

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

**Testimony in OPPOSITION to S.B. 305, SD 1, HD 1
RELATING TO MEDICAL MARIJUANA DISPENSARIES**

REPRESENTATIVE SCOTT Y. NISHIMOTO, CHAIR
HOUSE COMMITTEE ON JUDICIARY

Hearing Date: Wednesday, March 29, 2017 Room Number: 325

1 **Fiscal Implications:** This bill has the potential to add up to \$25,000 in expenditures to cover the
2 added costs of increased neighbor island travel and mileage costs on Oahu to inspect production
3 centers and retail dispensary locations more frequently since the Department would not be able
4 to rely on video security recordings to confirm a licensee's activities during an earlier period of
5 time.

6 **Department Testimony:** The Department opposes S.B. 305, S.D.1 and requests that this bill
7 be deferred. In addition, the issue of retention of video security recordings is already addressed
8 in HB1488 and SB1159. As a result, SB305 is redundant and unnecessary. The Department
9 generally opposes the passage of new laws related to marijuana until the medical marijuana
10 dispensaries open and the Department has the chance to gauge the impact upon the State.

11 This bill proposes to amend Section 329D-7 HRS to codify the required time period for
12 retention of video security recordings by medical marijuana licensees to forty five (45) days.
13 Current administrative rules (Chapter 850 Hawaii Administrative Rules) require one (1) year of
14 retention. The Department has the ability to change this retention period in rules and does not
15 wish for statutory changes at this time in order to ensure the state retains a robust regulatory
16 system pursuant to the Cole Memorandum and in light of recent comments by the new federal

1 administration on recreational marijuana. This will also allow the State and the Department to
2 gain better experience on the use of video recordings as an inspection tool.

3 As an inspection tool, the Department will use video recordings to verify a dispensary's
4 written records especially if fraud, theft, diversion, or other irregularities become known only
5 after a period of time. This will help to protect dispensary employees and can be used as proof
6 of regulatory noncompliance or criminal activity by others and the recordings could be used in
7 criminal cases by law enforcement. It could also protect the Department's inspection staff from
8 accusations of impropriety.

9 A longer video security recording retention requirement will also signal a much stronger
10 and robust policy on regulatory oversight especially in light of the new federal administration's
11 recent comments on recreational marijuana. Otherwise, a decreased retention period could be
12 viewed as diluting the State's robust regulatory oversight of the industry and creating the
13 impression of an industry leaning toward a recreational program rather than a highly regulated
14 medical program.

15 Thank you for the opportunity to testify in OPPOSITION to this bill.



TESTIMONY ON SENATE BILL 305 SD1 HD1
RELATING TO MEDICAL MARIJUANA DISPENSARIES

by
Keith Kamita
Chief Compliance Officer
Cure Oahu

COMMITTEE ON JUDICIARY
Representative Scott Y. Nishimoto, Chair
Representative Joy A. San Buenaventura, Vice Chair

Wednesday, March 29, 2017, 2:00 PM
State Capitol, Conference Room 325

Chair Nishimoto, Vice Chair San Buenaventura and Members of the Committee:

Cure Oahu strongly supports passage of Senate Bill 305 SD1 HD1 that amends Hawaii Revised Statutes §329D-7 **Medical marijuana dispensary rules**, by adding language to specify that video surveillance monitoring and recording data of the medical marijuana dispensary and production center premises shall be retained for a period of forty-five days. Presently §329D Hawaii Revised Statutes relating to Hawaii's Medical Marijuana Dispensary Program does not specifically address security video data storage retention requirements it defers to Department of Health (DOH) rules 11-850-41 requiring dispensary licensees to retain a minimum of one year of video surveillance recordings, this requirement is overly excessive and burdensome for dispensary licensees. Presently banks are retaining video surveillance data for only 30-90 days and pharmacies that are also registered by the State under Section 329 HRS to be able to store, administer and dispense controlled substance do not have any video surveillance retention requirements in statute. Usually in criminal cases pharmacies and banks would immediately retain the surveillance data of the incident for law enforcement regardless of a retention requirement in law, however if video surveillance data is to be utilized for administrative purposes to question dispensaries on procedures or where there is no specific incident then it would be quite difficult for dispensary employees to recall the situation around video surveillance data when questioned by DOH surveyors up to a year later.

