

HB2707 HD1

Measure Title: RELATING TO MEDICAL MARIJUANA.

Report Title: Medical Marijuana; Dispensaries; Advisory Commission; Paraphernalia; Certification; Testing; Taxation

Description: Establishes the medical marijuana advisory commission. Amends various definitions and provisions relating to medical marijuana dispensary operations, paraphernalia, and testing. Provides that advanced practice registered nurses may certify patients for medical marijuana use. Excludes dispensaries from enterprise zone tax exemptions. Excludes medical marijuana from certain federal tax provisions. Provides that certain University of Hawaii branches may conduct marijuana-related testing and research. Effective 07/01/2070. (HD1)

Companion:

Package: None

Current Referral: CPH, JDL/WAM

Introducer(s): BELATTI, LUKE, MCKELVEY, MORIKAWA, NAKASHIMA, NISHIMOTO, SAN BUENAVENTURA, SOUKI, Rhoads



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

DAVID Y. IGE
GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
LUIS P. SALAVERIA
Director

Department of Business, Economic Development, and Tourism
before the

**SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND
HEALTH**

Tuesday, March 15, 2016
9:00am
State Capitol, Conference Room 229

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

Chair Baker, Vice Chair Kidani, and Members of the Committee on Commerce, Consumer Protection, and Health. 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.,

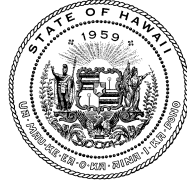
mainstream agricultural. Medical marijuana growing and distribution in Hawaii is a protected class of industry and will be highly controlled with limited competition.

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
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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

JOSEPH K. KIM
DEPUTY DIRECTOR

To: The Honorable Rosalyn H. Baker, Chair
and Members of the Senate Committee on Commerce, Consumer Protection, and Health

Date: March 15, 2016
Time: 9:00 A.M.
Place: Conference Room 229, 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 regarding the tax provisions 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 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.

**PRESENTATION OF THE
BOARD OF NURSING**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Tuesday, March 15, 2016
9:00 a.m.

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

TO THE HONORABLE ROSALYN H. BAKER, 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 like to request that 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.”

However, this definition is specifically intended for the prescribing and dispensing of a controlled substance and not for qualifying a patient for medical marijuana. Amending this definition would have a detrimental effect on HRS Chapter 329.

Consequently, 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, that is specific to qualifying patients for medical marijuana 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 only.

Statistics – Currently there are approximately 608 APRNs with prescriptive authority who reside in Hawaii. Out of the 608, 471 are registered with the Department of Public Safety, Narcotics Enforcement Division. In addition, a survey of Boards of Nursing by the National Council of State Boards of Nursing conducted early this year indicated that five (5) states

Testimony on House Bill No. 2707, H.D. 1
Tuesday, March 15, 2016
Page 4

(Georgia, Minnesota, New Mexico, Vermont and Washington) allow nurse practitioners to qualify patients for medical marijuana.

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



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Commerce, Consumer Protection and Health
March 15, 2016 at 9:00 a.m.

by
Vassilis L. Syrmos
Vice President for Research and Innovation
University of Hawai'i

HB 2707 HD1 – RELATING TO MEDICAL MARIJUANA

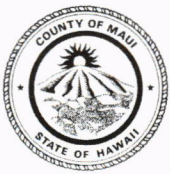
Chair Baker, Vice Chair Kidani, and members of the Committee:

The University of Hawai'i (UH) appreciates the opportunity to be a part of this emerging medical marijuana distribution system and to assure that the dispensed products are accurately labeled and free of contaminants in accordance with laboratory standards developed and administered by the Department of Health. UH also sees a role to contribute to research on the health outcomes for medical marijuana users.

Because marijuana is still considered illegal under federal law, the University of Hawai'i must comply with federal laws and regulations, particularly with respect to satisfying any applicable conditions that allow UH to receive certain federal grant or research funds. See, e.g., Drug-Free Workplace regulations.

