

baker3 - James

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 1:08 PM
To: CPH Testimony
Cc: ncsugano@gmail.com
Subject: *Submitted testimony for HB2707 on Mar 15, 2016 09:00AM*

Categories: Late

HB2707

Submitted on: 3/14/2016

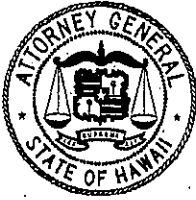
Testimony for CPH on Mar 15, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jari S.K. Sugano	Individual	Support	No

Comments:

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LATE

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

H.B. NO. 2707 , H.D. 1, RELATING TO MEDICAL MARIJUANA.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Tuesday, March 15, 2016 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Tara K.C.S. Molnar, Deputy Attorney General

Chair Baker and Members of the Committee:

The Department of the Attorney General has the following comments regarding this bill.

This measure would amend section 329-43.5, Hawaii Revised Statutes (HRS), to add a subsection that would exempt persons authorized to use, cultivate, or possess marijuana pursuant to part IX of chapter 329, HRS, from prohibited acts related to drug paraphernalia if they use, possess with intent to use or deliver, deliver, or manufacture with intent to deliver drug paraphernalia consistent with the cultivation, manufacture, possession, provision, sale, or use of marijuana or manufactured marijuana products authorized pursuant to part IX of chapter 329, HRS, or chapter 329D, HRS (page 30, line 11, through page 31, line 2). It also amends section 329D-2, Hawaii Revised Statutes (HRS), to add a definition for "plant" and allow dispensary licensees to engage one or more subcontracting operators or service contractors (page 41, line 1, through page 42, line 2). The measure would also amend section 329-122, HRS, to allow for the transport of medical marijuana for testing purposes between counties and islands only when "no certified laboratory is available in the county or on the island where the dispensary is located" (page 36, lines 7-9, and page 46, lines 9-13). It would also allow several laboratories within the University of Hawaii system to conduct independent laboratory testing for the certification of marijuana and manufactured marijuana products and research regarding medical marijuana (page 52, line 14, through page 53, line 7).

The proposed exemption to section 329-43.5, HRS, contains terms such as "cultivation," "manufacture," and "sale" that are inconsistent with the terms "production" and "dispense" as defined in section 329D-1, HRS. "Production" as defined in section 329D-1, HRS, includes the cultivating of marijuana as well as the "manufacture of medical marijuana products." "Dispense"

refers to "the act of a licensed dispensary providing marijuana or manufactured marijuana products to a qualifying patient or a primary caregiver for a fee," which would appear to include sales of marijuana and manufactured marijuana products. These ambiguities may be resolved by replacing the terms "cultivating" and "manufacture" with "produce" or "production," and "sale" with "dispense."

The proposed definition of "service contractor" (page 41, lines 8-16) allows a person or entity under contract with a licensed dispensary to engage in any work or service related to product testing, among other things, and without further clarification this definition creates an inconsistency with the proposed definition for "certified laboratory." It is unclear whether a service contractor may test marijuana and manufactured marijuana products, and whether a service contractor may do so without meeting the stringent certification standards set forth in section 329D-8, HRS, and chapter 11-850, Hawaii Administrative Rules (HAR), for laboratories. These inconsistencies may be resolved either by clarifying that a service contractor who performs testing must meet the certification standards in chapter 329D, HRS, and the administrative rules, or by deleting the reference to product testing.

The proposed definition of "subcontracting operator" (page 41, line 17, through page 42, line 2) allows a person or entity under contract with a licensed dispensary to "perform any cultivating, dispensing, manufacturing, or selling of marijuana or marijuana products." Section 329D-1, HRS, currently contains definitions for "production," "dispensing," and "manufactured marijuana products." It appears that the proposed wording would refer to these existing definitions in section 329D-1, as "production" is defined in that section as "planting, cultivating, growing or harvesting of marijuana," and "dispensing" as the "act of a licensed dispensary providing marijuana or manufactured marijuana products to a qualifying patient or a primary caregiver for a fee." Likewise, it appears that "marijuana products" would refer to the existing definition "manufactured marijuana products." These ambiguities may be resolved by replacing the terms "cultivating" and "marijuana products" in the proposed definition of "subcontracting operator" with "production" and "manufactured marijuana products" respectively, and deleting the term "selling," as the term "dispensing" already includes sales of marijuana and manufactured marijuana products to qualifying patients or primary caregivers.

