



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

H.B. NO. 2729, H.D. 1, RELATING TO CANNABIS FOR MEDICAL USE.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, February 15, 2018 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or
Jill T. Nagamine, Deputy Attorney General

Chair Nishimoto and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

The current draft of the bill would (1) amend the funding sources of the medical cannabis registry and regulation special fund to include fees derived from the certification of patients visiting Hawaii; (2) amend the definition of "written certification" in section 329-121, Hawaii Revised Statutes (HRS), to authorize the Department of Health (DOH) to allow a certification to be valid for up to three years for those patients whose certifier states their debilitating medical condition is chronic in nature; (3) amend section 329-126, HRS, to allow a bona fide physician-patient relationship or advanced practice registered nurse-patient relationship to be established via telehealth; (4) amend section 329D-8, HRS, to allow for retesting of a failed batch of medical cannabis or manufactured cannabis products; (5) amend section 329D-10, HRS, to add certain types of pulmonary administration devices to the types of medical cannabis products that may be manufactured and distributed; (6) amend section 329D-11 to increase the allowable potency of manufactured cannabis products that are sold in packages of multiple doses and containers of oils from 100 milligrams of tetrahydrocannabinol (THC) to 1000 milligrams of THC; and (7) amend section 329D-13, HRS, to delete the authority of the DOH to establish a registration process for qualifying patients from other states and replace it with a method for dispensaries to determine whether a person from

out-of-state qualifies as a patient, and to establish purchase limits for out-of-state qualifying patients.

Comments on Section 4 (page 4, line 11, through page 5, line 19)

This section would amend section 329-126, HRS, to allow a bona fide physician-patient relationship or advanced practice registered nurse-patient relationship to be established via telehealth. For this section to apply as intended, the word "subsection" at page 5, line 16, should be changed to "section." Additionally, the definition of "telehealth" is cross-referenced to section 453-1.3(j), HRS, and that creates an inconsistency with section 453-1.3(c), HRS, which provides "For the purposes of prescribing opiates or medical cannabis, a physician-patient relationship shall only be established after an in-person consultation between the prescribing physician and the patient." If the Committee is inclined to advance this section, we recommend that these inconsistencies be resolved.

Comments on Section 5 (page 5, line 20, through page 7, line 12)

This section is unnecessary. Section 11-850-85(d), Hawaii Administrative Rules, already details the process by which batches of cannabis may be retested to confirm or refute the original result. Furthermore, the wording proposed for section 329D-8(c)(2), at page 7, lines 10-12, implies that certified labs are using scientifically unreliable methods and procedures, and we are not aware of any basis for that implication. We recommend that section 329D-8(c)(2), at page 7, lines 10-12, be deleted.

Comments on Section 6 (page 7, line 13, through page 8, line 13)

This section would amend section 329D-10, HRS, to allow for the production of "[d]evices that provide safe pulmonary administration," which have a temperature control "to ensure a sub-combustion temperature" (page 8, lines 7 through 12). These terms are not defined. If the Committee is inclined to allow for the production of these devices, we suggest that it define the terms "safe pulmonary administration" and "sub-combustion temperature," in order to clarify the type of devices that may be manufactured.

Comments on Section 8 (page 9, line 4, through page 11, line 2)

This section would amend section 329D-13, HRS, to delete the authority of the DOH to establish a registration process for qualifying patients from other states and replace it with a method for dispensaries to determine whether a person from out-of-state qualifies as a patient, and to establish purchase limits for out-of-state qualifying patients. It would impose requirements on dispensaries to verify and copy all documents presented by the out-of-state patient and enter information about the patient into the computer tracking system to ensure compliance with dispensing limits provided for out-of-state qualifying patients. The dispensaries would be required to make reasonable good faith efforts to verify whether the visitor's photo identification and medical cannabis card or written certification has not expired, and that the certifying physician's license is in good standing within the applicable jurisdiction.

It is unclear what would constitute reasonable good faith efforts, but it is unlikely that dispensaries would be able to reliably verify the validity of a person's medical cannabis card without access to a computerized database, such as the DOH's medical cannabis registry. Currently, there is no means for dispensaries to access out-of-state registry data, so assigning the heavy responsibility of determining who is entitled to the medical use of cannabis to a dispensary will create a risk of diversion of cannabis to people who are not entitled to have it, and that, in turn, may create a risk to the State of federal intervention to enforce laws against controlled substances. We recommend that this section of the bill be deleted in order to allow a more cautious and reliable approach to reciprocity.