The University of Hawai'i has formed a Medical Marijuana Task Force to investigate how other universities in states with legalized medical marijuana are dealing with similar issues, and how UH may engage in the services contemplated by this measure while complying with federal laws and regulations. The task force comprises researchers from John A. Burns School of Medicine, College of Tropical Agriculture and Human Resources, UH Cancer Center, UH Hilo's Daniel K. Inouye College of Pharmacy and Chaminade University.

Thank you for the opportunity to testify on this measure.



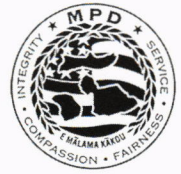
ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
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TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

March 11, 2016

The Honorable Senator Rosalyn H Baker, Chair
Senator Michelle N. Kidani, Vice Chair
And Members of the Committee of Commerce,
Consumer Protection, and Health
The Senate
State Capitol
Honolulu, Hawaii 96813

RE: House Bill. 2707, HD. 1, RELATING TO MEDICAL MARIJUANA

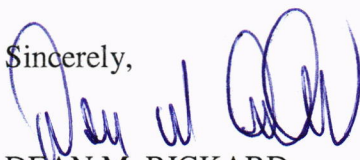
Dear Chair Baker, Vice Chair Kidani, and Members of the Committee of Commerce,
Consumer Protection and Health:

The Maui Police Department OPPOSES the passing of H.B. 2707, H.D. 1. The bill has been amended to include health care professionals (licensed physicians and advanced practice registered nurses).

We in law enforcement strongly believe only licensed physicians should qualify patients, to prevent the potential abuse and to keep the program tightly regulated.

Thank you for the opportunity to testify.

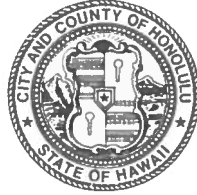
Sincerely,


DEAN M. RICKARD
Deputy Chief of Police

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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

KIRK CALDWELL
MAYOR



LOUIS M. KEALOHA
CHIEF

MARIE A. McCAULEY
CARY OKIMOTO
DEPUTY CHIEFS

OUR REFERENCE CT-TA

March 15, 2016

The Honorable Rosalyn H. Baker, Chair
and Members
Committee on Commerce,
Consumer Protection, and Health
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Baker 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.

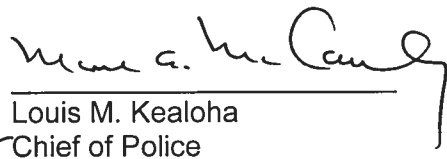
This bill seeks, in part, to allow advanced practice registered nurses to qualify a patient for the medical use of marijuana. The medical marijuana program needs to remain tightly regulated to prevent misuse of marijuana. The passage of this bill would increase the potential for abuse of the medical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



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

TO: Senate Committee on Commerce, Consumer Protection and Health
FROM: Carl Bergquist, Executive Director
HEARING DATE: 15 March 2016, 9AM
RE: HB2707 HD1, Relating to medical marijuana, **STRONG SUPPORT**

Dear Chair Baker, Vice Chair Kidani 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: a clarification that registered medical marijuana patients 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 be given the authority 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 delivering this type of paraphernalia, we strongly believe that no drug users whatsoever should be jailed for this type of paraphernalia offense.** SB2179 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.



ON THE FOLLOWING MEASURE:

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

BEFORE THE:

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Tuesday, March 15, 2016

TIME: 9:00 a.m.

LOCATION: State Capitol, Conference Room 229

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

Honorable Chair Baker, Vice-Chair Kidani, and Members of the Committee:

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 H.B. 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 that are provided through 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.