A proposed definition for “plant” appears at page 41, lines 1-7. Currently, section 329D-2, HRS, limits a production center to three thousand plants. However, the proposed definition of plant excludes many other things that would otherwise be considered a “plant” in common usage, such as seedlings, cuttings, or immature plants. Thus a dispensary could have seedlings, cuttings, or immature plants that would not be counted toward this three thousand plant limit. If the intent of 329D-2, HRS, is to include seedlings, cuttings, and immature plants as part of the three thousand plant limit, then it may be helpful to amend the proposed definition for "plant" to include seedlings, cuttings, or immature plants.

The provision that allows for the transport of marijuana between counties and islands raises concerns (page 36, lines 7-9, and page 46, lines 9-13). Interisland travel in most instances involves travel outside the State’s jurisdiction and entering federal jurisdiction. State law cannot protect a person from federal prosecution or provide a defense for actions taken outside the state’s jurisdiction. In addition, this provision does not specify who may transport or the amount of marijuana transported for testing purposes. If the committee is inclined to retain this provision, we recommend that it specify who may transport marijuana and the amount of marijuana to be transported for testing purposes to ensure that the State maintains the robust regulatory scheme required by the U.S. Department of Justice (DOJ) Memorandum for All United States Attorneys dated August 29, 2013 (the Cole memo).

Section 19 of this measure, which allows several laboratories within the University of Hawaii system to conduct independent laboratory testing and research regarding medical marijuana (page 52, line 14, through page 53, line 7) currently does not require these laboratories to meet the stringent certification requirements of section 329D-8, HRS, and chapter 11-850, HAR. In addition, section 19 does not include wording that allows these laboratories to charge licensed dispensaries for testing services, thereby allowing private commercial enterprises to receive government services for free. To ensure the safety of qualifying patients and prevent private enterprises such as licensed dispensaries from obtaining a subsidy of sorts, we recommend that section 19 be amended to require the laboratories to meet certification requirements and allow them to charge for testing services.

The Department of the Attorney General respectfully recommends that the Committee amend the bill as suggested.

baker3 - James

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 4:01 PM
To: CPH Testimony
Cc: mark.gordon333@gmail.com
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM

HB2707

Submitted on: 3/14/2016

Testimony for CPH on Mar 15, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Gordon	Individual	Support	No

Comments: Aloha Please SUPPORT HB 2707 including permitting inter island transport for lab testing of small medical marijuana samples. To allow easier access, especially with a large number of patient working on weekdays and sometimes Saturdays, dispensaries should be allowed to be open on Sundays. In Section 329-43.5 of the revised Bill, any individuals found violating this section on drug paraphernalia should not be charged with anything more than a misdemeanor, if charged with anything. Certainly charging a violation of this Section as a Felony is totally unreasonable and not warranted, since marijuana type paraphernalia in no way causes harm to the any of the public. This felony language is archaic and part of the old War on Drugs and should be stricken from the Bill. Advanced Practice Nurse Practitioners (APRN) should be allowed to make recommendations for patients. They are qualified since they have privileges to prescribe controlled substances. There are at most 2-3 physicians for all the patients on Hawaii Island. Only 10 physicians allow their names and contact information to be given out to inquiring patients. In addition, it is my understanding that the Medical Cannabis Coalition of Hawaii fields multiple requests each week and the number of patients seeking physicians is expected to grow once dispensaries are in place. Your consideration of these proposed suggested changes and comments are appreciated. Respectfully submitted, Mark Gordon Waikoloa HI.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 4:22 PM
To: CPH Testimony
Cc: andreatischler@yahoo.com
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM

HB2707

Submitted on: 3/14/2016

Testimony for CPH on Mar 15, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Tischler	Americans for Safe Access Big Island Chapter	Support	No

Comments: Big Island Americans for Safe Access support this bill which will benefit medical cannabis patients. Please pass the bill out of your committee.

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LATE

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY



THE HONORABLE ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE,
CONSUMER PROTECTION, AND HEALTH
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawai'i

March 15, 2016

RE: H.B. 2707; RELATING TO MEDICAL MARIJUANA.

