



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

DAVID Y. IGE
GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development, and Tourism
before the

HOUSE COMMITTEE ON FINANCE

Tuesday, March 1, 2016
3:00pm
State Capitol, Conference Room 308

in consideration of
HB 2707, HD1
RELATING TO MEDICAL MARIJUANA.

Chair Luke, Vice Chair Nishimoto, and Members of the Committee on Finance. The Department of Business, Economic Development, and Tourism (DBEDT) offers the following comments on HB 2707, HD1.

HB 2707, HD1 clarifies that “DBEDT shall collect aggregated and de-identified information regarding the marijuana registry and dispensary program.” DBEDT recommends that this mandate be further clarified to read that “DBEDT shall collect from the Department of Health aggregated and de-identified information regarding the marijuana registry and dispensary program.” Based upon this aggregated and de-identified data provided by the Department of Health, DBEDT could provide statistical analysis of the medical marijuana industry in Hawaii.

Regarding exempting medical marijuana dispensaries from the Enterprise Zone program, the primary mission of DBEDT’s Enterprise Zone program is to encourage the development of certain business activities that can thrive and provide long-term, full-time jobs for residents in Hawaii’s economically disadvantaged areas. Accordingly, the allowable business activities as designated by the legislature include those that tend to create a relatively higher number of jobs, e.g., manufacturing, or those that need additional assistance, e.g., mainstream agricultural. Medical marijuana growing and distribution in Hawaii is a protected class of industry and will be highly controlled with limited competition.

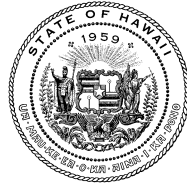
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March 1, 2016
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We defer to the Department of Health and other government departments regarding the collection of data on the medical marijuana industry, and defer to the Department of Taxation on the fiscal impact of this recommendation.

Thank you for the opportunity to provide this written testimony.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

JOSEPH K. KIM
DEPUTY DIRECTOR

To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: March 1, 2016

Time: 3:00 P.M.

Place: Conference Room 308, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 2707, H.D. 1, Relating to Medical Marijuana.

The Department of Taxation (Department) appreciates the intent of H.B. 2707, H.D. 1, and offers the following comments for your consideration.

H.B. 2707, H.D. 1 makes three tax related amendments. It decouples Hawaii income tax law from section 280E of the Internal Revenue Code (section 280E), allowing medical marijuana businesses to deduct their expenses for Hawaii income tax purposes. The bill clarifies that the general excise tax (GET) exemption for prescription drugs does not include medical marijuana. The bill also amends the Hawaii enterprise zone law to deny enterprise zone benefits to medical marijuana businesses. The measure has a defective effective date of July 1, 2070 and the amendment to section 280E conformity is effective for tax years beginning after December 31, 2070.

First, the Department notes that decoupling from IRC section 280E will allow medical marijuana businesses to calculate and pay Hawaii income tax just as other businesses do. Section 280E was enacted by the federal government in 1982 to disallow deductions to those trafficking in schedule I or II substances. Hawaii has adopted this provision as part of its income tax.

However, if a state legalizes medical marijuana, the operation of this section at the state level becomes contradictory because it disallows all income tax deductions even though the business activity is legal in the state. The Department notes that this bill relaxes section 280E for licensed medical marijuana dispensaries only, and that the section would still apply to others trafficking in schedule I or II substances.

While relaxing conformity to section 280E will promote fairness by putting licensed medical marijuana dispensaries on an equal footing with other businesses, it will cause some complications. Decoupling from section 280E will require separate income tax calculations for the

federal return and the State return. The Department generally prefers conformity with the Internal Revenue Code whenever possible so that the Department can rely on Internal Revenue Service examinations and determinations.

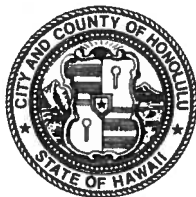
Second, the Department notes that the amendment to the prescription drugs exemption is a very important clarification of law. Both the medical marijuana industry and the Department will benefit if the general excise tax treatment of medical marijuana is clear and beyond dispute.

Finally, the Department notes that the effective date of this measure is July 1, 2070, however, if the previous effective dates of July 1, 2016 and January 1, 2016 are reinstated, the Department will be able to administer the provisions set forth in this measure by those effective dates.

Thank you for the opportunity to provide comments.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org



KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

MARIE A. McCAULEY
GARY OKIMOTO
DEPUTY CHIEFS

OUR REFERENCE CT-TA

March 1, 2016

The Honorable Sylvia Luke, Chair
and Members
Committee on Finance
House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Luke and Members:

SUBJECT: House Bill No. 2707, H.D. 1, Relating to Medical Marijuana

I am Calvin Tong, Major of the Narcotics/Vice Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department opposes House Bill No. 2707, H.D. 1, Relating to Medical Marijuana.

This bill seeks, in part, to allow advanced practice registered nurses to qualify a patient for the medical use of marijuana. The medical marijuana program needs to remain tightly regulated to prevent misuse of marijuana. The passage of this bill would increase the potential for abuse of the medical marijuana system.


The Honolulu Police Department urges you to oppose House Bill No. 2707, H.D. 1, Relating to Medical Marijuana.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Louis M. Kealoha
Chief of Police


Calvin Tong, Major
Narcotics/Vice Division

Serving and Protecting With Aloha

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, INCOME, MISCELLANEOUS, Taxation of Medical Marijuana Dispensaries

BILL NUMBER: HB 2707, HD-1

INTRODUCED BY: House Committees on Health and Judiciary

EXECUTIVE SUMMARY: The tax provisions of this bill provide that medical marijuana dispensary businesses (1) are not eligible for enterprise zone program incentives; (2) are eligible for business deductions for income tax purposes despite federal provisions disallowing them; and (3) are not eligible for the GET exemption for sales of prescription medicine. It is unclear why this type of business should be singled out for special treatment under the tax laws.

BRIEF SUMMARY: Amends HRS section 209E-2 to provide that medical marijuana dispensary activities pursuant to chapter 329D shall not be considered an eligible business activity for purposes of the enterprise zone incentive program.

Amends HRS section 235-2.4 to provide that IRC section 280E (with respect to expenditures in connection with the illegal sale of drugs), although generally operative for Hawaii income tax purposes, shall not be operative with respect to the production and sale of medical marijuana and manufactured marijuana products by licensed dispensaries.

Amends HRS section 237-24.3(6) to provide that “prescription drugs” eligible for the GET exemption for prescription drugs sold to an individual, do not include the medical use of marijuana pursuant to chapters 329 and 329D.

There are also numerous nontax provisions.

EFFECTIVE DATE: July 1, 2016; provided that the income tax provision applies to tax years beginning after December 31, 2015.

STAFF COMMENTS: Act 241, Session Laws of Hawaii 2015, established a licensing scheme for a statewide system of medical marijuana dispensaries to ensure access to medical marijuana for qualifying patients.

The bill proposes tax treatment for marijuana businesses in three respects.

Enterprise Zone Program: The enterprise zone program was enacted as a cooperative program between the state and the counties to promote jobs in areas of high unemployment. Certain areas are designated as enterprise zones through joint action of the state and counties. In a zone, the state offers an income tax credit for the tax attributable to the eligible business conducted in the zone, which is normally applied on a sliding scale – 80% for the first year, 70% for the second, and so on until the credit is 20% for the seventh and last year in the program. It also offers an unemployment tax credit for the tax attributable to employees doing the eligible business in the

zone, on the same sliding scale. Finally, the state offers a general excise tax exemption for the eligible business attributed to the zone. The counties also offer incentives, which vary by county. In return, the business commits to either maintain or increase the number of employees in the zone doing the eligible activity, depending on whether it was already in the zone upon designation or moved to the zone.

As business incentives go, the enterprise zone program is better than most. The incentive applies to a specific activity (here, creating and maintaining employment) targeted to the problem the program seeks to address. The incentive tapers off over time and then stops. It requires accountability, namely required reports to DBEDT, for a business to retain its eligibility. The business itself may need a different kind of assistance, such as financing, but the state is here focusing on creating and maintaining jobs in areas that need them.

One criticism of the program is that the designated eligible activities do not seem to have a common thread running through them except that the various activities seem to have been the Flavor of the Month at one time or other. Eligible activities at present are:

- Agricultural production or processing
- Manufacturing
- Wholesaling/Distribution
- Aviation or maritime repair or maintenance
- Telecommunications switching and delivery systems
- Information technology design and production
- Medical research, clinical trials, and telemedicine
- For-profit training programs in international business management or environmental remediation
- Biotechnology research, development, production, or sales
- Repair or maintenance of assisted technology equipment
- Certain types of call centers
- Wind energy producers

The bill proposes to exclude medical marijuana dispensaries from the program. It is unclear, however, whether such businesses would qualify for the program in the first place because the current category of agricultural production or processing is supposed to exclude retail sales. If the bill is merely clarifying the program's application to this type of business, it is justifiable as a technical fix; if not, lawmakers must ask what is different about this business type that requires exclusion from this program while similar businesses are eligible.