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: wailua@aya.yale.edu
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM
Date: Saturday, March 12, 2016 7:30:44 PM

HB2707

Submitted on: 3/12/2016

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

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

Comments: Aloha Senator Rosalyn H. Baker, Chair, Senator Michelle N. Kidani, Vice Chair, and members of the Senate Committee on Commerce, Consumer Protection and Health. Mahalo for the opportunity to testify in STRONG SUPPORT of HB2707, HD1, on behalf of the Hawaii Association of Professional Nurses (HAPN). This bill does not expand the scope of practice of APRNs in Hawaii; APRNs currently assess and diagnose medical conditions currently listed as qualified conditions to utilize medical cannabis. This bill would merely allow the state to recognize the APRN's documentation of these conditions. The number of individuals eligible to use medical cannabis does not increase with passage of this bill, and accepting an APRN's documentation will not increase the potential for abuse of medical cannabis as posited by HPD. We have over 50 years of published research documenting the safety and capability of APRNs in the United States. In addition, HAPN supports the comments submitted by the Board of Nursing to the House Committee on Finance during their hearing on this bill. Again, mahalo for the opportunity to testify in STRONG SUPPORT of HB 2707, HD1, and for all you do in support of the health care of the people of Hawaii and the profession of nursing. Warmest Aloha, Wailua Brandman APRN FAANP, Chair, HAPN Legislative Committee

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Testimony in Opposition to HB 2707 HD1 – Relating to Medical Marijuana
Hearing on March 15, 2016 at 9:00 am
Conference Room 229 of the State Capitol

TO: Committee on Commerce, Consumer Protection, and Health
Senator Rosalind Baker, Chair
Senator Michelle Kidani, 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, which establishes a medical marijuana advisory commission and attempts to amend medical marijuana dispensary operations, taxation, testing, and transportation of marijuana among other issues.

Regarding setting up a medical marijuana advisory committee (page 2, Section 3), membership should be more diverse to allow for varying points of view and expertise, such as substance abuse prevention/treatment, law enforcement and DOT.

Oppose the inclusion of health care professionals in the recommending the medical use of marijuana (pages 21-22, Section 10). Lacks definition of health care professional and could include midwives, LPNs, chiropractors, school nurses, etc. Makes the recommendation too permissive and could lead to abuses.

Oppose the transporting of marijuana between counties and islands for testing purposes (page 27, Section 15) which is in direct conflict with federal law on transporting Schedule I drugs. Needs clear definitions of how much marijuana will be allowed and by whom, and under what circumstances before this issue should be considered.

Support the UH School of Medicine conducting research on medical benefits of marijuana (page 31, section 19). However, the bill adds independent lab testing for content, contamination and consistency of marijuana. If so, then the UH should be certified as a testing lab which it is not and probably would not qualify because of the stringent testing lab standards.

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

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



mānoabotanicals

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Tuesday, March 15, 2016 TIME: 9:00AM

LOCATION: Conference Room 229

TESTIFIER: Brian Goldstein, CEO
Mānoa Botanicals LLC

POSITION: SUPPORT WITH COMMENTS

Chairs Baker, Vice Chair Kidani and Members of the Committee:

Mānoa Botanicals (Mānoa) is an applicant for one of the three medical marijuana dispensary licenses to be granted for the City and County of Honolulu.

Mānoa submits the following testimony in **SUPPORT WITH COMMENTS**.

“Service Contractor” – This definition attempts to be comprehensive in identifying all of the types of contractors that are not involved in the actual cultivating, dispensing, manufacturing, or selling of marijuana. As a result there are classes of contractors that are not covered (e.g. clerical or temp office personnel) but should be. We recommend that the definition be changed to

“Service contractor” means any person or entity that a dispensary licensee has engaged to perform any work or service, including but not limited to, related to product testing or the planning, designing, construction, maintenance, repair, renovation, expansion, modernization, or security of a production center or retail dispensing location, other than the actual cultivating, dispensing, manufacturing, or selling marijuana or marijuana products.”

Laboratory Standards – We are concerned that codifying the laboratory standards from the interim rules into statute will reduce necessary flexibility by



mānoabotanicals

DOH. We recommend that the authority to update laboratory standards be vested with the medical marijuana advisory commission.

