

STAND. COM. REP. NO.

3203

Honolulu, Hawaii

MAR 23 2018

RE: H.B. No. 2729
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred H.B. No. 2729, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CANNABIS FOR MEDICAL USE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the medical cannabis reciprocity program and add a visiting patient certifying fee;
- (2) Extend expiration of a written certification to three years for debilitating medical conditions that are chronic in nature;
- (3) Permit retesting of a failed batch of cannabis for medical use or manufactured cannabis products;
- (4) Permit dispensary licensees to distribute devices that provide safe pulmonary administration; and
- (5) Increase the maximum allowable tetrahydrocannabinol limit for multi-pack manufactured cannabis products and single containers of oil.



Your Committee received testimony in support of this measure from the Hawai'i Justice Coalition, The Drug Policy Forum of Hawai'i, Maui Grown Therapies, Noa Botanicals, Hawaii Education Association for Licensed Therapeutic Healthcare, O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i, Kush Bottles, and sixteen individuals. Your Committee received comments on this measure from the Department of Health, Department of the Attorney General, and one individual.

Your Committee finds that existing law authorizes a start date of January 1, 2018, for a reciprocity program where medical cannabis patients from other states would be able to legally purchase medical cannabis from Hawaii-licensed dispensaries. However, this program has yet to be implemented. This measure therefore amends the reciprocity program to allow out-of-state patients to obtain medical cannabis, by permitting a dispensary to make reasonable good faith efforts to verify an out-of-state patient's qualifications. However, your Committee has heard the concerns that this measure lacks a reliable method or requirement to determine an out-of-state patient's qualifications to purchase medical cannabis. Without such requirements, there is a substantial risk of diversion of cannabis to people who are not entitled to have it, which may create a risk to the State.

Your Committee further finds that any reciprocity process for out-of-state medical cannabis patients must meet specific criteria that uphold the integrity and rigor of the State's medical cannabis program. A reciprocity program in Hawaii must: not significantly diminish the safety and security aspects of Hawaii's approach to medical cannabis; be implemented in a way that is fair and equitable to Hawaii medical cannabis patients, and not confer greater access to out-of-state medical cannabis patients than to Hawaii medical cannabis patients; provide a timely process for qualifying out-of-state patients who visit Hawaii to legally obtain medical cannabis from Hawaii-licensed medical cannabis dispensaries; and provide protection from state law enforcement for registered qualifying out-of-state patients who possess medical cannabis in Hawaii.

Your Committee notes that the Department of Health has been engaged in discussions with the trade association representing Hawaii's licensed medical cannabis dispensaries regarding reciprocity for qualifying out-of-state medical cannabis patients.



The interested stakeholders have collaborated on language that represents an agreeable, appropriate process for reciprocity in Hawaii. Amendments to this measure are therefore necessary to incorporate this consensus language.

Your Committee also notes that in addition to expanding appropriate access to medical cannabis for visitors, amendments to this measure are also necessary to provide medical cannabis dispensaries with additional flexibility with regard to manufacturing and dispensing of approved products and greater discretion in hiring decisions and ensure that qualifying medical cannabis patients have increased access to appropriate forms of medical cannabis.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying the reciprocity process for out-of-state medical cannabis patients, including:
 - (A) Establishing registration requirements for qualifying out-of-state patients and caregivers of qualifying out-of-state patients, including the time frame for registration; minimum criteria for registration of qualifying out-of-state patients and caregivers of qualifying out of state patients, if the qualifying out-of-state patient is under eighteen years of age; payment of a registration or renewal fee; and the temporary suspension of out-of-state registrations if the Department determines in-state qualifying patients or primary caregivers are being adversely affected or there is insufficient supply for both in-state and out-of-state patients;
 - (B) Establishing conditions of use for the medical use of cannabis by a qualifying out-of-state patient; and
 - (C) Clarifying certain safeguards under the reciprocity process for qualifying out-of-state patients and caregivers of qualifying out-of-state patients, including various protections, penalties for fraudulent misrepresentation of an entitlement to



use cannabis for medical purposes, authorized sources of medical cannabis, certain protections and safeguards applicable to licensed medical cannabis dispensaries, dispensing limits, and adequate supply;

- (2) Clarifying the registration requirements for qualifying patients and primary caregivers and specifying that these requirements do not apply to qualifying out-of-state patients or caregivers of qualifying out-of-state patients;
- (3) Prohibiting an employer from suspending, discharging, or discriminating against an employee for testing positive for cannabis if the employee is a registered qualifying patient who is authorized for the medical use of cannabis, with certain exceptions;
- (4) Clarifying the ability for a dispensary licensee to retest, at its own expense, a batch of cannabis or manufactured cannabis products that do not meet the Department of Health's standards for patient safety;
- (5) Permitting a bona fide physician-patient or advanced practice registered nurse-patient relationship to be established via telehealth, for purposes of providing written certification for the medical use of cannabis for a qualifying patient and specifying that treatment recommendations that include certifying a patient for the medical use of cannabis via telehealth shall be allowed only after an initial in-person consultation;
- (6) Allowing and regulating the manufacturing of edible cannabis products as manufactured cannabis products by licensed medical cannabis dispensaries, including requirements for manufacturing, handling, labeling, and packaging of manufactured cannabis products;
- (7) Adding certain devices that provide safe pulmonary administration to the list of medical cannabis products that may be manufactured and distributed;



- (8) Increasing the tetrahydrocannabinol limit per pack or container of certain manufactured cannabis products;
- (9) Specifying certain felonies and conditions that will preclude employment, and other felonies and conditions that may preclude employment, at a medical cannabis dispensary;
- (10) Changing its effective date to July 1, 2050, to encourage further discussion; and
- (11) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2729, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2729, H.D. 2, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