Income Tax: Section 280E of the Internal Revenue Code now provides that no deductions are allowed in connection with the illegal sale of drugs. This provision applies to medical marijuana businesses because distribution and sale of marijuana are still prohibited at the federal level. The federal provision was enacted as part of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. No. 97-248. The Senate committee report explains the reason for the provision: “There is a sharply defined public policy against drug dealing to allow drug dealers the benefit of business expense deductions at the same time that the U.S. and its citizens are losing billions of dollars per year to such persons is not compelled by the fact that such deductions are allowed to other, legal, enterprises. Such deductions must be disallowed on public policy grounds.” Federal case law has applied this provision to medical marijuana businesses that are legal under state law. *Californians Helping to Alleviate Medical Problems., Inc. v. Commissioner*, 128 T.C. 173 (2007).

It is questionable why differing tax treatment is being proposed. Those planning to embark on a medical marijuana business probably understood the federal tax ramifications and expected the state tax treatment to be the same. In previous testimony, it was asserted that some states have decoupled from federal treatment in the same manner as is proposed here. This decoupling, however, may be a windfall for such businesses at a cost to the state treasury.

General Excise Tax: Act 306, SLH 1986, provided that sales of prescription drugs and prosthetic devices are exempt from the Hawaii general excise tax. This exemption, codified at HRS section 237-24.3(6), provides an exemption from the GET for those amounts received by a hospital, infirmary medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual. This exemption does not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices.

A study prepared for the 2005-2007 Tax Review Commission examined the need for this exemption:

Hawaii and all other sales taxing states except Illinois exempt prescription drugs from the sales tax. Illinois levies a 1 percent rate on the sales of prescription drugs. A comprehensive list is not available of sales tax treatment for prosthetic devices, but they are likely exempt in essentially every state as well. Hawaii could choose to eliminate exemptions for these transactions, in keeping with the generally broad tax base imposed in the state. Expanding the base to drugs and prosthetics would allow additional revenue or a lower tax rate. The potential tax base from drugs and prosthetics is estimated to be at least \$845 billion in 2006, which would generate \$33.8 million if fully taxable. Taxation of these transactions would allow the GET rate to be reduced to 3.94 percent and still raise the same revenue.

As with other exemptions, taxation would eliminate the incentive to purchase these goods rather than other currently taxed items. However, the distortion in consumption is probably very small because people are likely to buy nearly the same quantities of drugs and prosthetic devices even with reasonable levels of taxation because of the limited

degree of substitutes and the view that many of these are necessities. On the other hand, there are opportunities to purchase some drugs remotely, and taxation could encourage some additional remote purchases.

The argument for exemption lies mainly in equity, with many people believing that it is unfair to sales tax necessities such as drugs and prosthetics. The perception is that a tax on drugs and prosthetics is a tax on suffering. Of course, some other necessities, such as food, are sales taxed in Hawaii and in many states, and all prescriptions may not be viewed as necessities depending on one's perception. Thus, the case for exemption presumes that drugs and prosthetics devices are more worthy of exemption than many other possible candidates.

Fox, William, "Hawaii's General Excise Tax: Should the Base Be Changed?" (2006) (footnotes omitted) (Appendix C to the Report of the 2005-2007 Hawaii Tax Review Commission).

We note that the Department of Taxation has asserted that medical marijuana does not qualify under the exemption but has not explained why in its testimony before HLT/JUD. Certainly, the underlying policy behind the exemption supports application to medical marijuana; it is prescribed by a health care professional to treat disease. If it is decided that the exemption should be denied, policymakers need to ask why medical marijuana needs to be treated differently from all other prescription drugs, including such substances as Viagra and Cialis.

Digested 2/27/16

**PRESENTATION OF THE
BOARD OF NURSING**

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Tuesday, March 1, 2016
3:00 p.m.

TESTIMONY ON HOUSE BILL NO. 2707, H.D. 1, RELATING TO MEDICAL MARIJUANA.

TO THE HONORABLE SYLVIA LUKE, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Lee Ann Teshima, Executive Officer for the Board of Nursing ("Board"). I appreciate the opportunity to offer comments on House Bill No. 2707, H.D. 1, Relating to Medical Marijuana, which in its amended form, allows advanced practice registered nurses ("APRNs") with prescriptive authority to "qualify" patients for medical marijuana.

The Board offers the following comments only as it pertains to APRNs:

Definition of "Health care professional" – Since the bill now includes APRNs with prescriptive authority under the new definition of "Health care professional", we would request the Committee consider further clarifying this definition by adding language that the APRN with prescriptive authority must also register with the Department of Public Safety, Narcotics Enforcement Division ("DPS-NED"), pursuant to Hawaii Revised Statutes ("HRS") §329-32 as follows:

"Health care professional" means:

- (1) A physician licensed to practice under chapter 453 with authority to prescribe drugs and registered under section 329-32; or

- (2) An advanced practice registered nurse with prescriptive authority as described in section 457-8.6 and registered under section 329-32.”

This would make the requirements for the APRN to qualify a patient for medical marijuana consistent with that of a licensed physician.

Medical Marijuana Advisory Commission – Also, with the inclusion of APRNs under the definition of “health care professional”, clarification of the “Two health care professionals” on the Commission on page 5, lines 12-15, should specify that the Medical Marijuana Advisory Commission include one (1) licensed physician and one (1) advanced practice registered nurse with prescriptive authority.

Health care professional-patient relationship – The bill, on page 37, lines 3-6, requires that a health care professional have a bona fide relationship with the qualifying patient. However, the bill does not include a definition for “health care professional-patient relationship”. Section 329-1, HRS, currently includes a definition for “Physician-patient relationship” that means: “the collaborative relationship between physicians and their patients. To establish this relationship, the treating physician or the physician’s designated member of the health care team, at a minimum shall:

- (1) Personally perform a face-to-face history and physical examination of the patient that is appropriate to the specialty training and experience of the physician or the designated member of the physician’s health care team, make a diagnosis and formulate a therapeutic plan, or personally treat a specific injury or condition;
- (2) Discuss with the patient the diagnosis or treatment options, including the benefits of other treatment options; and

(3) Ensure the availability of appropriate follow-up care.”

Assuming that reference to a “bona fide health care professional-patient relationship” between a health care professional and a qualifying patient in this bill is intended to have the same or similar meaning as a “physician-patient relationship” under §329-1, HRS, we would recommend that a new definition be included in §329-121, HRS, to read as follows:

“Health care professional-patient relationship” means a relationship between a health care professional and a patient in which the health care professional has personally performed a face-to-face history and physical examination of the patient that is appropriate to the specialty training, experience and practice of the health care professional, in order to make a diagnosis and formulate a therapeutic plan to treat a specific injury or condition and to qualify a patient for medical marijuana.”

This language would clarify the bona fide relationship of the health care professional qualifying patients for medical marijuana.

Thank you for the opportunity to offer comments on House Bill No. 2707, H. D. 1.



ON THE FOLLOWING MEASURE:

H.B. NO. 2707 HD1, RELATING TO MEDICAL MARIJUANA

BEFORE THE:

HOUSE COMMITTEES ON FINANCE

DATE: Tuesday, March 1, 2016

TIME: 3:00 p.m.

LOCATION: State Capitol, Conference Room 308

TESTIFIER(S): Antoinette Lilley, President, or Christopher Garth, Executive Director

Honorable Chair Luke, Vice-Chair Nishimoto, and Members of the Committees:

On behalf of the members and stakeholders of the medical marijuana industry that we represent, the Hawai'i Dispensary Alliance (HDA) is writing in STRONG SUPPORT of HB 2707 HD1. We support this bill with very few reservations because it offers common sense changes that will allow Hawai'i's medical marijuana industry to function. Our testimony clarifies our support of the following areas: provision of data to the Department of Business, Economic Development, and Tourism for analysis, Amendment of the Internal Revenue Code, Laboratory Specification clarifications, Subcontractor requirements, Paraphernalia changes, PRN certification of patients, and Background Check clarifications in HB 2707 HD1.

Provision of Information to the Department of Business, Economic Development, and Tourism

The Hawai'i Dispensary Alliance supports the legislature's goal of collecting data on the legitimate medical cannabis industry in Hawai'i. It is important to collect and analyze data on this new industry in order to provide useful information to the legislature and executive agencies in making future decisions regarding the new industry. The HDA urges however that the Department of Business, Economic Development, and Tourism (DEBDT) not only provide an analysis of the aggregated de-identified data upon request by the Department of Health, the Medical Marijuana Advisory Commission, and the legislature, but that they also provide the raw, aggregated, de-identified data upon which their analysis was based with every report. The inclusion of the raw data in concert with DEBDT's analysis will more fully allow policy makers and executive agency staff to understand the workings of the legitimate medical marijuana industry as it develops, and it will provide a useful transparency check to ensure that all levels of the Hawai'i State Government receive accurate information about the state of the industry.