Thank you for considering our comments.

HAWAII EDUCATIONAL ASSOCIATION FOR LICENSED THERAPEUTIC HEALTHCARE

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

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

Re: **Testimony In Strong Support on House Bills (HB) 2729**

RELATING TO CANNABIS FOR MEDICAL USE - Amends the reciprocity program and adds a visiting patient certifying fee. Extends expiration of a written certification to 3 years for chronic conditions. Permits medical practitioners to establish a patient relationship through telehealth. Permits retesting of a failed batch of medical cannabis or products. Permits dispensary licensees to distribute devices that provide safe pulmonary administration. Increases the maximum allowable tetrahydrocannabinol limit for multi-pack cannabis products and single containers of oil.

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

HEALTH is the trade association made up of the eight (8) licensed medical cannabis dispensaries under Haw. Rev. Stat. (HRS) Chapter 329D. We **support HB2729** as an important bill for the dispensary industry in order to enhance the medical cannabis dispensary program with additional patient access, product controls and safety, and provide improvements to the administration of the program.

1) Reciprocity program

The current law, Haw. Rev. Statutes (HRS) 329D-13, provided for a start date of January 1, 2018 for a program where patients from other states would be able to legally purchase medical cannabis from dispensaries. Unfortunately, that program has yet to be implemented and it is our understanding that it is highly unlikely for the Department of Health (DOH) to implement the program at any time in the foreseeable future.

As such, the bill proposes to allow for these out-of-state patients to obtain medical cannabis similar to the way in which Nevada ran its reciprocity program. By keeping the purchase limit low (basically half of what a Hawaii resident is able to obtain), this should help to minimize the concern about an out-of-state patient obtaining a large quantity of product. All purchases are to be logged into the state's tracking system, and dispensaries would be held accountable for any improper or invalid sale.

It is our understanding that the Nevada program worked well in allowing out-of-state patients to purchase medical cannabis and its products, and had no reported instances of issues or problems before the state went to recreational marijuana. As such we believe following that program and its experience would be prudent and a balanced way of ensuring patient access, with required safeguards.

2) Extend possible validity of a qualifying patient's written certification from 1 to 3 years

The current law authorizes a qualified patient's written certification to be valid for up to one year. However, because most, if not all, of the qualifying conditions under HRS 329-121 are chronic debilitating diseases and conditions by definition, these conditions will likely be with the patient for a significant and ongoing time. While their condition could be approached with many different types of treatment, the underlying condition will likely still remain with the patient, and we believe that medical cannabis should always remain as part of, if not an option for, their ongoing treatment.

3) Telehealth relationship

We believe that telehealth can be especially helpful for patients in rural communities and/or patients suffering from severe debilitating conditions that make even a physical face-to-face appointment or traditional patient-provider interaction relationship difficult. Therefore, this change will be especially helpful for patient access and for monitoring of a patient's use of medical cannabis.

4) Add safe pulmonary administration to the list of medical cannabis products

We support this addition to possible product offerings because of the ability for more precise dosage administration, safe inhalation of certain patients and their conditions, and the possible stigma associated with "smoking" cannabis.

Our research has shown that administration through pulmonary inhalation, can be more effective for certain patients who have a low tolerance for, or resistance to, smoking the cannabis. It is more readily absorbed, and its effects felt more quickly, so that the potential for taking too large a dose, is minimized.

The language ensures that the device's heating element would be made of inert materials, and there is a temperature control, so that there is additional safety against a device becoming unsafe and combustible.

5) THC limit per pack or container

Because edibles are not an authorized cannabis product, there is little need for any package or container limit. Should that product list ever change, then this provision should likely be revisited.

6) Appeal process for laboratory testing

We appreciate the House Health and Human Services Committee for adding in a provision in Section 5 of the bill to include a process for appealing a failed batch from a laboratory test. We believe that this is an important issue because there are certain tests that we understand are more likely to result in "false positives," and there is no recourse under the current system when that conclusion is reached. The costs for the retesting is borne by the licensed dispensaries, and we believe that even this additional

cost is still more reasonable than the cost of an entire lost “failed” batch, which in the end, directly affects the patient’s cost and access to their desired cannabis or products.