Chair Baker, Vice-Chair Kidani and members of the Senate Committee on Commerce, Consumer Protection, and Health, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition to H.B. 2707, H.D. 1.

The purpose of H.B. 2707, H.D. 1 is (1) to clarify and amend statutes to conform to the medical marijuana dispensary system, (2) ensure an efficient and responsible operation of medical marijuana dispensaries and (3) to ensure access to any and all qualifying patients. Our Department has always taken the position that strict regulations should be maintained to facilitate effective enforcement and control of medical marijuana. In regards to H.B. 2707, H.D. 1, our Department specifically opposes the amendments to section 8 and section 9 regarding health care professionals.

Section 8 of H.B. 2707, H.D. 1 addresses the creation of a new definition relating to a "health care professional". Under H.B. 2707, H.D. 1, "health care professional" would include not just licensed physicians, but would now also include advanced practice registered nurses (hereinafter referred to as APRN) who have prescriptive authority. Our Department would stress the importance of limiting the term "health care professional" to licensed physicians to ensure not just consistency, but accountability as well. Certification to serve as an APRN requires an individual to complete training with a minimum requirement of a Master's Degree in Nursing. However, the fields of practice for APRNs is not limited to a traditional hospital setting, but spans a wide range of healthcare settings that includes but is not limited to nurse practitioners, certified nurse midwives, certified registered nurse anesthetists, and clinical nurse specialists.

This diversity for APRNs makes the implementation of other sections difficult and ensuring consistency and accountability troublesome.

With the addition of APRNs to the definition of "health care professional", section 9 of H.B. 2707 would allow APRNs to now clinically diagnose a qualifying patient with a debilitating medical condition which could necessitate the issuance of a medical marijuana certificate. H.B. 2707, H.D. 1 appears to loosen standards governing health care professionals, such that the door would be opened to APRNs who may abuse the privilege, focusing their practice solely on issuing medical marijuana certificates to patients regardless of whether there is a debilitating medical condition.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes H.B. 2707, H.D. 1. Thank you for this opportunity to testify on this matter.

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baker3 - James

From: Robert Slavin <slavinrobert@me.com>
Sent: Monday, March 14, 2016 4:30 PM
To: CPH Testimony
Subject: HB2707

This is to inform you of my support for the omnibus bill HB2707 relating to the medical use of marijuana.

Police continue to want more punishment and less compassion, but the addition of tighter regulations is the opposite of what is needed here.

Accepting experienced advanced practice registered nurses ((APRN) as "health care professionals" will not increase the potential for abuse, rather it will help to ensure an actual professional-patient relationship. They will be better informed to make recommendations, and they already have the privilege of prescribing controlled substances.

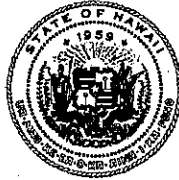
Any barriers to inter-island transport of medicine, for use or for analysis is counterproductive. Hawaii is one state!

Re: closing dispensaries on Sundays - what sensible rationale supports this? How silly!

Thank you,
Robert Slavin
1129 Rycroft St. #208
Honolulu HI 96814

LATE

DAVID Y. IGE
GOVERNOR



Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 15, 2016
9:30 a.m.
State Capitol, Room 229

H.B. 2707, H.D. 1 RELATING TO MEDICAL MARIJUANA

Senate Committee on Commerce, Consumer Protection and Health

The Hawaii Department of Transportation (DOT) **opposes** H.B. 2707, H.D. 1. This bill establishes the medical cannabis advisory commission; amends various definitions and provisions relating to medical marijuana dispensary operations, paraphernalia and testing; and allows the interisland transport of medical marijuana for testing purposes; among other provisions.

The DOT's Airports and Harbors divisions have concerns regarding the interisland transport of medical marijuana which involves travel outside the State's jurisdiction and entering federal jurisdiction. State law cannot protect a person from federal prosecution or provide a defense for actions taken outside the state's jurisdiction.

Furthermore, we are concerned that the current bill does not include any language specifying who is allowed to transport medical marijuana between the counties and islands for testing, nor does it limit the amount of medical marijuana being transported. As such we continue to seek clarity on the federal legality issues relating to aviation and maritime laws and how non-compliance with these may result in loss of federal funding.