Amendment of certain Internal Revenue Code provisions

The Hawai'i Dispensary Alliance supports the legislature's goal of reducing the state tax burden on medical marijuana dispensaries and grow operations. These organizations will already be under substantial operating cost and federal tax burdens and any reduction in their costs will directly translate into lower medicine costs for patients, higher wages for workers, and a reduced risk of diversion to the black market or organized crime. Further, Act 241 and the medical marijuana dispensary system were designed as a self-funded arrangement in which annual licensing fees would cover the State's

administrative and oversight costs for running the dispensary system. Reducing the tax burden of the dispensaries with HB 2707 HD1 will not reduce the state's planned budget for overseeing the dispensary system, and the dispensaries will soon be profitable tax-paying entities for the State and for each of Hawai'i's counties. The medical marijuana industry has the potential to generate tremendous levels of economic activity across the state, once it is up and running, through well-paying jobs, ancillary and follow-on industries and professional services, and new technology development. The legislature through HB 2707 HD1 is taking the first step in fostering the economic well-being of this new industry, and in so doing, it is ensuring that the state of Hawai'i will experience these benefits long into the future.

The Laboratory specifications

HDA supports the revised lab testing standards because they are in line with the experience of current marijuana testing laboratories and the white papers of the Cannabis Safety Institute¹ (CSI). Prior to delving into our arguments against the use of the originally proposed testing standards, it should be noted that the previously submitted department values were based on the EPA's water quality standards, rather than on any published standards for a medicinal or ingestible metabolized agent.

While the Department of Health had good intentions in basing their testing standards on potable water quality standards and the regulations of other states, laboratory testing is one of the areas where it is actually unhelpful to rely on the groundwork laid by other state regulators. As CSI notes, "Each of these states has had to struggle individually with the logistics and policy issues involved in implementing these programs, and [m]ost states simply don't have the scientific resources necessary to ensure the safety of a major agricultural crop that is used both medically and recreationally and that very little is known about." Unfortunately, this has resulted in regulations with "required tests that are inappropriate or meaningless for this type of plant." Even more concerning, many states "have failed to require tests for organisms or contaminants that could actually lead to extraordinarily serious public health consequences." The following changes to the interim rules' testing standards are supported by the scientific evidence:

- Removal of heavy metal testing
- Removal of mycotoxin testing
- Addition of aspergillus terreus testing
- Substitution of "E. coli (generic)" for "E. coli (pathogenic strains)"
- Changing E. coli limit to 100 CFU/gram
- Removal of Bile-tolerant Gram Negative Bacteria testing
- Narrowing the list of target pesticides
- Changing pesticide limit from 1ppm to 1ppb

These changes, to be discussed in the following paragraphs, will ensure that laboratories are not forced to employ outdated, ineffective tests, overlook harmful impurities, or purchase expensive, unnecessary equipment.

Heavy Metals

The industry consensus is that heavy metal testing is expensive and unnecessary for the medical marijuana industry, particularly batch testing as required by the Department's interim rules. According to Dr. Robert Martin,² "the scientific evidence indicates what little heavy metal is allowed into the plant is sequestered below ground in root systems. Further, the great majority of medical marijuana is grown in fresh growth media and never in waste or high spoil areas." CSI agrees that "[a]s of now, there is no

¹ "The Cannabis Safety Institute is run by an Advisory Board of scientists, doctors, and regulatory experts committed to providing the rigorous scientific data and expertise necessary to ensure the safety of the legal Cannabis industry." CANNABIS SAFETY INSTITUTE, "Mission" (last visited Feb. 10, 2016) available at <http://cannabissafetyinstitute.org/mission/>.

² Dr. Martin runs an International Standardized lab, CW Analytical, and has been testing in the industry for over five years.

evidence that the common toxic heavy metals – arsenic, chromium, cadmium, and several others – are found in Cannabis at significant levels.” Even a study performed at the request of the Washington Liquor Control Board determined that because it is so “costly to detect heavy metals in the finished product, due to the nature of highly sensitive spectroscopic techniques[] [a] suitable approach might involve a quality control inspection program that instead focuses on production process and intermediary outcomes.” Additionally, the risk of heavy metal toxicity is even lower in Hawai‘i since medical marijuana is required to be grown indoors under controlled, often hydroponic, conditions, rather than in potentially contaminated wild soil.

Microbiological Impurities

We support all the changes made to the substance of the microbiological testing section. HDA supports the microbiological testing requirements of HB 2707 HD1 because they are in line with the scientific evidence regarding cannabis as documented by CSI.³

Pesticides

As written, the Department’s pesticide testing standard would require a laboratory to test for hundreds of pesticides per sample submitted, which is both cost prohibitive and scientifically invalid. According to Dr. Martin, this would require “at least three separate analytical instruments and standards for each pesticide tested would be required.” Rather than taking this overly-broad approach, CSI recommends that state agriculture departments create a list of testable pesticides that are likely to be used on marijuana.⁴ The only CSI-recommended change not currently codified in HB 2707 HD1 is that the unit of measurement be “parts per billion” rather than “parts per million” as HB 2707 HD1 currently states. We are recommending that the Legislature change that portion of HB 2707 HD1 to avoid allowing unsafe levels of pesticides in marijuana flowers and extracts.

Residual Solvents

HDA supports raising the hexane limit in order to conform with the practical realities of the extract-making process. This problem was brought to our attention through the testimony of two former Illinois regulators at the joint health committee hearing on October 23, 2015. Illinois ran into issues when they set the residual solvent limit at 10ppm because the hexane in cleaning agents typically used on closed-loop extraction equipment could attach themselves to processed product, even though no solvents (hexane or otherwise) were used in the actual extraction process itself. The US Pharmacopoeia (USP) establishes the residual solvent limit for hexane at 29 times higher than Hawai‘i’s current standard (10ppm vs. 290ppm), so HB 2707 HD1’s limit of 150ppm should be sufficient to avoid the residual cleaning agent issue when testing extracts.

The Subcontractor language

HDA supports the changes to the subcontractor language in so far as it removes the confusion created by the restrictive language of the interim rules. By referring to subcontractors with such a narrow definition and restricting contracting with all subcontractors, the Interim Rules provoked confusion and consternation amongst dispensary applicants who read the rules as preventing all service providers from contracting with more than a single licensee. HB 2707 HD1 adopts the Department of Health’s new approach to the issue of subcontractors by explicitly creating a set of services whose providers may contract with *more than one* dispensary licensee and a set of services whose providers can contract with *most one* dispensary licensee. HB 2707 HD1 is on the right track by explicitly delineating the types of

³ Mowgli Holmes, PhD, Jatin M. Vyas, MD, PhD, William Steinbach, MD, John McPartland, MD, *Microbiological Safety Testing of Cannabis*, Cannabis Safety Institute (May 2015).

⁴ Roger Voelker, PhD, Mowgli Holmes, PhD, *Pesticide Use on Cannabis*, Cannabis Safety Institute (May 2015) available at <http://cannabissafetyinstitute.org/wp-content/uploads/2015/06/CSI-Pesticides-White-Paper.pdf>.

services which may contract with one dispensary and those that may contract with more than one dispensary. To that end, HDA has the following recommendations:

- The lists of services providers in HB 2707 HD1 are written as if they were exhaustive. This makes sense for the list of service providers who may only contract with a single dispensary licensee, but it should be left open-ended to include types of service providers who are not explicitly mentioned. The Legislature's intent is well served simply by limiting those that can only contract with one dispensary licensee, not by excluding service providers who are not listed at all from contracting with any dispensary licensee.
- The goal should be to limit only those activities which might create an absolute monopoly and lead to diversion and rule breaking between dispensaries.

Additionally, it is important to note that most states have moved away from this schema (if they ever had it) – for instance, Nevada in late 2015 allowed subcontractors to obtain a separate registration to provide production and manufacturing services and did not limit them to serving only a single dispensary licensee as a way to incentivize their struggling industry. Bill 70, 2015, Section 30: NRS 453A.117, and Sec. 31. NRS 453A.332.

The Paraphernalia changes

HDA supports the proposed change to HRS §329-43.5 because there is currently no affirmative defense afforded to ancillary businesses of this industry. Under the broad wording of the current statute, manufacturers of testing equipment, hydroponic systems, etc. all face potential criminal liability because their business model requires possession and delivery of paraphernalia that they know will be used to “plant, propagate, cultivate, grow, harvest . . . a controlled substance.” By providing this affirmative defense to all individuals who are lawfully participating in Hawai‘i’s medical marijuana industry, we reduce stigma and the threat of unfair persecution for the program as a whole.

The PRN Certifications for patients

HDA supports broadening the category of certifying healthcare providers under Chapter 329D because there should be greater opportunity and resources afforded to patients who seek medicinal certification to use medical marijuana. The Department of Health has stated on several occasions that the majority of certifications in Hawai‘i are issued by a handful of doctors, and HDA has been approached by many potential patients who have been unable to find a primary care physician willing to certify their condition. Some states have provided greater leniency and access to their state regulated program. In the cases of both Washington and Oregon, patients are legally provided the right to seek an MMJ certification from health care providers “other” than their primary physician. In Washington, the following healthcare professionals may authorize medical marijuana: Medical doctors (MDs), Physician assistants (PAs), Osteopathic physicians (DOs), Osteopathic physician assistants (OAs), Naturopathic physicians (NDs), and Advanced registered nurse practitioners (ARNPs).⁵

Background Check Clarifications

The Hawai‘i Dispensary Alliance (HDA) is writing in support of the background check changes in HB 2707 HD1. The changes contained within HB 2707 HD1 are necessary because they will allow patients to access their medication regardless of their criminal background. In this way, HB 2707 HD1 will fulfill the legislative intent of Act 241 and relieve dispensary licensees of the burden of playing gatekeeper to patients and government employees alike.