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

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: NuWayveUnl@gmail.com
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM
Date: Monday, March 14, 2016 12:09:25 PM

HB2707

Submitted on: 3/14/2016

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

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

Comments: We at NuWayve Unlimited support: - Permitting inter-island transport for lab testing of small medical cannabis and CBD samples. - Allowing dispensaries to be open for business 7 days a week. - Changing and updating Hawai'i drug paraphernalia statutes (this exempts State MMJ patients from the use and possession drug paraphernalia offenses). - Allowing Advanced Practice Nurse Practitioners (APRN) to make recommendations. APRNs are UNIQUELY qualified for this, as they already have privileges to prescribe controlled substances like Dronabinol. Currently, patients are experiencing difficulties locating physicians who are willing and able to make the recommendations. Roughly, 10 physicians allow their names and contact information to be given out to inquiring patients. 'NuWayve Unlimited', as well as 'The Medical Cannabis Coalition of Hawaii', fields multiple requests each week and the number of patients seeking physicians is expected to grow once dispensaries are in place.

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From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: Keith.t.kamita@gmail.com
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM
Date: Monday, March 14, 2016 9:10:16 AM

HB2707

Submitted on: 3/14/2016

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

Submitted By	Organization	Testifier Position	Present at Hearing
Keith Kamita	Individual	Comments Only	No

Comments: In reviewing HB2707 HD1 in regards to the Medical marijuana advisory commission board i am recommend an amendment to Page 5 lines 4 through 21 Section 3 of this bill amendment of (6). "(e) The commission shall comprise fifteen members, as follows: (1) The director of health or the director's designee; (2) The director of public safety or the director's designee; (3) The mayor of each county or the mayor's designee; (4) One qualifying patient from each county, who shall be appointed by the governor; (5) Two health care professionals licensed in the State, one of whom shall be appointed by the speaker of the house of representatives and one of whom shall be appointed by the president of the senate; and (6) Three representatives of the medical marijuana dispensary industry selected from the 8 selected dispensary licensees from each represented island, that the selection of these representative shall be made by representatives of the 8 dispensary licensees." Thank you for allowing me to testify on this matter

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From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: jarronn@hotmail.com
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM
Date: Sunday, March 13, 2016 12:16:07 PM

HB2707

Submitted on: 3/13/2016

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

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

Comments: PLEASE HELP US MEDICAL MARIJUANA PATIENTS. I'm over 60 years old and all this run around baloney is driving me nuts!!! PLEASE STOP ALL THIS RED TAPE NONSENSE!!! ((((PLEASE!!!!)))

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From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: gr8tr8@gmail.com
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM
Date: Sunday, March 13, 2016 1:02:43 PM

HB2707

Submitted on: 3/13/2016

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

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

Comments: I support HB2707 for its reasonable approaches to allowing interisland transport of medical cannabis for testing purposes, opening of dispensaries on Sundays, and the enabling of APRNs for recommending patients for medical use of cannabis.

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From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: naturadoc@gmail.com
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM
Date: Sunday, March 13, 2016 4:07:30 PM

HB2707

Submitted on: 3/13/2016

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

Submitted By	Organization	Testifier Position	Present at Hearing
Bonnie Marsh	Individual	Support	No

Comments: PLEASE SUPPORT ALL ASPECTS OF THIS BILL TO PROVIDE MORE ACCESS TO MEDICAL MARIJUANA TO PEOPLE WHOULD SO VITALITY NEED IT. MAHALO FOR YOUR SUPPORT.

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ON THE FOLLOWING MEASURE:

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

BEFORE THE:

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Tuesday, March 15, 2016

TIME: 9:00 a.m.

LOCATION: State Capitol, Conference Room 229

TESTIFIER: Cris Clatte

POSITION: **SUPPORT**

Honorable Chair Baker, Vice-Chair Kidani, and Members of the Committee:

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 **HB 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,



From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for HB2707 on Mar 15, 2016 09:00AM*
Date: Monday, March 14, 2016 12:11:40 PM

HB2707

Submitted on: 3/14/2016

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

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Armstrong	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: georgina808@gmail.com
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM
Date: Friday, March 11, 2016 6:30:49 PM

HB2707

Submitted on: 3/11/2016

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

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

Comments: HB2707, relating to medical marijuana, covers so many various and disparate aspects. Despite feeling somewhat compromised, I am in support of most portions of this bill.