The DOT's Highways Division is concerned with the impact medical marijuana will have on the safety of our traveling public.

Reports from Washington State ("Driver Toxicology Testing and the Involvement of Marijuana in Fatal Crashes, 2010-2014") and Colorado ("The Legalization of Marijuana in Colorado: The Impact") indicate that with the commercialization of marijuana in the form of dispensaries and the legalization of marijuana, there have been increases in marijuana-impaired driving arrests and fatalities. In Washington, 84.3 percent of drivers positive for cannabinoids were positive for delta-9-tetrahydrocannabinols (THC) – the psychoactive chemical entering the blood and brain immediately after marijuana smoking/consumption – in 2014, compared to only 44.4 percent of cannabinoid-positive drivers in 2010. In Colorado, marijuana-related traffic deaths increased 92 percent from 2010-2014. In addition, the average number of marijuana-related traffic deaths

increased 48 percent during the medical marijuana commercialization years (2009-2012) compared to the pre-commercialization years (2006-2008), when medical marijuana was legal but there were no known dispensaries.

In Hawaii, there was a significant increase in marijuana-impaired driving following the legalization of medical marijuana in our state in December 2000. During the pre-medical marijuana period (1991-2000), 4.89 percent of fatally injured drivers tested positive for having marijuana in their systems. After the medical marijuana program went into effect, the proportion of fatally injured drivers who tested positive for THC increased to 14.61 percent during the post-medical marijuana period (2001-2011).

In recent years, from 2010-2014, 12 percent of drivers involved in fatal traffic crashes tested positive for having marijuana in their systems.

In light of these statistics and our concerns with the potential federal and international legal issues, we believe that it is vital that HDOT be included in any commissions or committees related to medical marijuana or the legalization of marijuana.

Although this bill establishes a medical marijuana advisory commission, it would not address issues relating to traffic safety or the interisland transport of medical marijuana. Furthermore, the commission would be comprised of 11 members, none of which would be an elected official or governmental official.

According to a November 2015 report from the Canadian Centre on Substance Abuse entitled "Cannabis Regulation: Lessons Learned In Colorado and Washington State," stakeholders in Colorado and Washington recommended that any jurisdiction considering policy change, including commercialization and legalization of marijuana, should create a comprehensive regulatory framework that takes into account legislation and policy; public awareness and prevention; health interventions and treatment; detection; deterrence and enforcement; adjudication and sanctions; evaluation; etc. The Washington and Colorado stakeholders also identified the importance of "taking the time and investing the resources needed to get it right, assessing impacts along the way, and making incremental changes to respond to emerging lessons learned." We strongly believe that the medical marijuana advisory commission in this bill could not effectively accomplish this with the membership composition that is currently proposed.

Thank you for the opportunity to provide testimony.

baker3 - James

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 5:10 PM
To: CPH Testimony
Cc: marilynwick@pobox.com
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM

HB2707

Submitted on: 3/14/2016

Testimony for CPH on Mar 15, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Marilyn Mick	Individual	Support	No

Comments: I support: -- Permitting interisland transport for lab testing of small medical marijuana samples. -- Allowing dispensaries to be open for business on Sundays. -- Changing drug paraphernalia statutes (this exempts MMJ patients from the use and possession drug paraphernalia offenses). -- Allowing Advanced Practice Nurse Practitioners (APRN) to make recommendations. They are UNIQUELY qualified as they already have privileges to prescribe controlled substances. Currently, patients are experiencing difficulties locating physicians who are willing and able to make the recommendations. Only 10 physicians allow their names and contact information to be given out to inquiring patients. The Medical Cannabis Coalition of Hawaii fields multiple requests each week and the number of patients seeking physicians is expected to grow once dispensaries are in place.