HRS §329D-12 regarding background checks provides a list of people subject to background checks including "any person permitted to enter and remain in dispensary facilities pursuant to section

⁵ This information was extracted from the Washington State Department of Health on their FAQ page: <http://www.doh.wa.gov/YouandYourFamily/Marijuana/MedicalMarijuana/HealthcareProviders/HealthcareProvidersFrequentlyAskedQuestions#1>

§329D-15(a)(4) or §329D-16(a)(3)". §329D-12 limits this reference to particular subsections with identical language, requiring background checks for: "Any person previously included on a current department-approved list provided to the department by the licensee of those persons who are allowed into that dispensary's facilities for a specific purpose for that dispensary, including but not limited to construction, maintenance, repairs, legal counsel, or investors."

However, HAR §11-850-17 regarding background checks does not limit those references to a particular subsection, but rather includes the entirety of §329D-15 and §329D-16 - allowing the department to require background checks for: "Any person permitted to enter or remain in dispensary facilities pursuant to sections §329D-6, §329D-15, and §329D-16." By expanding the reach of this reference to include all of §329D-15, and §329D-16, DoH is now also allowed to require background checks for "A qualifying patient or primary caregiver of a qualifying patient; and A government employee or official acting in the person's official capacity." (§329D-15(a)(2), §329D-15(a)(3); and §329D-16(a)(2)). Further, the language gives the Department of Health jurisdiction to require background checks for patients and caregivers by including the reference to §329D-6 (not referenced at all in HRS §329D-12), which mentions patients and caregivers in subsection g (HRS §329D-6(g) among others) as being allowed into dispensaries.

Finally, under §11-850-17(d), the dispensaries themselves are responsible for "conducting and maintaining current background checks on all of the persons listed in subsection (a)" - now including patients, caregivers, and government officials. Pursuant to §11-850-17(c) background checks are to be conducted at the patient or caregiver's expense, and under §11-850-17(b), failing the background check allows DoH to permanently bar patients and caregivers from entering dispensaries to purchase their medicine. HB 2707 HD1 solves all of these potential problems by explicitly exempting patients from the background check requirements of HRS §329D-12.

The Hawai'i Dispensary Alliance stands in **SUPPORT of H.B. 2707 HD1 RELATING TO MEDICAL MARIJUANA**, and its establishment of a medical marijuana advisory commission; provision of data to the Department of Business, Economic Development, and Tourism for analysis; amendment of the Internal Revenue Code to provide business deductions to licensed dispensary operations; update of the laboratory specifications; clarification of subcontractor requirements; harmonization of the paraphernalia laws; inclusion of PRN certification of patients; and updates to the background check requirements for patients. We recommend that this bill be moved forward for further discussion.

Thank you very much for the opportunity to provide testimony on this measure.



Dedicated to safe, responsible, humane and effective drug policies since 1993

TO: House Committee on Finance
FROM: Carl Bergquist, Executive Director
HEARING DATE: 1 March 2016, 3PM
RE: HB2707 HD1, Relating to medical marijuana, **STRONG SUPPORT**

Dear Chair Luke, Vice Chair Nishimoto and Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) **strongly supports** this measure that will make numerous improvements to the current medical marijuana registry program and to the nascent medical marijuana dispensary system. In addition, by authorizing the University of Hawai'i to conduct research and engage in lab testing, HB2707 HD1 brings our state's premier research institutions on board, ensuring a greater degree of quality control for patients and new opportunities for cutting edge research.

Among the improvements to the dispensary system are the clarification that registered medical marijuana patients **should not** be subjected to background checks just to be allowed entry to a dispensary as well as the authorization of interisland shipping of small lab samples if an island does not have its own laboratory as required by Act 241. For the medical marijuana registry program, we are very pleased that advanced practice registered nurses would become able to certify patients for medical marijuana use. Given the reticence of some doctors to do so, it is essential that these healthcare professionals, who often have very close relationships with their patients, also have this ability.

Finally, we welcome the change to §329-43.5 to exclude the use and delivery of paraphernalia for medical marijuana purposes from this Class C Felony category. **However, just as no patients should be incarcerated for using or deliver this type of paraphernalia, we strongly believe that no drug users should be jailed for this type of paraphernalia offense.** HB1809 would have addressed this, and we look forward to the legislature revisiting a similar just and cost-saving measure in the future.

Mahalo for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 28, 2016 5:40 PM
To: FINTestimony
Cc: wailua@aya.yale.edu
Subject: *Submitted testimony for HB2707 on Mar 1, 2016 15:00PM*

HB2707

Submitted on: 2/28/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Wailua Brandman	Hawaii Assoc. of Professional Nurses	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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ON THE FOLLOWING MEASURE:
H.B. NO. 2707 HD1, RELATING TO MEDICAL MARIJUANA

BEFORE THE:
HOUSE COMMITTEES ON FINANCE

DATE: Tuesday, March 1, 2016 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Conference Room 308

TESTIFIER: Cris Clatte

Honorable Chair Luke, Vice-Chair Nishimoto, and Members of the Committees:

As stakeholder in the medical marijuana industry I am writing in **STRONG SUPPORT** of the amendments proposed in HB 2707 HD1. I support this bill with no reservations because it offers common sense changes that will allow Hawai'i's medical marijuana industry to function in an appropriate manner that will benefit many sectors of Hawai'i's economy and the well-being of its most vulnerable patient populations.

The bulk of these amendments will aid in removing the burden of an unnecessary stigma from the participants in a legal and legitimate industry that the lawmakers of Hawai'i began to establish some 16 years ago. It is my opinion that your thoughtful approach to ensure safer access to better medicine, while boosting the local economy with career opportunities and new jobs is a triple win for your constituency and the legacy that you leave.

I stand in **SUPPORT** of the following areas addressed in **H.B. 2707 HD1**: the establishment of a medical marijuana advisory commission; provision of data to the Department of Business, Economic Development, and Tourism for analysis; amendment of the Internal Revenue Code to provide business deductions to licensed dispensary operations; update of the laboratory specifications; clarification of subcontractor requirements; harmonization of the paraphernalia laws; inclusion of APRN certification of patients; and updates to the background check requirements for patients.

I would like to recommend that this bill be moved forward for further discussion. Thank you very much for the opportunity to provide testimony on this measure.

Respectfully,



2/28/16

Hawaii State Capitol

415 South Beretania Street

Honolulu, HI 96813

Re: H.B. NO. 2707 in Support.

Dear Honorable Chairpersons and Members of the Senate,

Thank you for the opportunity to testify my strong support of House Bill 2707. The American Nursing Association (ANA) advocates for the access to medical cannabis for patients (ANA, 2008). In 2003, an ANA House of Delegates went on record as supporting medical cannabis stating that nurses have an “ethical obligation to be advocates for access to healthcare for all” this includes patients in need of “marijuana/cannabis for therapeutic use” (ANA, 2008).

In Hawaii APRNs are allowed to prescribe schedule II-V controlled substances once they obtain a federal and a state license. As primary care providers, APRNs should also be able to certify patients who have diagnoses that would benefit from medical cannabis. Many APRNs in Hawaii are the sole primary care providers for patients. The significant shortage of primary care physicians in Hawaii may create a large barrier to qualifying patients if APRNs are unable to certify.

Thank you again for the opportunity to testify.

Respectfully Submitted,

Malia Ribeiro DNP, FNP-C, APRN-Rx
Nurse Practitioner

References

American Nursing Association (2008). Position statement: In support of patients’ safe access to therapeutic marijuana. Retrieved from <http://www.nursingworld.org/MainMenuCategories/EthicsStandards/Ethics-Position-Statements/In-Support-of-Patients-Safe-Access-to-Therapeutic-Marijuana.pdf>

Dr. Myron Berney, ND Lac
908 16th Ave, Honolulu, HI 96816-4126

Support HB 2707, HD1 Establishes the medical marijuana advisory commission.

Since 1939 the information coming to the public and the State has been a distorted hoax against healthcare and herbal medicine. In 1939, USP Cannabis was already a commonly used official medicine considered to be a polycrest, that it treats many diseases. The FDA scheduling of Cannabis as Schedule 1 was strongly opposed by healthcare.

However, in the year 2000 Hawaii broke away from this law enforcement hoax and established marijuana as a necessary, medically appropriate and reasonably safe medicine, a non-prescription medicine recommended by a physician.

Now State Medical Marijuana Laws are protected from Federal Law Enforcement. Now both medical and recreational marijuana are permitted to be sold within States. Three States and the District of Columbia have LEGALIZED MARIJUANA which is permitted under federal law. We also are entitled to EQUAL PROTECTION UNDER FEDERAL LAW.

