Notwithstanding any law to the contrary, a manufacturer or
18 dispensary, or any agent thereof, who intentionally sells,
19 provides, dispenses, distributes, or otherwise transfers
20 marijuana for medical use to any individual or entity other than
21 a registered qualifying patient or primary caregiver, or



1 licensed manufacturer or dispensary shall be guilty of a class C
2 felony. The manufacturer or dispensary shall immediately lose
3 its license with the department of health.

4 (b) Notwithstanding any law to the contrary, any
5 qualifying patient, primary caregiver, or connected individual
6 who intentionally sells, provides, dispenses, distributes, or
7 otherwise transfers marijuana for medical use to any individual
8 or entity other than a registered qualifying patient or primary
9 caregiver shall be guilty of a class C felony. The connected
10 patient's qualifying status will immediately be reviewed for
11 possible revocation."

12 SECTION 4. The department of public safety and department
13 of health shall adopt rules pursuant to chapter 91 to effectuate
14 the purpose of this Act.

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect on July 1, 2015;
18 provided that the amendments made to section 329-121, Hawaii
19 Revised Statutes, by section 2 of this Act shall take effect
20 July 1, 2016.

21



H.B. NO. 1485

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Paul M. ...", written over a horizontal line.

JAN 29 2015



H.B. NO. 1485

Report Title:

Medical Marijuana; Licensing of Manufacturers and Dispensaries

Description:

Establishes duties and oversight of manufacturers and dispensaries for distribution of marijuana for medical use. Amends the definition of marijuana for medical use and creates requirements for potency and dosages.

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