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From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: mikecawdery@hotmail.com
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM
Date: Sunday, March 13, 2016 9:52:50 PM

HB2707

Submitted on: 3/13/2016

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

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Cawdery	Individual	Support	No

Comments: I look forward to having a knowledgeable and professional group acting on behalf of the citizen and the business community. I think that the legislature is wise to approve this bill now in order to get a foothold on the inevitable. Clearly, an advisory group or commission will act to ensure this emerging and uniquely challenged initiative is handled thoughtfully and efficiently. Thank you, and all the best.

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From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: nami.nielipinski@gmail.com
Subject: Submitted testimony for HB2707 on Mar 15, 2016 09:00AM
Date: Sunday, March 13, 2016 9:55:14 AM

HB2707

Submitted on: 3/13/2016

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

Submitted By	Organization	Testifier Position	Present at Hearing
Nami Nielipinski	Individual	Support	No

Comments: Thank you for establishing this bill to do many good things including letting qualified nurses help patients. I've had a dying family member who could've really used law. Please help those who are going to need this in the future.

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Submitted 3/14/16 2:15 am

Testimony of Robert Petricci MMJ patient # 2015008384

Mar 15, 2016 9:00 AM, Rm. 229

Re: HB 2707, HD1

Strong Support with comments

CPH

Senator Rosalyn H. Baker, Chair,

Senator Michelle N. Kidani, Vice Chair,

Aloha Chair Baker, vice chair Kidani and committee members:

Thank you for the opportunity to testify for the record.

HB 2707 is a step in the right direction and I support it with the following comments:

There is more that will need to be done to protect the MMJ patients who have to this point largely been both stigmatized and discriminated against by statute since the medical marijuana laws were first passed over a decade ago. Any new laws should strive to change that and seek to enhance and protect patient constitutional rights not to be discriminated against, for any reason.

Over regulation of MMJ has effectively negated the very definition legal and continues to put patients at risk of great harm. With so many traps set selectively for MMJ patients through over regulation, even the Hawaii Supreme Court recently weighed in on the problem. They granted acquittal in a MMJ case, when they 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 the accused acquitted. The minority opinion was that the lack of access to medical marijuana by new patients was an absurdity, which is why we are here today, but that is the tip of the discriminatory iceberg.

The Hawaii high court decision telegraphs the court may have issue with other unconstitutional discrimination in the Hawaii statutes regarding selective targeting of MMJ patients for special/discriminatory rules and taxes. You would be wise to fix that ASAP before more patients are hurt by this discrimination and seek remedy in the courts.

Discriminatory over regulation is selectively targeting a specific group of people, patients that use marijuana to treat illnesses, that is not legalization. The current laws continues to create fear of arrest for patients. Special laws and regulations that no other group or patients are subject to, are discriminatory in nature even if that was not the intent.

Passing HB2707 is in the best interest of the State, but it does not end the discriminatory treatment of the patients we have now.

Patients and physicians making decisions about the safest and most effective

HB2707 mmj testimony

medical treatment and medicines available, should have the option of MMJ without undue, discriminatory, and obstructive laws just as is done with other medications. Doctors and patients that understand marijuana is both safe and effective for thousands of people, should not be singled out for discriminatory persecution by the state based on outdated and debunked beliefs and paranoia

Are MMJ patients second class citizens? If not why do they need to be authorized and registered with the State to access health care that would give them hard narcotics without those requirements? It looks like regulatory discrimination wherein a bottle of deadly and addictive pills does not require registration and authorization versus a safe non toxic medical plant you can grow at home or with friends, that has kinds of restrictions.

MMJ are further hurt, dehumanized, and Stigmatized by stereotyping and even by some legislators that refer to patients in derogatory terms such as "card-carrying users"

This stigmatization and discrimination leads to legal MMJ patients being at real risk and living in fear of the police, that needs to end now.