The State desperately needs an advisory committee to develop a view harmonious with Medical Science, Public Safety crime statistics, and the Constitution. The Committee should immediately go through the statutes and apply the Rule of Lenity to all conflicts as ordered by the Supreme Court.

Plus Marijuana is KOSHER in the Jewish Religion and this Religious Rights need to be respected and protected by the Legislature within this bill or in some way this year. Oath of Office requires protection of this constitutional right.

The Honorable Representative Marcus Oshiro has kindly explained his position, logic and thinking on Medical Marijuana in Civil Beat Community Voices. You all have listened to his views and others may have similar wrong views, especially those in law enforcement.

Overregulation and criminalization of Marijuana is killing people and costing the State hundreds of millions of dollars.

On the issue of overregulation of medical marijuana the State first needs to recognize that under the Supreme Court Ruling ordering application of the Rule of Lenity means that Marijuana is not Schedule 1 in the State of Hawaii. The conflict concerning that Marijuana is by law a necessary, medically appropriate and reasonably safe natural herbal medicine means it is not also the most dangerous, not Schedule 1. [This should be CORRECTED this year by deleting marijuana from HRS 329-14 (20).]

Furthermore under the same Constitutional Language and Language of Law as we have here in Hawaii the Supreme Court of Alaska said that Law Enforcement failed to prove its case and ordered recreational Marijuana was included within the Right of Privacy within one's home. The reason why the ConCon adopted that language was to bring that existing case law into Hawaii law.

Although you may need criminal code for a Schedule 1 dangerous substance, you don't need any for Marijuana, a non-toxic, non-addicting, reasonably safe, medically necessary and appropriate God given herbal medicine. How much regulation do you have or need for green tea or coffee? Both green tea and coffee in sufficient amounts can have strong drug effects. That is the same amount of regulation that you need for marijuana. Usually people compare alcohol and tobacco to marijuana when discussing legalization however alcohol and tobacco cause horrendous social harm; they kill people. Marijuana doesn't do that. Marijuana protects the public health and public safety. Marijuana is Kosher; Marijuana is good.

The Dispensary Bill was taken up by the Legislature as a result of broad based marijuana reform ordered by the Supreme Court. The Supreme Court found that the marijuana laws were irreconcilably conflicted between law enforcement and healthcare. The Justices ordered application of the Rule of Lenity to any and all conflicts in the statutes and ordered an acquittal. The minority opinion was that the lack of access to medical marijuana by new patients was an ABSURDITY. This lack of access to health care needed to be remedied by dispensaries that provide availability, accessibility and affordability of high quality pharmaceutical grade medical marijuana.

Marcus Oshiro is doing the wrong math. The law requires availability, accessibility and affordability not one or two stores fits all approach.

Availability: suitable or ready for use; of use or service; at hand

The lack of medical marijuana dispensaries was declared an ABSURDITY by the Chief Justice of the Hawaii Supreme Court, which is why the Legislature took up the issue. This was based on the lack of availability for seriously ill patients that just got their card. The State of Hawaii is required to not only provide availability, the State must also provide accessibility and affordability as required to protect and promote the public health.

Accessibility: easy to approach, reach, enter, speak with, or use

There are 287 pharmacies in Hawaii to provide adequate accessibility in various localities however this lawmaker thinks that the same accessibility could be served by only 16 pharmacies. So Marcus Oshiro thinks if we get rid of 271 pharmacies that people would mind driving to the remaining 16 locations to get their medicine. In the real world reasonable accessibility to prescription medicine requires almost 300 locations in the

State. Oshiro wants to put a greater burden on the more serious patients to make a safe and effective medicine inaccessible. Access to medicine must be conveniently available.

Marcus Oshiro's use of the phrase "card-carrying users" sounds like he is hunting COMMUNISTS during the McCarthy era. Why in America with the Right of Privacy would you need to be authorized and registered with the State to access health care? This is clearly a case of overregulation resulting in cruel and unusual punishment for use of a safe and effective herbal medicine.

Markus, a 500% increase in dispensaries brings the total from 16 to 80 dispensaries still far less than the nearly 300 location necessary for accessibility or more dangerous prescription drugs.

Affordability: within one's financial means

In America the FTC says that free competition in the healthcare marketplace controls prices and leads to the development of new and innovative health care services. Price controls don't work; supply and demand, free competition, a free market based works for all if there is a reasonable amount of regulation. Stock markets need regulation. Health food stores not so much. Regulations such as product safety should benefit the consumer not law enforcement.

Safety and effectiveness:

Why grow your own food or your own herbs? They are better, safer and fresher home grown! Actually if you grow your own plant then that plant will make medicine specifically for you, just like your dog acts like your dog. Higher quality medicine is produced by small growers not commercial farms using up to 100 different toxic chemicals. Unlike standard FDA law, Hawaii State Law does not require medical marijuana to be free of toxic chemicals so YOU BETTER GROW YOUR OWN.

Enforcement:

HPD enforces the bad law not the Department of Health...Is this Career Politician totally ignorant about the functioning of Government?

Although Marcus Oshiro says, "We have had and continue to have a de facto legalization program for those with a valid medical marijuana card." The facts are that in violation of federal policy, HPD has been arresting cancer patients with fully armed SWAT team assaults in pre-dawn raids on private families.

Why are the cops only arresting small time users and seriously ill patients? Are they protecting the local mafia? Why no arrests of organized crime?

Since the Legalization of Marijuana in Colorado VIOLENT CRIME has gone down! Marijuana is good for the PUBLIC SAFETY less murders, less assaults, less alcohol abuse.

Prior to 1939 Cannabis was prescribed in combination with Heroin to control pain. The combination with Cannabis avoids the need to prescribe increasing dosages of opiates to control pain. This avoids the over prescription of opiates and medical deaths. As we know exercise increases the production of both endorphins and endocannabinols meaning that this combination of Cannabis with Opiates mimics the natural response of the body.

So what happens to the excess marijuana? Oshiro reports that “Law enforcement and health officials believe that much of it is sold or transferred illegally. Both instances would be in violation of the Medical Marijuana Law and other State and federal laws.”

That is only a problem for people that have a War on Marijuana, that have a wrong view of health care and public safety. Marijuana is only “sold or transferred illegally” because of bad law. Good Law, Legalization, would immediately eliminate the illegal sale or transfer of marijuana and would immediately eliminate Black Market Organized Crime and Black Market Tax Evasion. Law Enforcement creates the crime, a color of law crime against Healthcare, Public Safety, the Economy and the General Fund.

Public Safety in Hawaii means that citizens should feel safe in their own home. Do you think that the marijuana laws make anybody feel safe? Do you think that all these crimes against medical marijuana make any seriously ill patient feel safe? Why would having an armed SWAT team break into your house while your wife and children are sleeping, steal all your medicine and kidnap you like a Nazi SS Squad make you feel safe?

In the Real World, after the Legalization of Marijuana in Colorado, violent crime went DOWN! Murders and assault were down due to the Legalization of marijuana. Alcohol abuse was down. Marijuana drug arrests were down, the Black Market was eliminated and the General Fund Revenue increased by millions of dollars! In 2014 Colorado took in close to \$70 million dollars in tax revenue. Plus we would save lives and millions of dollars in just curing cancer without toxic side effects. ALL GOOD THINGS!

Marijuana is a good medicine that also reduces crime!

Marijuana is Kosher in the Jewish Religion. The largest organization of the Orthodox Rabbis in America have declared and certified that Marijuana is Kosher and a Mitzvah. God said marijuana is Good. Who is Marcus Oshiro to say it is bad? The decision making concerning marijuana being Kosher and a Mitzvah has already been accomplished by the Rabbis; the only decision making by Law Enforcement is are they going to respect Religious Freedom or are they going to violate the Constitution.

Law Enforcement and the War on Marijuana kills people, harms the public health and harms the public safety, increases crime and costs the State tens of millions of dollars annually while wasting police, judicial, medical, and government resources.

**HAWAII STATE SUPREME COURT FINDS
THAT MEDICAL NEEDS TRUMP LAW ENFORCEMENT
4 TO 1**



**THE CONFLICT BETWEEN A STATUTE
THAT ALLOWS MEDICAL USE OF MARIJUANA,
INCLUDING TRANSPORTATION OF SUCH MARIJUANA, AND
ANOTHER STATUTE THAT PROHIBITS TRANSPORTATION
OF MEDICAL MARIJUANA THROUGH ANY PLACE OPEN TO THE PUBLIC,
CREATES AN IRRECONCILABLE CONFLICT THAT
MUST BE RESOLVED IN FAVOR OF THE DEFENDANT.**

Since Marijuana has been declared **KOSHER** under Jewish Law, as a minimum, we would greatly appreciate inserting a **RELIGIOUS EXEMPTION** that would provide for the free exercise of the Jewish Faith in healthcare and keeping kosher.

Rabbi Menachem Genack, said:

“Judaism prioritizes health and encourages the use of medicine designed to improve one’s health or reduce pain.