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LATE

the
**Drug Policy
Action Group**

A sister organization of the Drug Policy Forum of Hawai'i

PO Box 83, Honolulu, HI 96810 ~ (808) 853-3231

Hawaii's Voice for Sensible, Compassionate, and Just Drug Policy

TO: SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION & HEALTH

FROM: PAMELA LICHTY, M.P.H., PRESIDENT

DATE: MARCH 14, 2016, 9:00 a.m., ROOM 229

RE: H.B. 2707, H.D.1 RELATING TO MEDICAL MARIJUANA – IN SUPPORT

Good morning, Chairs Baker, Vice Chair Kidani, and members of the Committee. My name is Pam Lichty and I'm President of the Drug Policy Action Group (DPAG), the government affairs arm of the Drug Policy Forum of Hawaii.

DPAG is in strong support of this measure.

We are very pleased to see a system of data collection included as well as the description and requirements of a lab system for the dispensary program. This has been only vaguely referenced before and it is a critical part of a responsible, well-regulated system. We applaud the use of interisland transportation for testing samples since clearly not every island can support a full-on laboratory.

We were glad to see the hours opened up to include Sundays since that may be the only time some patients can access dispensaries. And the addition of advance practice nurse practitioners with prescriptive authority to the list of those who can certify patients will further enhance access. This should prove particularly useful in rural areas where there may be a shortage of physicians. **We wonder if the committee might consider adding language to permit certification by telemedicine.** It is my understanding that this is now generally considered to constitute a "bona fide relationship" in the medical field.

We are gratified to see that a couple of additional modalities for taking medicinal cannabis are included: transdermal patches, very effective for pain, and both pre-rolled cigarettes & aerosolized products. Both of these last two methods of ingestion are particularly useful because of their rapid onset for people with nausea for example and they are easy to use for people with limited dexterity (e.g. from arthritis). We fervently wish the Committee would add edibles to the available products, as they are uniquely

helpful for chronic pain due to the steady supply of medicine they provide over many hours.

And now please allow me to suggest few revisions. In the section establishing a medical marijuana advisory commission, all the appointing of members is done by the President and Speaker, the Governor, and the mayors of each county. And the Governor selects the chairperson. We believe a far better approach is that embodied in SB 2176, S.D. 1 in which community organizations are represented and the members themselves choose the Chair from the non-governmental members. We think including the Hawaii Dispensary Alliance makes more sense rather than three members of the medical cannabis industry itself. The Senate measure also specifically includes an RN as well as a physician (though technically this should be an advanced practice nurse practitioner since in the current measure they are allowed to certify patients.)

We note that in the definition section greenhouses and the like are still explicitly excluded, yet in S.B. 2523, S.D.1 recently passed by this body, they are permissible. This seems like a contradiction that needs to be addressed and hopefully it will be in some vehicle before the end of Session. In the joint Health Committees briefing in December, I got the distinct impression that both chambers favor permitting greenhouses and shadehouses for multiple practical reasons.

In Section 7 the drug paraphernalia law is amended to protect patients, dispensary employees, and others from fines and other penalties, which could normally apply to them. This is excellent as far as it goes, although we believe the entire drug paraphernalia law is outdated and results in unnecessary additional jail time when the drug possession itself is what is usually targeted.

In sum, we heartily endorse the majority of the provisions of this measure and we urge this committee to move H.B. 2707, H.D.1 on to JDL/WAM. Mahalo for hearing this very important measure today and for giving us the opportunity to testify.

LATE

Dr. Myron Berney, ND Lac

HB2707 Advisory Committee is a cop out, it might look and appear that the legislature is doing something but they are merely kicking the can down the road and shirking their Constitutional Responsibilities another year in a row.

If you want advice from these people call them in to testify now and hold their feet to the fire with an oath to tell the truth.

Bottom line, Marijuana is legal in Colorado, Washington, and Oregon. There hasn't been any significant negative impact compared to the wonderful benefit that Legalization of Marijuana has brought the State and the individuals. Crime Data demonstrates a significant drop in violent crime and alcohol abuse. That should make MADD very happy and the law maker's stand up and cheer!

Legalization in Colorado has brought in

- \$44 million in 2014 with a projected
- 2015 windfall of \$125 million dollars in tax revenues.

Legalization in Colorado has reduced violent crime, murder and assaults down.

Legalization in Colorado has reduced alcohol abuse and domestic violence.

Legalization in Colorado has cost the drug cartels in Mexico, resulting in their collapse.

Legalization in Colorado has resulted in better allocation of the increased Government resources.