Even the number of dispensaries for MMJ is monopolistic, discriminatory, and obstructive. There are hundreds of pharmacies in Hawaii to provide adequate accessibility to other legal drugs and narcotics in various localities. The same accessibility is not afforded MMJ patients by only 16 dispensaries in the entire state.

HB2707, moves certifying medical patients by medical professionals in a sensible direction. It facilitates some needed marijuana-related research by University of Hawaii departments in science, agriculture and medicine, and brings science into an emotionally charged discussion.

It establishes the Medical Marijuana Advisory Commission, and clarifies that prohibitions regarding drug paraphernalia shall not apply to persons who lawfully cultivate, possess, or use medical marijuana.

HB2707 provides that an advanced practice registered nurse (APRN) with prescriptive authority may provide written certification for a qualifying patient to lawfully use medical marijuana, and 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.

Finally HB2707 clarifies that transdermal patches and substances designed to be inhaled are among the types of medical marijuana products that may lawfully be manufactured and distributed.

Thank you for your consideration

Robert Petricci

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Tuesday, March 15, 2016

TIME: 9:00 a.m.

LOCATION: State Capitol, Conference Room 229

TESTIFIER: Stephen P. Pingree, Attorney at Law

POSITION: **SUPPORT**

Honorable Chair Baker, Vice-Chair Kidani, and Members of the Committee:

As an attorney and stakeholder in the medical marijuana industry I am writing in **STRONG SUPPORT**, without reservation, of the amendments proposed in **HB 2707, HD 1**: the establishment of a medical marijuana advisory commission; provision of data to the Department of Business, Economic Development, and Tourism for analysis; the amendments to HRS 235 (see below); 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.

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, recognizing MMJ Dispensaries as legitimate Hawaii businesses, while boosting the local economy with career opportunities and new jobs is a huge win for your constituency and the legacy that you leave.

I particularly **SUPPORT** the following area addressed in **HB 2707, HD1 (2)(r)**, page 14, the amendment of the Hawaii Income Tax Code HRS 235, to not follow the US Internal Revenue Code section 280E, and related IRC provisions, to provide normal business deductions to state licensed MMJ dispensary operations. The Federal IRC 280E has a highly detrimental and costly impact on all legal MMJ businesses in other jurisdictions. These costly impacts, creating a tax burden of nearly 90%, have not only increased tremendously the cost of a MMJ business, but have caused prices of MMJ products to be increased; a direct burden on the patients. The historical intent of IRC 280E was to punish organized crime, not legal and legitimate businesses allowed under state laws.

Respectfully,



Stephen P. Pingree, JD

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From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: tabraham08@gmail.com
Subject: *Submitted testimony for HB2707 on Mar 15, 2016 09:00AM*
Date: Monday, March 14, 2016 12:08:21 PM

HB2707

Submitted on: 3/14/2016

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

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

Comments:

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: Commerce, Consumer Protection, and Health Committee.
Senator Rosalyn H. Baker, Chair, Senator Michelle N. Kidani, Vice Chair

FROM: Wendy Gibson R.N., Field Organizer for The Medical Cannabis Coalition of Hawaii. American Cannabis Nurses Association Member.

RE: HB2707 HD1 (Support)

Hearing/Decision-Making Tuesday, March 15, 2016 at 9:00am, Conf. Room 229

Dear Honorable Chair Baker, Vice Chair Kidani and Members of the Committee,

Thank you for allowing me to testify in **SUPPORT of HB2707 HD1**,

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 HD1 is in the best interest of the State.**

One of my duties as the Field Organizer for The Medical Cannabis Coalition of Hawaii is to assist patients with finding physicians who make recommendations (for qualifying patients). My list of resources is short.

The list of physicians who have given me permission to give out their contact information **consists of only 10 names**. I'm finding that many physicians are disallowed from making recommendations by "company policies". Many are sadly and willfully ignorant about the pathophysiology of diseases that respond to this herbal medicine. This provider shortage is impeding patient access to this relatively safe and effective medicine. Patients tell me so.