Using medical cannabis products recommended by a physician should not be regarded as a chet, a sinful act, but rather as a **mitzvah, an imperative, a commandment.**”

Medical Marijuana is a **MITZVAH**. Medical Marijuana is both **KOSHER** and a **COMMANDMENT FROM GOD**, a religious duty, an act of human kindness and the fulfillment of that religious duty.

The Primary meaning of mitzvah is "**commandment**", referring to precepts and commandments commanded by God. In its secondary meaning, Hebrew mitzvah, as with English "commandment", refers to **a moral deed performed as a religious duty**. As such, the term mitzvah has also come to express an **act of human kindness**. The tertiary meaning of mitzvah also **refers to the fulfillment of a mitzvah**.

Medical Marijuana is proven to be Good for the Public Health
Medical Marijuana is a safe and effective natural medicine that treats many diseases safer, more effectively and cheaper than standard prescription drugs. Side effects are minimal and easily treated. Marijuana feeds the endocannabinol system that maintains health and balance of the cells, tissues, organs and glands.

Recreational Marijuana is proven to be Good for the Public Safety.
After the Legalization of Recreational Marijuana is the State of Colorado the violent crime rate dropped for homicide and assault.

1. **Protect the Public Health and Public Safety!**
2. **Increase the General Fund by tens of millions of dollars!**
3. **Put the Black Mark out of business by Capturing the Revenue Stream!**
4. **Provide for a Blanket Religious Exemption for Jewish People from religious persecution and criminal prosecution under the marijuana laws.**

Recognizing Religious Freedoms
Freedom of Religion

Please insert the following language:

Notwithstanding any law to the contrary, the religious use of Cannabis, Marijuana, is hereby recognized and protected, from seed to salvation, including but not limited to, the cultivation, storage, possession, possession of paraphernalia, manufacture, compounding, augmentation, distribution and sales. The religious use of Cannabis shall not be infringed.

Medical Marijuana is Good for the Public Health
Recreational Marijuana is Good for the Public Safety

The War on Drugs turned out to be:

- a War on Marijuana,
- a War on Healthcare and
- a War on Public Safety

Fortunately not so much Hawaii, but on the mainland our Nation is plagued by pill popping culture of pharmaceutical abuse and flooded with waves of off shore cheap Heroin. The current Governor of NJ, a former Federal Prosecuting Attorney emptied out and shut down the jail turned it into a medical drug rehabilitation clinic and turned the Heroin epidemic around.

The Facts and the Stats:

(Total Annual Arrests by Year and Category) Although the intent of a 'War on Drugs' may have been to target drug smugglers and 'King Pins,' according to the FBI's annual Uniform Crime Reports, of the 1,561,231 arrests for drug law violations in 2014, 83.1% (1,297,383) were for mere possession of a controlled substance. Only 16.9% (263,848) were for the sale or manufacturing of a drug. Further, **the majority (44.9%) of drug arrests in 2014 were for marijuana** -- a total of 700,992. Of those, an estimated 619,809 arrests (**39.7% of all drug arrests**) were for **marijuana possession alone**. By contrast in 2000, a total of 734,497 Americans were arrested for marijuana offenses, of which 646,042 (40.9%) were for possession alone. –

(Effect of Medical Marijuana Legalization On Crime Rates) "In sum, these findings run counter to arguments suggesting the legalization of marijuana for medical purposes poses a danger to public health in terms of exposure to violent crime and property crimes. To be sure, medical marijuana laws were not found to have a crime exacerbating effect on any of the seven

crime types. On the contrary, our findings indicated that MML precedes a reduction in homicide and assault. While it is important to remain cautious when interpreting these findings as evidence that MML reduces crime, these results do fall in line with recent evidence [29] and they conform to the longstanding notion that marijuana legalization may lead to a reduction in alcohol use due to individuals substituting marijuana for alcohol [see generally 29, 30]. Given the relationship between alcohol and violent crime [31], it may turn out that substituting marijuana for alcohol leads to minor reductions in violent crimes that can be detected at the state level. That said, it also remains possible that these associations are statistical artifacts (recall that only the homicide effect holds up when a Bonferroni correction is made)."

Source:

Robert G. Morris, Michael TenEyck, JC Barnes, and Tomislav V. Kovandzic, "The Effect of Medical Marijuana Laws On Crime: Evidence From State Panel Data, 1990-2006," PLoS ONE 9(3): e92816. March 2014. doi: 10.1371/journal.pone.0092816 <http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.00928...>

(Marijuana Use and Violent Behavior) "Laboratory studies also find no link between THC intoxication and violence. Most people who ingest THC before performing a competitive task in the laboratory do not show more aggression than people who receive placebos; occasionally they show decreased hostility. Numerous scientific panels sponsored by various governments invariably report that marijuana does not lead to violence.(751)"

Source:

Carter, Gregory T.; Earleywine, Mitchell; McGill, Jason T., "Exhibit B: Statement of Grounds," Rulemaking petition to reclassify cannabis for medical use from a Schedule I controlled substance to a Schedule II (Office of Lincoln D. Chafee, Governor Rhode Island and Office of Christine O. Gregoire, Governor of Washington: Letter to Michelle Leonhard, Administrator of the Drug Enforcement Administration, November 30, 2011), p. 38.

<http://big.assets.huffingtonpost.com/chafee.pdf>

Sociopolitical Research

(1972 National Commission on Marihuana and Drug Abuse) "Rather than inducing violent or aggressive behavior through its purported effects of lowering inhibitions, weakening impulse control and heightening aggressive tendencies, marihuana was usually found to inhibit the expression of aggressive impulses by pacifying the user, interfering with muscular coordination, reducing psychomotor activities and generally producing states of drowsiness lethargy, timidity and passivity."

Source:

Shaffer, Raymond P., et al, *Marihuana: A Signal of Misunderstanding*, Ch. III, (Washington DC: National Commission on Marihuana and Drug Abuse, 1972).

<http://druglibrary.net/schaffer/Library/studies/nc/ncc3.htm>

Not only Studies and Reports But also REAL WROLD CRIME STATISTICS Demonstrate a REDUCTION in Violent Crimes following the Legalization of Recreational Marijuana.

The use of Recreational Marijuana provides the same health and wellness benefits as Medical Marijuana in

- 1. protecting the brain and nervous system and**
- 2. preventing and curing cancer [patients have cancer 10 years before it is found] and**
- 3. non-toxic control of pain,**
- 4. Reducing crime, alcohol abuse, drug abuse and opium overdose.**

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 1:59 PM
To: FINTestimony
Cc: lady.flach@gmail.com
Subject: Submitted testimony for HB2707 on Mar 1, 2016 15:00PM

HB2707

Submitted on: 2/29/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Support	No

Comments: This bill is a mouthful of changes. There are several good ideas wrapped up in it, no less the Advisory Board. This bill makes it clear that the complex issue of database management and doing business on the web is singular in its' own requirements. We need to pass this bill to to make the whole program better defined and more manageable. Mahalo!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 2:16 PM
To: FINTestimony
Cc: jwm7r@virginia.edu
Subject: Submitted testimony for HB2707 on Mar 1, 2016 15:00PM

HB2707

Submitted on: 2/29/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Jordan Moniuszko	Individual	Support	No

Comments: I support this bill as it is a measure of safety that allows for more efficient means to test consumables.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 2:33 PM
To: FINTestimony
Cc: j.bobich@tcu.edu
Subject: *Submitted testimony for HB2707 on Mar 1, 2016 15:00PM*

HB2707

Submitted on: 2/29/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph A. Bobich	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 2:51 PM
To: FINTestimony
Cc: thayne@thayne.net
Subject: Submitted testimony for HB2707 on Mar 1, 2016 15:00PM

HB2707

Submitted on: 2/29/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Thayne Taylor	Individual	Comments Only	No

Comments: Honorable Chair Luke, Vice-Chair Nishimoto, and Members of the Committees: As stakeholder in the medical marijuana industry I am writing in STRONG SUPPORT of the amendments proposed in HB 2707 HD1. I support this bill with no reservations because it offers common sense changes that will allow Hawai'i's medical marijuana industry to function in an appropriate manner that will benefit many sectors of Hawai'i's economy and the well-being of its most vulnerable patient populations. The bulk of these amendments will aid in removing the burden of an unnecessary stigma from the participants in a legal and legitimate industry that the lawmakers of Hawai'i began to establish some 16 years ago. It is my opinion that your thoughtful approach to ensure safer access to better medicine, while boosting the local economy with career opportunities and new jobs is a triple win for your constituency and the legacy that you leave. I stand in SUPPORT of the following areas addressed in H.B. 2707 HD1: the establishment of a medical marijuana advisory commission; provision of data to the Department of Business, Economic Development, and Tourism for analysis; amendment of the Internal Revenue Code to provide business deductions to licensed dispensary operations; update of the laboratory specifications; clarification of subcontractor requirements; harmonization of the paraphernalia laws; inclusion of APRN certification of patients; and updates to the background check requirements for patients. I would like to recommend that this bill be moved forward for further discussion. Thank you very much for the opportunity to provide testimony on this measure. Respectfully, Thayne Taylor 808-332-0877

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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TO: COMMITTEE ON FINANCE
Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair

From: Wendy Gibson R.N., American Cannabis Nurses Association Member.