The Cole memorandum requires Hawaii to maintain a strong and effective State regulatory system in running its medical marijuana programs but surveillance video retention requirements of one year is overly burdensome and costly. Below are other state medical marijuana dispensary video data retention requirements compared to the State of Hawaii that seem to meet the requirements of the Cole memorandum:

Hawaii	1 year (365 days)
Illinois	180 days (90 on site and 90 off site)
Washington	45 days
Colorado	40 days
Alaska	40 days
Oregon	initially 90 days then reduced to 30 days
New York	initially 90 days then reduced to 30 days
Nevada	30 days
Guam	30 days

Arizona	30 days
Maine	14 days
Michigan (Lancing)	14 days
California (Palm springs)	240 hours Note: CA retention limits differ by city the average between 14-60 days
Delaware	no set video retention limit
Massachusetts	no video retention requirement just ability to take stills from 24/7 video

Due to the one-year video surveillance data retention requirement imposed by §11-850-41 HAR which depending on the number of cameras utilized at facilities could be as much 965 terabyte (TB) of data for 30 cameras utilizing a frame capture rate of 30 per second or 482 TB for a frame capture rate of 15 per second. Presently commercial high quality video surveillance equipment on the market come with 24 to 32 TB of built in data storage capability. The storage limitation of most digital recording devices at the dispensaries and production center licensees will require licensees to have to decrease the amount of surveillance cameras, add additional external storage equipment or utilize a secure cloud storage service that is very expensive and sometimes not compatible with the proprietary video surveillance software making it unable to instantly recall the video surveillance data when required to do so by regulators at the dispensary or production center.

If a licensee is required to store one year of video surveillance data in compliance with 11-850-51 and 11-850-52 HAR on his/her high end digital surveillance recording equipment that is equipped with 32 TB of storage capacity and 30 cameras the licensee would have to drop the frame capture rate of the recorder to 1 frame per second to fit, all the data onto the digital video storage equipment's hard drive. The reduction in frame capture rate will compromise clarity and the amount of identifiable video frames that can be utilized by regulators or law enforcement to identify criminal or administrative violations and therefore defeat the purpose of having state of the art video monitoring equipment in the facilities.

The language being proposed by SB305 SD1 HD1 to set the video surveillance data retention at not more than 45 days will allow licensees to utilize a larger number of surveillance cameras, increase the digital video surveillance recorder's capture frame rates which will safeguard the public and the licensees.

Thank you for this opportunity to testify on this important bill.

HAWAII EDUCATIONAL ASSOCIATION FOR LICENSED THERAPEUTIC HEALTHCARE

To: Representative Scott Nishimoto, Chair Judiciary Committee
Representative Joy San Buenaventura Vice-Chair Judiciary Committee
Members of the House Judiciary Committee

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

Re: Testimony in **Support of Senate Bill (SB) 305, Senate Draft (SD) 1**
RELATING TO MEDICAL MARIJUANA DISPENSARIES.
Specifies that video monitoring and recording of medical marijuana production center and retail
dispensing location premises shall be retained for a period of forty-five days.

Dear Chair Nishimoto, Vice-Chair San Buenaventura, and 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. We **strongly support** SB 305 SD1, HD1 since the current administrative rules on the requirements for video storage are extremely large, and it is our understanding that 365 days is over and beyond the requirements of any other jurisdiction which more commonly are at 30-45 days.

Attached, is a chart that shows the current requirements in AZ, NV, OR, CO, AK, WA, NY, IL, and Hawaii.

The current 365-day requirement of stored video data, will not only likely affect the resolution quality of the video capable of being stored, more importantly, it will lead likely to significant infrastructure and administrative expenses increasing production costs and therefore, affecting patients' affordability.

Under the Department of Health's *Interim* Administrative Rules, Section 11-850-41(b): "[a] dispensary licensee shall retain for a minimum of one year all security recordings."

The rules spell out the requirements for such security recordings under Section 11-850-51, including:

- Professionally installation
- 24-hour continuous video monitoring and recoding of all dispensary facilities
- back-up capability