As that number of patients increases—and that is expected once dispensaries are in place—**we will also need to increase the number of health care providers** who can make recommendations. Advance Practice RNs (APRNs) are uniquely qualified to provide this much needed service. They **already have prescription writing privileges that include scheduled drug (controlled substances)**. They have a UNIQUE ability to help this patient population—by making the recommendations. APRNs already have the authority to recommend medical cannabis in 5 states: California, Maine, New Mexico, New York and Washington.

We also support increasing patient access to dispensaries by allowing them to be **open for business on Sundays**. Many patients and caregivers work more than one job, and Sundays may be the only day that they can access them.

We support the use of **interisland transportation** for testing (very small) samples since a full-on laboratory may not be available on every island with a dispensary.

We support the clarification of prohibitions **regarding drug paraphernalia**. Prohibitions should **not** apply to persons who lawfully cultivate, possess, or use

medical marijuana. Our patients and dispensary employees need clarification on what protections they have regarding paraphernalia.

We support allowing dispensaries to stock products **designed to be inhaled**. Inhalation of cannabis not only a time-tested, legitimate method of delivery for this medicine, it is sometimes the PREFERRED method of delivery. It provides the **quickest delivery** of medicine for patients with severe nausea and Crohn's disease. It provides the best dosing control as patients can use what they need and stop when they feel the results. As you may know, edibles take time to work and dosing is less accurate. The health effects from inhalation of cannabis cannot and should NOT be compared to the dangers of smoking nicotine/tobacco.

The NIDA approved, long-term studies (30+ years) 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 (combustion) can lead to irritation of bronchial structures and can cause changes in tissue however are **NOT linked to cancerous changes**. The same data suggests a possible, slightly protective effect against lung cancer. Please refer to the work of Dr. Donald Tashkin for more information. (Donald P. Tashkin "Effects of Marijuana Smoking on the Lung", Annals of the American Thoracic Society, Vol. 10, No. 3 (2013), pp. 239-247.

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** (From Journal of Clinical Pharmacology 2002, Marijuana smoking and head and neck cancer found at <http://www.ncbi.nlm.nih.gov/pubmed/12412843>

So, while we feel that inhalation products should be allowed, we may wish to err on the side of caution and avoid any possible health risks from combustion by encouraging patients to use vaporizers. And, ultimately it should be the patients and physicians who are making the decisions about the most effective delivery method for medicine.

Thank you for hearing this bill and giving me this opportunity to provide testimony
Wendy Gibson R.N.
Field Organizer for The Medical Cannabis Coalition of Hawaii (A project of The Drug Policy Forum of Hawaii).
(808) 321-4503

Ellen Watson
P.O. Box 10853
Honolulu, Hawaii 96816

Senate Committee of Commerce, Consumer Protection, and Health
Tuesday, March 15, 2016
9:00a.m.
State Capitol, Conference Room 229

RE: HB 2707 HD1, Relating to Medical Marijuana

Honorable Chair Baker, Vice-Chair Kidani, and Members of the Committee

Position: Oppose

It is reasoned that the Legislature is seeking to clarify and correct flaws in the original medical marijuana law, 329D passed last year. However, these proposed changes come after the fact. Based on present law and DOH interim rules, it appears that law makers believe DOH rules exceeded the intent of current law. Because the DOH was unwilling to modify their rules to reflect reasonableness and the spirit of the law, the Legislature this session is trying to undo and rewrite it. This premise is a "Bait and Switch".

The real problem is that the dispensary application process closed January 29, 2016. And, any changes to the law will be implemented solely for the benefit of the winners of the eight dispensary licenses granted. It is wrong to rewrite law for the benefit of a handful of businesses.

If the Legislature feels compelled to change the law, then it must also change the processes pertaining to that law. How can the people trust our Legislators and Officials to generate fair and balanced laws, implement equitable processes, while watching what appears to be a corrupt insider's game play out.

If the Legislature wants a "re-do", then do it fully and completely, open the application process again, get the law right, and find an objective method; for example a lottery, to select the eight coveted dispensary winners.

Respectfully,
Ellen Watson