Dear Chair Luke, Vice Chair Nishimoto and members of the committee,

If the goal is ensuring the safe, efficient, and responsible operation of medical marijuana dispensaries and safe access to medical marijuana for qualifying patients, then passing HB2707 is in the best interest of the State.

I support that HB2707:

(1) Establishes the Medical Marijuana Advisory Commission to advise the Department of Health regarding the oversight, operation, and regulation of medical marijuana dispensaries. This will provide immediate feedback and opportunity to find solutions when challenges are encountered.

(2) Provides that certain state tax provisions shall not apply to medical marijuana purchases or dispensary activities. Dispensary owners face unique banking challenges and lack of tax exemptions and need unique solutions.

(3) Clarifies that prohibitions regarding drug paraphernalia shall not apply to persons who lawfully cultivate, possess, or use medical marijuana. Our patients need clarification on what protections they have regarding paraphernalia.

(4) Provides that an advanced practice registered nurse (APRN) with prescriptive authority may provide written certification for a qualifying patient to lawfully use medical marijuana. APRNs are uniquely qualified to provide this much needed service. Patients seeking physicians are discovering a shortage of providers who will make the recommendations, impeding patient access to this relatively safe and effective medicine.

(5) Provides that medical marijuana may be transported between islands of the State for purposes of testing the marijuana. Important because testing facilities may not be available on each island and product testing is an requirement to ensure quality assurance. We can look to Oregon as a model of how to allow INTRA-state transport of medicine without eliciting Federal interference.

(6) Provides definitions of various terms used in relation to the licensing and regulation of medical marijuana dispensaries. Definitions are needed to ensure that dispensaries are following the rules.

(7) Provides that no subcontracting operator shall be employed by or under contract with more than one dispensary licensee to operate medical marijuana production centers or retail dispensary locations.

(8) Clarifies that a dispensary licensee may engage contractors for various purposes that do not involve the handling of medical marijuana. For contracting services that are required but providers may be scarce.

(9) Provides that a certified laboratory shall issue a certificate of analysis for each batch of marijuana and manufactured marijuana products tested by the laboratory, and specifies chemical compounds and substances for which testing shall be conducted; and

(10) Provides that transdermal patches and substances **designed to be inhaled** are among the types of medical marijuana products that may lawfully be manufactured and distributed.

Inhalation of cannabis is a time-tested, legitimate method of delivery for this medicine. It cannot be compared to the dangers of smoking nicotine.

To err on the side of caution and avoid any possible health risks from combustion we can encourage patients to use vaporizers.

Please note that the long-term studies (30+ years) of research on the effects of heavy use of smoked cannabis (average of 3 joints per day x 15 years) produced not one case of lung cancer or emphysema. Smoking may lead to irritation of bronchial structures and can cause changes in tissue however are NOT linked to cancerous changes and data suggests a possible, slightly protective effect against lung cancer. (Please see the work of Dr. Donald Tashkin for more information).

Several case studies were suggestive of an association of marijuana smoking with head and neck cancers and oral lesions. However, in a cohort study with 8 years of follow-up, **marijuana use was not associated with increased risks of all cancers or smoking-related cancers.**

Marijuana smoking and head and neck cancer.

<http://www.ncbi.nlm.nih.gov/pubmed/12412843>

J Clin Pharmacol. 2002 Nov;42(11 Suppl):103S-107S.

Patients and physicians should be making the decisions about the most effective delivery method for medicine.

Thank you for this opportunity to provide testimony

Wendy Gibson R.N.

(808) 321-4503

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 3:07 PM
To: FINTestimony
Cc: gr8tr8@gmail.com
Subject: Submitted testimony for HB2707 on Mar 1, 2016 15:00PM

HB2707

Submitted on: 2/29/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Yoshimoto	Individual	Support	No

Comments: SB 2707 I support this bill because of its sensible approaches to certifying medical patients by medical professionals and the needed marijuana-related research by University of Hawaii departments in science, agriculture and medicine. It is time to allow medical professionals and scientists to verify the value of this plant.

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LATE



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

TO: HOUSE COMMITTEE ON FINANCE

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

DATE: MARCH 1, 2016, 3 P.M., ROOM 308

RE: H.B. 2707, HD1 RELATING TO MEDICAL MARIJUANA – **IN STRONG SUPPORT**

Good afternoon, Chairs Luke, Vice Chairs Nishimoto, 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. House draft 1 of H.B.2707 offers a comprehensive approach to some of the outstanding issues surrounding Hawaii's medical marijuana program.

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 under limited circumstances since clearly not every island can support a full-on laboratory.

The addition of advance practice nurse practitioners with prescriptive authority to the list of those who can certify patients will definitely enhance access. This should prove particularly useful in rural areas where there may be a shortage of physicians.

In Section 17 we were happy to see that a couple of additional modalities for taking medicinal cannabis are included, specifically transdermal patches, very effective for pain, and both marijuana cigarettes and aerosol products. Both of these modalities of ingestion are particularly useful because of their rapid onset for people with nausea for example. And many if not most patients prefer vaporizing their medicine to smoking it. (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.)

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, but 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. There are other vehicles this session intended to address this issue in a more comprehensive way. Of course if none of the more comprehensive bills are moving, we would be happy to see this carve-out in statute.

In Section 13 thirteen new definitions are added. To our surprise there is a new definition of "enclosed indoor facilities" which explicitly excludes greenhouses or shade houses. I was under the impression following the joint Health briefing in December 2015, that this chamber was favorable to the inclusion of greenhouses. Hopefully this will be addressed elsewhere this Session.

We are very glad to see that some UH-related entities are empowered to conduct marijuana related research and testing. As we are all aware, Hawaii's population is unique in its make-up and locally conducted research could prove very useful.

In sum, we heartily endorse the majority of the provisions of this measure and we urge this committee to move HB 2707, H.D. on to the House Floor. Mahalo for hearing this measure today and for giving us the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 10:21 PM
To: FINTestimony
Cc: rogerchristie@gmail.com
Subject: Submitted testimony for HB2707 on Mar 1, 2016 15:00PM

LATE

HB2707

Submitted on: 2/29/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Roger Christie	Individual	Support	No

Comments: @@@ Dear Legislators, Aloha. My wife Share and I strongly SUPPORT this measure. We urge you to SUPPORT it, too. Thank you. Sincerely, Roger and Share Christie www.thc-ministry.org www.the-last-marijuana-trial.com @@@

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 9:29 PM
To: FINTestimony
Cc: leeh4u@hotmail.com
Subject: Submitted testimony for HB2707 on Mar 1, 2016 15:00PM

LATE

HB2707

Submitted on: 2/29/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Harvey Lee	Individual	Oppose	No

Comments: Drug-Free Zone: 1. What will happen to a person with medical marijuana in their car within 100 feet of a school or park? 2. What will happen to a person sitting at bus stop with medical marijuana? Professional: 1. What is the acceptable level of THC for professionals working with our children? Has each of you thought about these issues?

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Cc: leeh4u@hotmail.com
Subject: Submitted testimony for HB2707 on Mar 1, 2016 15:00PM

HB2707

Submitted on: 2/29/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Harvey Lee	Individual	Oppose	No

Comments: Hawaii legalized medical marijuana in 2000. The time period 1991-2000 there was 4.89 percent of fatally injured drivers tested positive for having marijuana in their systems. The period 2001 to 2011, there was an increase to 14.61 percent for impaired medical marijuana fatalities after testing for THC. Review by Hawaii State Department of Transportation 2010-2014, 12 percent of drivers involved in fatal traffic crashes tested positive for THC or marijuana in their body system. Families Preventing Youth Access to Marijuana

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LATE

Testimony in Opposition to HB 2707 HD1 – Relating to Medical Marijuana
Hearing on March 1, 2016 at 3:00 pm
Conference Room 308 of the State Capitol

TO: Committee on Finance
Rep Sylvia Luke, Chair
Rep Scott Nishimoto, Vice Chair

FR: Alan Shinn, Executive Director
Coalition for a Drug-Free Hawaii
1130 N. Nimitz Hwy., Suite A259
Honolulu, HI 96817
(808) 545-3228 x29

Please accept this testimony in opposition to HB 2707 HD1– Relating to Medical Marijuana, that establishes a medical marijuana advisory commission, amends various provisions for dispensary operations, drug paraphernalia, and testing, among other things.

Regarding setting up a medical marijuana advisory committee, it would be more effective if the membership of the advisory committee was more balanced by including law enforcement, prevention and/or treatment providers, and other government agency representatives, such as DOT.

There are many weighty issues to be considered by the advisory committee such as the out-of-state and interisland transportation of marijuana, prevention and enforcement of drugged driving, and preventing diversion of marijuana products to youth and non-medical marijuana individuals, that will require varying points of view and expertise.

Oppose allowing advance practice registered nurses from recommending medical use of marijuana. More research is needed to determine the APRN's exact scope of practice and training with this specific population and their availability in the Hawaii.