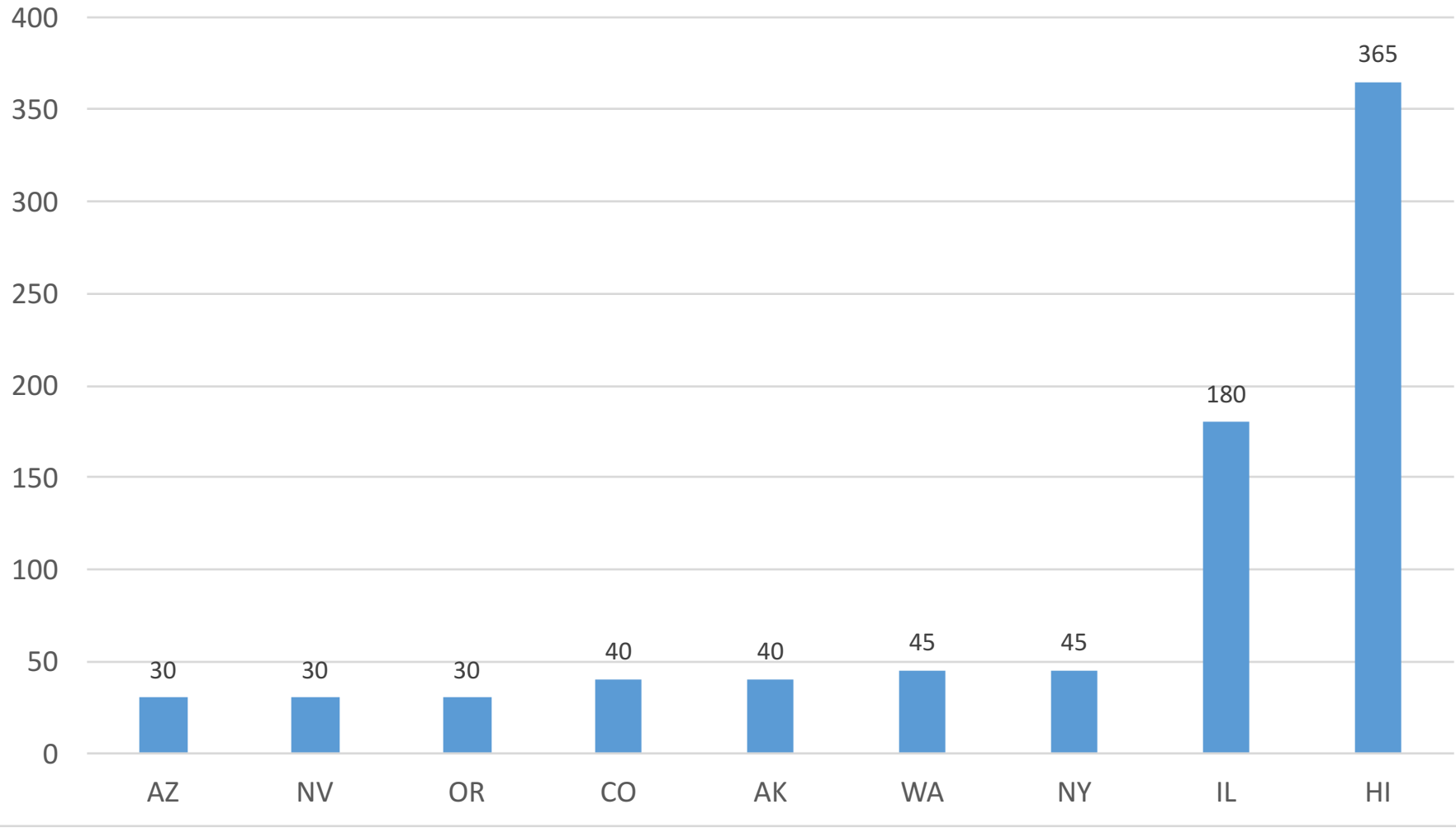
- clearly displayed with time/date
- internet protocol compatible
- minimum resolution for a clear and certain identification of persons to include any area where products are produced, moved, stored, sold, packed/unpacked into containers for transport, surveillance storage areas, exists/entrances to indoor and outdoor locations
- secured in a lockbox, cabinet or closet to minimize access to tampering or theft

HEALTH recognizes and its members intend to conform to all of these requirements recognizing that these video surveillance requirements enhance and promote security and safety. However, the requirement to store **all of that data** for one year, creates an exorbitant infrastructure burden and a significant cost.

The required computerized tracking system in the law and rules will already ensure that marijuana and marijuana products are detailed and monitored from every seed to sale, or even possible disposal. Together with the video surveillance system referenced above, these safeguards will provide much needed security and safety at the dispensary facilities.

Therefore, we support changing the requirement for the duration of storage to 45 days since that mirrors that of other jurisdictions, and we are unaware of any issues or concerns arising out of this more common video storage duration requirement.

MMD Days Video Storage Required



IL - 90 days onsite and 90 days off-site

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 28, 2017 8:52 AM
To: JUDtestimony
Cc: j.bobich@tcu.edu
Subject: *Submitted testimony for SB305 on Mar 29, 2017 14:00PM*

SB305

Submitted on: 3/28/2017

Testimony for JUD on Mar 29, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph A. Bobich	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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov