

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



**Testimony in OPPOSITION to HB0344
RELATING TO MEDICAL MARIJUANA.**

REPRESENTATIVE DELLA AU BELATTI, CHAIR
HOUSE COMMITTEE ON HEALTH

Hearing Date: February 7, 2017

Room Number: 329

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department generally OPPOSES the passage of new laws related
3 to marijuana until the medical marijuana dispensaries open and the Department has the chance to
4 gauge the impact upon the State, particularly as it relates to authorized access to medical
5 marijuana facilities.

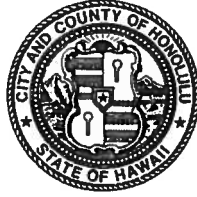
6 Patients' caregivers are currently authorized to access retail dispensing locations. The
7 Department will defer to law enforcement agencies on the reclassification of unlawful acts from
8 felonies to misdemeanors or petty misdemeanors.

9 Thank you for the opportunity to testify on this bill.

10 **Offered Amendments:** None.

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

CARY OKIMOTO
JERRY INOUE
DEPUTY CHIEFS

OUR REFERENCE CT-TA

February 7, 2017

The Honorable Della Au Belatti, Chair
and Members
Committee on Health
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 329
Honolulu, Hawaii 96813

Dear Chair Belatti and Members:

SUBJECT: House Bill No. 344, Relating to Medical Marijuana

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

The HPD opposes House Bill No. 344, Relating to Medical Marijuana.

The bill seeks to repeal certain prohibitions relating to medical marijuana and to amend certain penalties relating to medical marijuana prohibitions to make them commensurate with prohibitions relating to alcohol.

A highly regulated dispensary system is needed to minimize the risk of illegal diversion of medical marijuana and medical marijuana products. The provisions being stricken should remain in place because they will help to deter illegal diversion. The high penalties also serve as a deterrent.

The HPD urges you to oppose House Bill No. 344, Relating to Medical Marijuana.

Thank you for the opportunity to testify.

APPROVED:

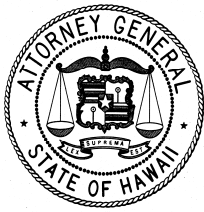
Handwritten signature of Cary Okimoto in black ink.

Cary Okimoto
Acting Chief of Police

Sincerely,

Handwritten signature of Calvin Tong in black ink.

Calvin Tong, Major
Narcotics/Vice Division



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:

H.B. NO. 344, RELATING TO MEDICAL MARIJUANA.

BEFORE THE:

HOUSE COMMITTEE ON HEALTH

DATE: Tuesday, February 7, 2017 **TIME:** 8:30 a.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Lance M. Goto, Deputy Attorney General

Chair Belatti and Members of the Committee:

The Department of the Attorney General opposes this bill. We generally oppose the passage of new laws related to marijuana until the medical marijuana dispensaries open and the State has the opportunity to gauge their impact.

The purpose of this bill is to reduce the penalties for certain medical marijuana prohibitions and to repeal certain other medical marijuana prohibitions. Regarding the offense that prohibits a person from obtaining or attempting to procure medical marijuana by fraud, misrepresentation, theft, or forgery or alteration of permits, the bill reduces the offense from a class C felony to a petty misdemeanor. Regarding the offense that prohibits the intentional or knowing distribution of medical marijuana or marijuana products to a minor, this bill reduces the offense from a class B felony to a misdemeanor. The bill repeals the class C felony offenses of Unauthorized Access to a Retail Dispensing Location, Unauthorized Access to Production Centers, and Diversion from Dispensary or Production Center.

These provisions were a part of Act 241 (2015), a comprehensive law to establish a medical marijuana dispensary system in Hawaii. The Act was the result of tremendous effort by many stakeholders, including the Medical Marijuana Dispensary Task Force that convened between the 2014 and 2015 legislative sessions. The Act was intended to create a highly regulated dispensary system to make medical marijuana available to qualifying patients who need it, while addressing public safety

and federal concerns, including the concerns that medical marijuana is not diverted out of the medical marijuana system, and that any form of medical marijuana is not distributed to unqualified minors. The criminal provisions that are being amended or repealed in this bill were intended to protect the public, including our minors, as well as the integrity of the medical marijuana dispensary system. It was also intended to address federal government concerns and assure it that the state regulatory scheme is consistent with federal priorities.

Because marijuana is a Schedule I controlled substance and illegal to produce, possess, sell, or use according to the federal government, federal guidelines mandate that a state regulatory system be consistent with federal law enforcement priorities. The U.S. Department of Justice (DOJ) issued its Memorandum for All United States Attorneys dated August 29, 2013 (the Cole Memo), providing guidance regarding marijuana enforcement. The DOJ has confirmed that it will enforce the Controlled Substances Act consistent with Congress' determination that marijuana is a dangerous drug. Notwithstanding this, the Cole Memo sets forth the DOJ's expectation that states that have enacted laws that authorize marijuana-related conduct must implement strong and effective regulatory and enforcement systems to address threats to public safety, public health, and other law enforcement interests. The DOJ enforcement priorities include prevention of marijuana distribution to minors, preventing revenues from marijuana sales going to criminal enterprises, preventing the diversion of marijuana to other states, preventing violence in the cultivation and distribution of marijuana, and preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use. The regulatory scheme of the current law and its criminal provisions is designed to accomplish that, but as stated in the Cole Memo, "[i]f state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on these harms."

Section 2 of the bill amends the offense that prohibits a person from obtaining or attempting to procure medical marijuana by fraud, misrepresentation, theft, or forgery or

alteration of permits, by reducing the offense from a class C felony to a petty misdemeanor. The offense is intended to deter people from trying to exploit the medical marijuana dispensary system and get around its provisions to unlawfully access the marijuana or marijuana products. The offense prohibits specific conduct and thereby provides clear notice to potential offenders of the prohibited conduct. The grading of the offense as a class C felony reflects the seriousness of the offense and a commitment to protect the integrity of the medical marijuana dispensary system. The bill significantly reduces the deterrent impact of this offense by reducing the grade of offense to a petty misdemeanor.

Section 3 of the bill amends the offense of Promoting Medical Marijuana or Medical Marijuana Products to a Minor, which prohibits the intentional or knowing distribution of medical marijuana or marijuana products to a minor, by reducing the offense from a class B felony to a misdemeanor. The offense of Promoting a Detrimental Drug in the Second Degree, a misdemeanor, already prohibits the distribution of any amount of marijuana to anyone. The new offense is intended to prevent regulated medical marijuana from being distributed to minors. It is meant to protect minors and the dispensary system. This offense should be a class B felony, a higher level offense than the current Promoting a Detrimental Drug in the Second Degree.

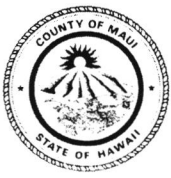
Sections 4 and 5 of the bill repeal the class C felony offenses of Unauthorized Access to a Retail Dispensing Location and Unauthorized Access to Production Centers. These offenses were intended to protect and regulate the retail dispensing locations and production centers by limiting the access to those sites to individuals who were authorized and had a legitimate reason to be on the sites.

Section 6 of the bill repeals the class C felony offense of Diversion from Dispensary or Production Center. This offense prohibits a licensee, operator, or employee of a dispensary or production center from diverting to the person's own use or control any medical marijuana or marijuana product under the person's possession, care or custody. This offense is also intended to prevent or deter the diversion of

medical marijuana and medical marijuana products out of the medical marijuana system.

The criminal provisions address public safety and federal government concerns, protect the integrity of the medical marijuana dispensary system, and protect our youth.

For the foregoing reasons, the Department respectfully requests that this bill be held.



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411

February 6, 2017



TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

The Honorable Della Au Bellati, Chair
The Honorable Bertrand Kobayashi, Vice Chair
And Members of the Committee on Health

The House of Representatives
State Capitol
Honolulu, Hawaii 96813

Re: House Bill No. 344, RELATING TO MEDICAL MARIJUANA

Dear Chair Bellati, Vice Chair Kobayashi, and Members of the Committee:

The Maui Police Department **STRONGLY OPPOSES** the current draft of H.B. No. 344. This bill will remove present penalties that protect dispensaries from unauthorized persons entering and remaining within dispensing locations. The bill states that it is unnecessary and unjustified, to which we disagree.

There is no basis to say that it will cause any issues with the dispensaries that produce medical marijuana for their patients as the state's first dispensaries are just beginning their operations. The justification behind the changes claim that it will be hurtful and disrupt dispensaries, which is not true as there are no facts or studies to back the claim because the production is in its infancy.