Oppose changes in Section 9 which would allow "health care professionals" to recommend medical use of marijuana for certain medical conditions without specifically defining this group of professionals. Unclear whether this could include LPNs, midwives, chiropractors, school nurses, etc.

Thank you for the opportunity to provide comment on HB 2707 HD1.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 7:01 PM
To: FINTestimony
Cc: georgina808@gmail.com
Subject: *Submitted testimony for HB2707 on Mar 1, 2016 15:00PM*

LATE

HB2707

Submitted on: 2/29/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Georgina Mckinley	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 5:59 PM
To: FINTestimony
Cc: jarronn@hotmail.com
Subject: Submitted testimony for HB2707 on Mar 1, 2016 15:00PM



HB2707

Submitted on: 2/29/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Elijah Ariel	Individual	Comments Only	No

Comments: Please do all you can to help us medical marijuana patients get our medicine and be protected as much as possible. I'm over 60 years old and am tired of all this political runaround. Thanks

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Sent: Monday, February 29, 2016 5:23 PM
To: FINTestimony
Cc: jbelair57@gmail.com
Subject: *Submitted testimony for HB2707 on Mar 1, 2016 15:00PM*

HB2707

Submitted on: 2/29/2016
Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Jason Belair	Individual	Support	No

Comments:

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UNIVERSITY OF HAWAII SYSTEM
Legislative Testimony

LATE

Written Testimony Presented Before the
House Committee on Finance
Tuesday, March 1, 2016 at 3 p.m.

By

Robert Bley Vroman, Chancellor
University of Hawai'i at Mānoa

and

Don Straney, Chancellor
University of Hawai'i at Hilo

HB 2707, HD1 – RELATING TO MEDICAL MARIJUANA

Chair Luke, Vice Chair Nishimoto and members of the House Committee on Finance:

Thank you for this opportunity to testify in support of HB 2707, HD1 provided that its passage does not replace or adversely impact priorities as indicated in our BOR Approved Budget. This measure would authorize units within the UH Manoa, such as the John A. Burns School of Medicine, and the University of Hawai'i Cancer Center and a unit within the UH Hilo, the Daniel K. Inouye College of Pharmacy, to conduct marijuana-related research and testing.

With the implementation of the medical marijuana dispensary program in the State, detailed monitoring and research from a medical perspective conducted by an independent scholarly body would provide valuable insight into the program and may enhance the success of the dispensary system. UH Mānoa and UH Hilo are committed to working with the Department of Health and other partners for the benefit of our communities in this emerging field.

Thank you for this opportunity to provide this testimony.

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 5:09 PM
To: FINTestimony
Cc: NuWayveUnl@gmail.com
Subject: Submitted testimony for HB2707 on Mar 1, 2016 15:00PM

HB2707

Submitted on: 2/29/2016

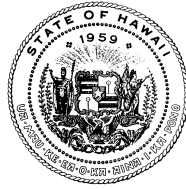
Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
James Terrell Trice	NuWayve Unlimited	Support	Yes

Comments: - We support most of this bill, including the permitting of inter-island transport for lab testing of State MMJ samples and allowing Sunday opening for dispensaries, but we should point out that one of our priorities is to fully change the drug paraphernalia statute that this bill only tweaks. - While HB2707 exempts State MMJ patients from the use and possession drug paraphernalia offenses, it leaves the class C felony penalty intact for all other offenders. We would support this carve out, but we also need to change the penalty for others from a class C Felony to a civil violation.

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STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

LATE

**Testimony COMMENTING on HB2707, HD1
RELATING TO MEDICAL MARIJUANA**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: Tuesday, March 1, 2016

Room Number: 308

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.

3 **Department Testimony:** Thank you for the opportunity to provide testimony on this bill. The
4 Department of Health (“Department”) defers to the expertise of the Department of Business,
5 Economic Development, and Tourism (“DEBDT”) and other relevant departments on sections of
6 this bill under their regulatory respective authorities.

7 Otherwise, the Department supports some sections, opposes some sections, and provides
8 comments on other sections as it relates to portions of the bill under the Department’s regulatory
9 authority.

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

14 The logistics of facilitating an Advisory Commission are significant and will tax limited
15 personnel and budgetary resources that were designated to establish the dispensary licensing

1 program. There are insufficient staff and monetary resources in the current medical marijuana
2 dispensary operations and budget to support the proposed Advisory Commission and its
3 activities. This is true for the 2017 fiscal year as well.

4 The facilitation of the Commission meetings will be the responsibility of Department of
5 Health Medical Marijuana Dispensary Licensing staff. It is important to note that the
6 Commission and its meetings will be required to comply with State Sunshine laws. Thus, the
7 responsibilities of the Medical Marijuana Dispensary Licensing staff would include and not be
8 limited to publishing public hearing notices; finding and scheduling adequate meeting space for
9 15 Commission members and the public; creating agendas; arranging, monitoring expenses, and
10 paying for transportation for neighbor island Commission members; taking and distributing
11 minutes; managing public relations and press inquiries; compiling, drafting and submitting the
12 annual report to the legislature on behalf of the Commission; and other activities. None of these
13 activities were contemplated in the current operations and none of these activities are budgeted.
14 Nor are there any proposals included in this bill to increase the program's budget to properly
15 facilitate the Advisory Commission, and the Department is not asking for an increase at this
16 time.

17 In the event an Advisory Commission is deemed appropriate in the future, the
18 Department respectfully requests that it be allowed to seek persons with specific expertise for the
19 purposes of providing valuable, effective, and timely review and recommendations to the
20 dispensary program.

1 Advanced Practice Registered Nurse: It is standard practice and perfectly acceptable to
2 recognize the clinical qualifications of an APRN to accurately diagnose patients and to certify
3 their debilitating medical condition. This item is **supported** by the Department.

4 Definitions:

5 Enclosed Indoor Facility: The Department **support's** this bill's definition of an enclosed
6 indoor facility since it meets the spirit and intent of the Department's definition of the same term
7 in the interim administrative rules Chapter 11-850.

8 Plant: This definition needs clarification. The bill defines a plant as "a marijuana plant
9 having at least three distinguishable and distinct leaves, each leaf being at least three centimeters
10 in diameter, and a readily observable root formation consisting of at least two separate and
11 distinct roots, each being at least two (2) centimeters in length. Multiple stalks emanating from
12 the same root ball or root system is considered part of the same single plant."

13 This definition appears to have been borrowed from another state's definition of a
14 marijuana plant. However, it is unclear how to determine or observe the plant's root formation
15 unless the plant is removed from its soil either partially or totally. This could endanger the life
16 of the plant or retard its development. As a result, it is unclear how this definition would be
17 applied.

18 Also, the definition of the term "plant" does not provide the Department with guidance
19 on seeds or seedlings. For example, while each medical marijuana production center is limited
20 to 3,000 plants, this bill does not identify or define seeds or seedlings, and as importantly, how
21 many seeds or seedlings each production center is allowed. Without guidance, the Department is

1 unable to write adequate rules. Left silent and unregulated, this could be a cause for concern
2 among federal or state law enforcement agencies and could endanger the public.

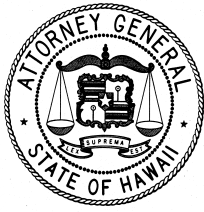
3 Inter-Island Transportation: The Department could **support** this only if a certified
4 medical marijuana testing lab is not available on the island where a licensed dispensary is
5 located.

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

9 Manufactured Products: The Department **opposes** the addition of other medical
10 marijuana delivery mechanisms included in this bill at this time, especially the use of sealed
11 containers to aerosolize the medical marijuana for inhalation therapy and the use of transdermal
12 patches. The bill does not define these delivery mechanisms and there are no safety standards
13 for their use. Adding new delivery mechanisms should be deferred.

14 Thank you for the opportunity to provide testimony on this bill.

15 **Offered Amendments:** None.



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

LATE

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Tuesday, March 1, 2016

TIME: 3:00 p.m.

LOCATION: State Capitol, Room 308

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

Chair Luke and Members of the Committee:

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

This measure would amend section 329D-2, Hawaii Revised Statutes (HRS), to allow dispensary licensees to engage one or more subcontracting operators or service contractors (page 41, line 8, through page 42, line 2). It 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 46, lines 9-13). The measure 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 definition of "service contractor" (page 41, lines 8-16) allows a person or entity to engage in any work or service related to product testing, among other things, and without further clarification this definition may create a conflict 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 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.

The provision that allows for the transport of marijuana between counties and islands raises concerns (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.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 01, 2016 2:42 PM
To: FINTestimony
Cc: koonceleah@gmail.com
Subject: Submitted testimony for HB2707 on Mar 1, 2016 15:00PM

LATE

HB2707

Submitted on: 3/1/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

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 cannabis samples from all islands to have the ability to be tested, so interisland transportation needs to be legally available. In addition, advanced nurse practitioners should be allowed to make medical cannabis recommendations just like other prescriptions. I am also in support of elimination of class c felonies for paraphernalia purchased and or owned by non medical marijuana card holders. Thank you, Leah M Koonce

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