Who are the losers with Legalization in Colorado...drug cartels, the alcohol and opiate industry, some elements of law enforcement who personally gain from marijuana raids and prosecution, basically only the sociopaths benefit from prohibition.

The Benefits are increased public health, increased public safety, increased tax revenues, better allocation of government resources.

The cost benefit analysis is OVERWHELMINGLY IN FAVOR OF LEGALIZATION.

Of course there are political risks which make an advisory committee look like an easy way out but...really everybody knows the truth about marijuana! That marijuana is not for everyone and that Marijuana is relatively harmless. And That Marijuana brings great benefit to the individual and society.

Marijuana is **KOSHER** a **MITZVAH**, a good thing, a commandment from God to be a good person and do the right thing. Legalize NOW!

Public Health, Public Safety, Economic Boon, increased revenues and stress reduction, cancer prevention.

Come on we can do better than an advisory committee that still won't do the right thing. If they were going to do the right thing, they would have done it already. Why do you need a new law to ask them to do their job?

baker3 - James

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 7:39 PM
To: CPH Testimony
Cc: koonceleah@gmail.com
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM

HB2707

Submitted on: 3/14/2016

Testimony for CPH on Mar 15, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Leah M. Koonce	Individual	Support	No

Comments: I am writing in support of HB2707 because I believe we need to permit interisland transport of small amounts of medical marijuana for laboratory testing as all patients ought to have the opportunity to know that their medicine is safe and has the correct amount of thc/cbd and is the correct strain. I am also in support of dispensaries being open for business on Sunday's just like pharmacies such as Long's Drugs. I am in support of changing drug paraphernalia statutes as these statutes do not reduce crimes against others. I am also fully in support of allowing Advanced Practice Nurse Practitioners to make medical marijuana recommendations the same as they are allowed to prescribe other medications. Mahalo, Leah M Koonce

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 8:26 PM
To: CPH Testimony
Cc: tabraham08@gmail.com
Subject: *Submitted testimony for HB2707 on Mar 15, 2016 09:00AM*

HB2707

Submitted on: 3/14/2016

Testimony for CPH on Mar 15, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments:

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DAVID Y. IGE
GOVERNOR OF HAWAII



LATE

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

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DEPARTMENT OF HEALTH
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**Testimony in OPPOSITION to HB2707, HD1
RELATING TO MEDICAL MARIJUANA**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Hearing Date: Tuesday, March 15, 2016

Room Number: 229

1 **Fiscal Implications:** There will be a fiscal impact resulting from mandating the establishment
2 of a Commission. The cost cannot be determined at this time but would require significant staff
3 time and cost not previously budgeted.

4 **Department Testimony:** Thank you for the opportunity to provide testimony on this bill. The
5 Department of Health ("Department") defers to the expertise of the Office of the Attorney
6 General, Department of Business, Economic Development, and Tourism, Department of
7 Taxation, Department of Agriculture, Department of Commerce and Consumer Affairs,
8 Department of Transportation, and other relevant departments or agencies on sections of this bill
9 under their regulatory respective authorities.

10 Overall, the Department OPPOSES this bill and asks it to be deferred until the state's
11 medical marijuana dispensary system is well up and functioning. Otherwise, if the Legislature
12 wishes to pursue this bill, the Department supports some sections, opposes some sections, and
13 provides comments on other sections as it relates to portions of the bill under the Department's
14 regulatory authority.

1 Medical Marijuana Advisory Commission: The Department **strongly opposes** this as
2 premature and not appropriate at this time. The Department recommends that consideration of
3 an Advisory Commission be deferred until the dispensary program as contemplated under
4 Chapter 329D Hawaii Revised Statutes is fully established and operational.

5 The logistics of facilitating an Advisory Commission are significant and will tax limited
6 personnel and budgetary resources that were designated to establish the dispensary licensing
7 program. Instead, it would require additional staff and monetary resources not included in the
8 current medical marijuana dispensary operations and budget. This is true for the 2017 fiscal year
9 as well.