Removing the ability to prosecute unauthorized individuals from entering and remaining on dispensary grounds for felony crimes and making them into misdemeanors and petty misdemeanors removes the teeth in the protection of dispensaries. It is not, nor will it ever be anything like alcohol. The potential of turning marijuana into a stronger, more potent psychoactive drug with heavy hallucinogenic properties is a proven fact.

The bill also removes the penalties against any individual removing or diverting marijuana from dispensaries. If the dispensary has a bad employee stealing marijuana to sell on his/her own, how are the operators able to protect themselves? How are we going to help them protect the product from entering the mainstream public illegally to unauthorized non-card holding individuals?

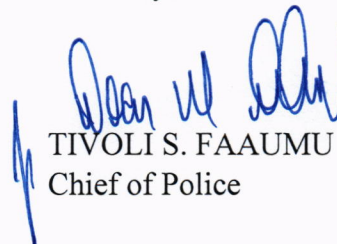
The Honorable Della Au Bellati, Chair
The Honorable Bertrand Kobayashi, Vice Chair
And Members of the Committee on Health
February 7, 2017
Page 2

There are too many variables and no facts to support changes to punishments regarding our state's medical marijuana system.

The Maui Police Department asks that you **OPPOSE** House Bill No. 344.

Thank you for the opportunity to testify.

Sincerely,



TIVOLI S. FAAUMU
Chief of Police

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

LATE

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY



CHRISTOPHER D.W. YOUNG
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE DELLA AU BELATTI, CHAIR
HOUSE COMMITTEE ON HEALTH
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawai`i**

February 7, 2017

RE: H.B. 344; RELATING TO MEDICAL MARIJUANA.

Chair Belatti, Vice-Chair Kobayashi and members of the House Committee on Health, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in strong opposition to House Bill 344.

The purpose of S.B. 344 is to eliminate the specialized offense of diverting products from medical marijuana dispensaries or production centers; to eliminate any limitations (or special procedures) on who may enter medical marijuana dispensaries or production centers; to lower penalties for obtaining medical marijuana via fraudulent means, from C felony to petty misdemeanor; and to lower penalties for distribution of medical marijuana to a minor, from B felony to misdemeanor.

When the Legislature passed legislation in 2015 that went on to become Chapter 329D, Hawaii Revised Statutes (“HRS”), Medical Marijuana Dispensary System¹, it did so in the context of multiple safeguards and precautions, which included a number of narrowly tailored offenses pertaining only to medical marijuana dispensaries. Because marijuana continues to be a Schedule I controlled substance on both the State and Federal level, and because the true effects of and reactions to medical marijuana dispensaries are yet unknown in Hawaii, these heightened and specialized offenses are warranted and should be kept in place, consistent with what was touted when the bill was passed, when the Governor signed it into law, and when license applicants submitted their applications.

In particular, maintaining strict limitations on who is permitted to enter medical marijuana facilities is extremely important, as these facilities are not intended to be casual retail

¹ H.B. 321, C.D. 1, 28th Leg., Reg. Session (2015) (later enacted as Act 241 (Gov. Msg. No. 1350))

establishments, novelty or spectacle, but rather a very serious consideration for individuals who suffer from debilitating health conditions.

Until Hawaii has some actual experience with medical marijuana dispensaries, and the specialized offenses created by the Legislature in 2015 have had a chance to go into effect, the current offenses listed above should be maintained, in order to minimize the potential for illicit activity and ensure public safety. While the Department understands that individuals with certain debilitating conditions rely on medical marijuana for some modicum of respite at this stage in their life, the public, social and economic risks associated with establishing a medical marijuana dispensary system cannot be underestimated, particularly after seeing the effects in other states.

Rather than rushing to downgrade any safeguards that were previously included in this Chapter of the HRS, the Department feels very strongly that Hawaii must learn from the hard-learned lessons of other states, and approach the concept with utmost restraint, thorough consideration, and comprehensive standards, controls and mechanisms to regulate the flow of marijuana through these businesses and into the public.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly opposes the passage of H.B. 344. Thank you for the opportunity to testify on this matter.



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

TO: House Committee on Health
FROM: Carl Bergquist, Executive Director
HEARING DATE: 7 February 2017, 8:30AM
RE: HB344, Relating to Medical Marijuana, **STRONG SUPPORT**

Dear Chair Belatti, Vice Chair Kobayashi, Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) **strongly supports** this measure to eliminate and decriminalize the felonies added via Act 241 (2015), the medical marijuana dispensary law. These felonies are either duplicative of existing laws or disproportionate punishments that do not fit the offense. Moreover, in light of the delays in the opening of even a single dispensary to date, it is clear our focus should be elsewhere and not in criminalizing more people.

Simply being present without authorization at a dispensary or a production center should not even be a specific offense, so it is appropriate to eliminate those felonies. There are already laws on the books to deal with unauthorized people on a property. Similarly, diversion is already against the law. By tying medicine, in this case medical cannabis, to a specific penalty, we would be ringing alarm bells far too loudly about something that has been legal in Hawai'i since 2000.

Lastly, creating harsher penalties for distributing to minors is more of the same disparate treatment for medical cannabis. Any such penalties should be identical to, if not lower, than those associated with alcohol or tobacco. Accordingly, we support the amendments to those sections.

Populating our statutes with laws that single out specific drugs may seem like good politics, but it defies common sense. In the context of medical cannabis, it is a wholly unnecessary wink and nod to those who prefer to conjure up apocalyptic scenarios rather highlight how this medicine helps thousands of people here in Hawaii every single day.

Mahalo for the opportunity to testify.

HB 344 eliminates the felonies inserted into the dispensary legislation in 2015. While this bill eliminates 3 of the offenses altogether, the other charges 2 are retained and reduced to misdemeanors. The reduction of these charges each to misdemeanor brings their punishments consistent with alcohol and tobacco legislation related to equivalent offenses; both alcohol and tobacco are factually more harmful to both our health and community than cannabis, more commonly known as marijuana. The 2 felonies which would be reduced are: the Class B felony to misdemeanor for sale to minors (329-17) and the Class C felony to petty misdemeanor for fraud and exceeding limits (329-14).

The sale of alcohol to a minor (HRS 712-1250) is a misdemeanor. The sale of tobacco to a minor is a fine only (\$500 first offense, \$500-\$2500 subsequent). Similarly, fraud already exists in the HRS so there is no need for an additional fraud penalty just for dispensaries. That could be construed as targeting specific groups in the criminal code.

The 3 felonies which would be eliminated by HB344 (all Class C) are redundant and inflammatory, in that currently the HRS has equivalent codes which carry lower penalties, or are unnecessary. These are: entering a dispensary (329D-15), entering a production center (329-16) and diversion from a dispensary or production center (329-18).

(329D-15) While the legislature no doubt has the innate desire to protect both the dispensary and public from unauthorized entry of a dispensary, trespass (and other unauthorized entry codes, such as burglary) laws are more than adequate for criminal activity. The classification of this offense as a felony is also highly inflammatory, considering the potential for innocence in the act itself. If my auntie (who has terrible arthritis in her hands) wanted to go into a dispensary and ask questions, she would have to pay for a medical marijuana license, not to mention find a doctor to certify her ahead of time - just to ask questions about the types of products she could use and see if she is even interested? Would your Uncle with the bad back pain want to do all of that, just to find out whether or not the dispensary carries topical creams? Is it more better to keep taking opioids, considering the huge escalation in their abuse rates in people over 60?

(329D-16) Just as with the previous, this felony is redundant and inflammatory. I would like to discuss an example though. Jari Sugano, MJ Kaneshiro's mom, has toured multiple production centers and returned to Hawaii with not only a wealth of anecdotal evidence but also the peace of mind a parent needs (for their child's safety) only that experience can give. In cases of children like MJ, often the conditions they have make them more sensitive to toxins and foreign substances. Their parents become the gatekeepers that monitor everything their child encounters. Having the opportunity to ask questions and see with your own eyes has a value beyond words, both for adult patients and patient's parents. It is unnecessarily burdensome to require medical certification to obtain knowledge of the process.

(329D-18) The last of the felonies to be eliminated is for diversion. While it is likely the addition of this offense felt natural, the charge is redundant and inflammatory. A class C felony includes stabbing (without disfigurement, which is Class B), diversion of medical supplies should not be treated in equivalence to a stabbing. Further, diversion of marijuana could be treated as diverted medical supplies, or simply charged as theft.