10 The facilitation of the Commission meetings will be the responsibility of Department of
11 Health Medical Marijuana Dispensary Licensing staff. It is important to note that the
12 Commission and its meetings will be required to comply with State Sunshine laws. Thus, the
13 responsibilities of the Medical Marijuana Dispensary Licensing staff would include and not be
14 limited to publishing public hearing notices; finding and scheduling adequate meeting space for
15 15 Commission members and the public; creating agendas; arranging, monitoring expenses, and
16 paying for transportation for neighbor island Commission members; taking and distributing
17 minutes; managing public relations and press inquiries; compiling, drafting and submitting the
18 annual report to the legislature on behalf of the Commission; and other activities. None of these
19 activities were contemplated in the current operations and none of these activities are budgeted.
20 Nor are there any proposals included in this bill to increase the program's budget to properly
21 facilitate the Advisory Commission, and the Department is not asking for an increase at this
22 time.

1 In the event an Advisory Commission is deemed appropriate in the future, the
2 Department respectfully requests that the Department be allowed to seek persons with specific
3 expertise for specific issues while providing valuable, effective, and timely review and
4 recommendations to the dispensary program.

5 Advanced Practice Registered Nurse: It is standard practice and perfectly acceptable to
6 recognize the clinical qualifications of an APRN to accurately diagnose patients and to certify
7 their debilitating medical condition. This item is **supported** by the Department. In addition, five
8 (5) states allow APRNs to qualify patients. They are Georgia, Minnesota, New Mexico,
9 Vermont, and Washington. On a final note on APRNs, the Department supports the Department
10 of Commerce and Consumer Affairs on their testimony to require APRNs with prescriptive
11 authority to register with the Department of Public Safety, Narcotics Enforcement Division.
12 This would make the requirements of an APRN consistent with physicians. Currently, there are
13 965 active licensed APRNs, of which 608 have prescriptive authority.

14 **Definitions:**

15 Enclosed Indoor Facility: The Department **support's** this bill's definition of an enclosed
16 indoor facility since it meets the spirit and intent of the Department's definition of the same term
17 in the interim administrative rules Chapter 11-850 and as clarified in the Department's frequently
18 asked questions (FAQ) on the Department's website.

19 Plant: This definition needs clarification. The bill defines a plant as "a marijuana plant
20 having at least three distinguishable and distinct leaves, each leaf being at least three centimeters
21 in diameter, and a readily observable root formation consisting of at least two separate and

1 distinct roots, each being at least two (2) centimeters in length. Multiple stalks emanating from
2 the same root ball or root system is considered part of the same single plant.”

3 This definition appears to have been borrowed from another state’s definition of a
4 marijuana plant. However, it is unclear how to determine or observe the plant’s root formation
5 unless the plant is removed from its soil either partially or totally. This could endanger the life
6 of the plant or retard its development. As a result, it is unclear how this definition would be
7 applied.

8 Also, the definition of the term “plant” does not provide the Department with guidance
9 on seeds or seedlings. For example, while each medical marijuana production center is limited
10 to 3,000 plants, this bill does not identify or define seeds or seedlings, and as importantly, how
11 many seeds or seedlings each production center is allowed. Without guidance, the Department is
12 unable to write adequate rules that would require seeds and seedlings to be tracked and
13 accounted for. This could endanger the public through the potential diversion of unaccounted
14 seeds and seedlings. Left silent and unregulated, this could be a cause for concern among federal
15 or state law enforcement agencies.

16 Inter-Island Transportation: The Department could **support** this only if a certified
17 medical marijuana testing lab is not available on the island where a licensed dispensary is
18 located.

19 Laboratory Standards: The Department **strongly opposes** codifying the laboratory
20 standards from the interim rules into statute. If the standards need to be revised, it is best to
21 revise them through rule making rather than through the Legislature.

1 Manufactured Products: The Department **opposes** the addition of other medical
2 marijuana delivery mechanisms included in this bill at this time, especially the use of marijuana
3 cigarettes. The Department has concerns regarding the sale of sealed containers to aerosolize the
4 medical marijuana for inhalation therapy and the use of transdermal patches. The bill does not
5 define these delivery mechanisms and there are no safety standards for their use nor are there any
6 safeguards contained in the bill on protecting patients from manufactured products containing
7 high concentrations of THC. Adding new delivery mechanisms should be deferred.

8 Thank you for the opportunity to provide testimony in OPPOSITION to this bill.

9 **Offered Amendments:** None.