As you can see, this piece of legislation simply eliminates a set of unnecessary punishments; likely inserted with the intent to protect, they actually create an undesirable burden upon patients, parents, care givers and loved ones who would like to know more about the therapeutic use of cannabis (marijuana). By preventing people from getting this information in these venues the law compels them to seek answers from participants in the black market, the only alternative source available.

Mahalo nui for your time in reading, I hope you found this informative and compelling. I look forward to your support on HB344. Please feel free to contact me by email or phone if you have any questions. Alternatively, you can contact Wendy Gibson of the Drug Policy Forum at 853-3231 (office).

I hope you have a productive week, aloha!

HAWAII EDUCATIONAL ASSOCIATION FOR LICENSED THERAPEUTIC HEALTHCARE

To: Representative Della Au Belatti, Chair Health Committee
Representative Bertrand Kobayashi, Vice-Chair Health Committee
Members of the House Health Committee

Fr: Blake Oshiro, Esq. on behalf of the HEALTH Assn.

Re: Testimony in **Support of House Bill (HB) 344**

RELATING TO MEDICAL MARIJUANA.

Amends penalties pertaining to certain medical marijuana prohibitions. Repeals certain medical marijuana prohibitions. Makes conforming amendments.

Dear Chair Belatti, Vice-Chair Kobayashi, Members of the Committee:

HEALTH is a recently formed trade association made up of the eight (8) licensed medical marijuana dispensaries under Haw. Rev. Stat. (HRS) Chapter 329D. HEALTH's members are all committed to ensuring the goals of patient safety, product safety and public safety.

HEALTH **supports** HB344 which changes criminal penalties related to medical marijuana dispensaries which when created under 2015's Act 241, were overly harsh, inconsistent with other substance laws, or created a severe penalty for unauthorized access, which could be inadvertent.

Haw. Rev. Stat. (HRS) Section 329D-15 created the offense of "unauthorized access to a retail facility" and HRS Section 329D-16 created the offense of "unauthorized access to a production facility" and made these a Class C Felony, which is punishable by up to 5 years in prison. Any person that was did not have authorization, and who "intentionally or knowingly enteri[ng] or remain[ing]" in either place, regardless of whether there was any unlawful intent or state of mind, would be subject to prosecution for this harsh penalty. While HEALTH's members have secure facilities and processes to prevent such unauthorized access, there could be foreseeable harmless instances of an entrance by someone that did not have authorization, which would then be a crime.

HEALTH further **supports** the changes to eliminate the need for criminal background checks under HRS 329D-12(a)(5) relating to certain persons accessing dispensary facilities. Principals, owners, officers, employees, contractors, subcontractors, and their employees would all still have to undergo the background check, but this does away with the criminal check for the likely

more intermittent and only occasional persons that may access the facility like attorneys, or repairman.

Access to dispensary facilities are restricted and limited under the law, but HRS 329D-12(a)(5) also required criminal history background checks on persons who were:

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;

The DOH will already have a list to regulate access, must already make sure such persons have no felony conviction, and such persons will be monitored under those sections which require that:

- (A) The person has been individually approved by the department to be included on the list;
- (B) The person is at least twenty-one years of age, as verified by a valid government issued identification card;
- (C) The department has confirmed that the person has no felony convictions;
- (D) The person is escorted by an individual licensee or registered employee of the dispensary at all times while in the dispensary facility;
- (E) The person is only permitted within those portions of the dispensary facility as necessary to fulfill the person's purpose for entering;
- (F) The person is only permitted within the dispensary facility during the times and for the duration necessary to fulfill the person's purpose for entering;
- (G) The dispensary shall keep an accurate record of each person's first and last name, date and times upon entering and exiting the dispensary facility, purpose for entering, and the identity of the escort; and
- (H) The approved list shall be effective for one year from the date of the department approval.

Finally, we support the changes to HRS Section 329D-18 relating to unlawful diversion of products, HRS Section 329D-14 relating to fraudulent methods of obtaining marijuana products and HRS Section 329D-17 to distribution of a medical marijuana product to a minor so that such offenses are commensurate with existing penalties associated with other substances.

LATE

kobayashi2 - Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 5:34 AM
To: HLTtestimony
Cc: bmurphy420@mail.com
Subject: Submitted testimony for HB344 on Feb 7, 2017 08:30AM

HB344

Submitted on: 2/7/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Murphy	Patients Without Time	Support	No

Comments: LEGALIZE MARIJUANA NOW! SAVE LIVES! 90,000 Americans die from alcohol every year, yet Hawaii celebrates the success of microbreweries, and allows tourists access to production centers, and tasting rooms! Marijuana consumers deserve equal rights. Since Marijuana kills ZERO Americans, why the prejudice against it, in favor of highly addictive, and actually deadly alcohol? LEGALIZE MARIJUANA and SAVE LIVES! For 16 years, Hawaii has practiced SELECTIVE PROSECUTION against marijuana consumers. Protecting some folks with "329 cards" from prosecution (stating that marijuana is medicine), while sending others to jail for "marijuana crimes," (stating marijuana has no medical value). All citizens deserve equal justice! LEGALIZE MARIJUANA NOW!

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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LATE

kobayashi2 - Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 11:45 PM
To: HLTtestimony
Cc: pamelalichty@gmail.com
Subject: Submitted testimony for HB344 on Feb 7, 2017 08:30AM

HB344

Submitted on: 2/6/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Pamela Lichty	Drug Policy Action Group	Support	No

Comments: We stand in strong support of this measure. In the extremely long bill enabling dispensaries that passed in 2015, these excessive criminal penalties were somehow overlooked. For example, making unauthorized access to a dispensary a felony is a really draconian punishment for an action which could be a simple mistake. Please amend this part of the law so that these penalties about diversion, etc. are no harsher than those pertaining to substances more harmful and more potent than medical cannabis such as opioids and alcohol. 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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LATE

ON THE FOLLOWING MEASURE:
HB344, RELATING TO MEDICAL MARIJUANA

BEFORE THE:

HOUSE COMMITTEE ON HEALTH

DATE: Tuesday, February 7, 2017 TIME: 8:30 a.m.

LOCATION: State Capitol, Conference Room 329

TESTIFIER: Christopher Garth, Executive Director

Honorable Chair Belatti and Members of the Committee:

The Hawai'i Dispensary Alliance submits the following testimony in **STRONG SUPPORT of HB344 RELATING TO MEDICAL MARIJUANA**, which amends penalties pertaining to certain medical marijuana prohibitions. Repeals certain medical marijuana prohibitions. Makes conforming amendments.

The Hawaii Dispensary Alliance is a patient centric organization that aims to appropriately introduce a legitimate cannabis industry to the state of Hawaii. Our membership is drawn from patients and caregivers, ancillary businesses related to and involved in the physical and intellectual cannabis space, and those who generally support the value of a legal right to cannabis-based medicine. The Alliance has established itself as a consistent voice in the conversation for greater patient access to safe and quality cannabis resources; it is from this perspective that we provide **STRONG SUPPORT** for **HB344**.

The amendments proposed in HB344 again make important strides towards the normalization of the use of cannabis as a scientifically recognized, legally sanctioned, safely administered form of medicine in Hawaii. The legislative approach of recognizing cannabis as medicine has introduced qualified patients and primary caregivers to an effective alternative solution for their debilitating conditions. The next step in advancing these practices is to repeal certain felony charges that are applied to circumstances surrounding this medicine and to bring the law more in line with the penalties provided for the administration of alcohol, tobacco, and other pharmaceuticals.

By simply reducing the punishment for illicit access and distribution of medical cannabis, HB344 aligns the industry with the regulations of similar industries. This will help to normalize medical cannabis as the medicine that it is, instead of the boogeyman. The stigma of medical cannabis is largely rooted in the criminality that is continually associated with the qualifying patients, primary caregivers, and their suppliers. Any efforts to legislatively erode the criminality of this medicine, such as those suggested in HB344, will directly contribute to the growth of the industry and the health of patients across the state as more people become willing to at least consider medical cannabis for their qualifying ailments.

The second half of HB344 removes the criminality attached by HRS 329D to the very act of entering a dispensary. Instead of criminalizing active, legal attempts to get medicine, or to help one's

patient or family member obtain access to information about medicine, HB344 removes unnecessary restrictions on access to dispensaries and production centers. With this measure patients, caregivers, and the investigating public might check on the quality of their medicine; help ailing relatives into the office; or learn directly from the dispensaries about the medicines they are considering. Hawaii's current laws will continue to provide stiff penalties for illegal distribution or diversion from the dispensaries, but that protection should not come at the expense of the patients as it currently does.

For all of the foregoing reasons, the Hawai'i Dispensary Alliance strongly **SUPPORTS HB344**,

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

HB 344 eliminates the felonies inserted into the dispensary legislation in 2015. While this bill eliminates 3 of the offenses altogether, the other charges 2 are retained and reduced to misdemeanors. The reduction of these charges each to misdemeanor brings their punishments consistent with alcohol and tobacco legislation related to equivalent offenses; both alcohol and tobacco are factually more harmful to both our health and community than cannabis, more commonly known as marijuana. The 2 felonies which would be reduced are: the Class B felony to misdemeanor for sale to minors (329-17) and the Class C felony to petty misdemeanor for fraud and exceeding limits (329-14).

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The 3 felonies which would be eliminated by HB344 (all Class C) are redundant and inflammatory, in that currently the HRS has equivalent codes which carry lower penalties, or are unnecessary. These are: entering a dispensary (329D-15), entering a production center (329-16) and diversion from a dispensary or production center (329-18).

(329D-15) While the legislature no doubt has the innate desire to protect both the dispensary and public from unauthorized entry of a dispensary, trespass (and other unauthorized entry codes, such as burglary) laws are more than adequate for criminal activity. The classification of this offense as a felony is also highly inflammatory, considering the potential for innocence in the act itself. If my auntie (who has terrible arthritis in her hands) wanted to go into a dispensary and ask questions, she would have to pay for a medical marijuana license, not to mention find a doctor to certify her ahead of time - just to ask questions about the types of products she could use and see if she is even interested? Would your Uncle with the bad back pain want to do all of that, just to find out whether or not the dispensary carries topical creams? Is it more better to keep taking opioids, considering the huge escalation in their abuse rates in people over 60?

(329D-16) Just as with the previous, this felony is redundant and inflammatory. I would like to discuss an example though. Jari Sugano, MJ Kaneshiro's mom, has toured multiple production centers and returned to Hawaii with not only a wealth of anecdotal evidence but also the peace of mind a parent needs (for their child's safety) only that experience can give. In cases of children like MJ, often the conditions they have make them more sensitive to toxins and foreign substances. Their parents become the gatekeepers that monitor everything their child encounters. Having the opportunity to ask questions and see with your own eyes has a value beyond words, both for adult patients and patient's parents. It is unnecessarily burdensome to require medical certification to obtain knowledge of the process.

(329D-18) The last of the felonies to be eliminated is for diversion. While it is likely the addition of this offense felt natural, the charge is redundant and inflammatory. A class C felony includes stabbing (without disfigurement, which is Class B), diversion of medical supplies should not be treated in equivalence to a stabbing. Further, diversion of marijuana could be treated as diverted medical supplies, or simply charged as theft.

As you can see, this piece of legislation simply eliminates a set of unnecessary punishments; likely inserted with the intent to protect, they actually create an undesirable burden upon patients, parents, care givers and loved ones who would like to know more about the therapeutic use of cannabis (marijuana). By preventing people from getting this information in these venues the law compels them to seek answers from participants in the black market, the only alternative source available.

Mahalo nui for your time in reading, I hope you found this informative and compelling. I look forward to your support on HB344. Please feel free to contact me by email or phone if you have any questions. Alternatively, you can contact Wendy Gibson of the Drug Policy Forum at 853-3231 (office).

I hope you have a productive week, aloha!

kobayashi1- Oshiro

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 3:33 PM
To: HLTtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB344 on Feb 7, 2017 08:30AM*

HB344

Submitted on: 2/3/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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kobayashi1- Oshiro

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 9:12 PM
To: HLTtestimony
Cc: joeygreen808@gmail.com
Subject: *Submitted testimony for HB344 on Feb 7, 2017 08:30AM*

HB344

Submitted on: 2/3/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Sanborn	Individual	Support	No

Comments:

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kobayashi2 - Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 11:51 PM
To: HLTtestimony
Cc: j.bobich@tcu.edu
Subject: *Submitted testimony for HB344 on Feb 7, 2017 08:30AM*

HB344

Submitted on: 2/5/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

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

Comments:

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kobayashi2 - Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 6:50 PM
To: HLTtestimony
Cc: lady.flach@gmail.com
Subject: *Submitted testimony for HB344 on Feb 7, 2017 08:30AM*

HB344

Submitted on: 2/5/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

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

Comments:

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kobayashi2 - Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 4:34 PM
To: HLTtestimony
Cc: gr8tr8@gmail.com
Subject: Submitted testimony for HB344 on Feb 7, 2017 08:30AM

HB344

Submitted on: 2/5/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

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

Comments: I support the provisions in HB 344. Please pass these amendments to repeal the unnecessary prohibitions and make the law more sensible and in line with the regulation of alcohol.

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kobayashi1- Oshiro

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 4:06 PM
To: HLTtestimony
Cc: dirtywhiteboy96768@gmail.com
Subject: *Submitted testimony for HB344 on Feb 7, 2017 08:30AM*

HB344

Submitted on: 2/4/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Hergott	Individual	Support	No

Comments:

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kobayashi2 - Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 10:16 AM
To: HLTtestimony
Cc: ncsugano@gmail.com
Subject: *Submitted testimony for HB344 on Feb 7, 2017 08:30AM*

HB344

Submitted on: 2/5/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

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

Comments:

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LATE

kobayashi2 - Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 5:31 AM
To: HLTtestimony
Cc: bmurphy420@mail.com
Subject: Submitted testimony for HB344 on Feb 7, 2017 08:30AM

HB344

Submitted on: 2/7/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Murphy	Individual	Support	No

Comments: LEGALIZE MARIJUANA NOW! SAVE LIVES! 90,000 Americans die from alcohol every year, yet Hawaii celebrates the success of microbreweries, and allows tourists access to production centers, and tasting rooms! Marijuana consumers deserve equal rights! Since Marijuana kills ZERO Americans, why the prejudice against it, in favor of highly addictive, and actually deadly alcohol? LEGALIZE MARIJUANA and SAVE LIVES! For 16 years, Hawaii has practiced SELECTIVE PROSECUTION against marijuana consumers. Protecting some folks with "329 cards" from prosecution (stating that marijuana is medicine), while sending others to jail for "marijuana crimes," (stating marijuana has no medical value). All citizens deserve equal justice! LEGALIZE MARIJUANA NOW!

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LATE

kobayashi2 - Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 3:18 AM
To: HLTtestimony
Cc: dsusott@gmail.com
Subject: Submitted testimony for HB344 on Feb 7, 2017 08:30AM

HB344

Submitted on: 2/7/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
daniel susott, md, mph	Individual	Support	Yes

Comments: Mahalo for making the right choices here to help Hawaii stay on the right track.

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LATE

kobayashi2 - Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 12:56 AM
To: HLTtestimony
Cc: fehren.jones@gmail.com
Subject: Submitted testimony for HB344 on Feb 7, 2017 08:30AM

HB344

Submitted on: 2/7/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
fehren	Individual	Support	No

Comments: Aloha. My name is Fehren Jones and I reside in the Honolulu area. I am in full support for HB344 which states "Amends penalties pertaining to certain medical marijuana prohibitions. Repeals certain medical marijuana prohibitions. Makes conforming amendments." I still don't understand how cannabis is within the same class as alcohol and tobacco, both are quite harmful for the people, community, and Hawai'i in general. i am aware that alcohol and tobacco are money makers and that it goes hand in hand with tourism, not to mention the litter it leaves behind. Sorry for the rant. I'm glad that cannabis has been reduced and i looking forward to when the band of the cannabis plant will be fully removed. mahalo for your time. may your day be awesome. aloha

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LATE

kobayashi2 - Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 4:07 AM
To: HLTtestimony
Cc: mary@mauivortex.com
Subject: Submitted testimony for HB344 on Feb 7, 2017 08:30AM

HB344

Submitted on: 2/7/2017

Testimony for HLT on Feb 7, 2017 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Overbay	Individual	Support	No

Comments: Please, legalize marijuana. Alcohol kills 90,000 American every year! How can alcohol be celebrated in Hawaii as a great business model, when you send folks to jail for marijuana. How can tourist go to alcohol tasting rooms, while marijuana has to locked out of sight. It's ridiculous! Raise +100 million in revenue every year, save money on enforcing a failed prohibition. Legalize tax and regulate marijuana, which is one of the largest industries in Hawaii!

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