Thank you for your consideration.



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Scott Y. Nishimoto, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
Members, Committee on Judiciary

From: Matthew A. Koenig, MD, FNCS, Medical Director of Telemedicine, The Queen's Health Systems

Date: February 14, 2018

Hrg: House Committee on Judiciary Hearing; Thursday, February 15, 2018 at 2 P.M. in Room 325

Re: **Comments with Concerns on H.B. 2729, H.D. 1 Relating to Cannabis for Medical Use**

My name is Matthew A. Koenig and I am the Medical Director of Telemedicine at The Queen's Health Systems (Queen's). I would like to provide comments with concerns on H.B. 2729, H.D. 1, Relating to Cannabis for Medical Use. This measure would put in place a number of medical cannabis related provisions, including one that would permit medical practitioners to establish a patient relationship through telehealth.

Queen's has serious concerns with regards to Section 4 (4)(b), which would allow a bona fide physician-patient or advanced practice registered nurse-patient relationship to be established via telehealth. We request that this language be removed from the measure since is inconsistent with current HRS statute, which requires in-person evaluation to establish a physician-patient relationship to prescribe medical cannabis in Hawaii. It is also federally illegal under the Ryan Haight Act to prescribe controlled substances via telemedicine without a previously established patient-provider relationship.

Much consideration needs to be made to ensure that the potential for telehealth is not abused for the purposes of prescribing controlled substance. Thank you for the opportunity to testify on this important matter.

The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.

HB-2729-HD-1

Submitted on: 2/14/2018 1:29:44 PM

Testimony for JUD on 2/15/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawaii	Support	No

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES
DEMOCRATIC PARTY OF HAWAII
TO THE COMMITTEE ON JUDICIARY
THE HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018
Thursday, February 15, 2018
2:00 a.m.**

Hawaii State Capitol, Conference Room 329

RE: Testimony in Support of HB 2729 HD1 RELATING TO CANNABIS FOR MEDICAL USE

To the Honorable Scott Y. Nishimoto, Chair; the Honorable Joy A. San Buenaventura, Vice-Chair and the Members of the Committee on Judiciary:

Good afternoon, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on House Bill No.2729 HD1, relating to cannabis for medical use.

The OCC Legislative Priorities Committee is in favor of House Bill No.2729 HD1 and supports its passage.

House Bill No.2729 HD1 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it (1) amends the reciprocity program and adds a visiting patient certifying fee, (2) extends expiration of a written certification to 3 years for chronic conditions, (3) permits medical practitioners to establish a patient relationship through telehealth, (4) permits retesting of a failed batch of medical cannabis or products, (5) permits dispensary licensees to distribute devices that provide safe pulmonary administration, and (6) increases the maximum allowable tetrahydrocannabinol limit for multi-pack cannabis products and single containers of oil.

The DPH Platform states that "[w]e support fair and equitable access to medical marijuana to be administered by the State of Hawaii's Department of Health. (Platform of the DPH, P. 7, Lines 386-387 (2016)).

Given that House Bill No. 2729 HD1 (1) amends the reciprocity program and adds a visiting patient certifying fee, (2) extends expiration of a written certification to 3 years for chronic conditions, (3) permits medical practitioners to establish a patient relationship through telehealth, (4) permits retesting of a failed batch of medical cannabis or products, (5) permits dispensary licensees to distribute devices that provide safe pulmonary administration, and (6) increases the maximum allowable tetrahydrocannabinol limit for multi-pack cannabis products and single containers of oil, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ **Melodie Aduja**

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889



February 14, 2018

TO: House Committee on Judiciary
Representative Scott Nishimoto, Chair
Representative Joy San Buenaventura, Vice Chair

FROM: Teri Freitas Gorman, Maui Grown Therapies

RE: Testimony-**SUPPORT HOUSE BILL (HB) 2729**
RELATING TO CANNABIS FOR MEDICAL USE

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

My name is Teri Freitas Gorman and I am Director of Community Relations & Patient Affairs for Maui Grown Therapies and a board member of the Hawai'i Educational Association for Licensed Therapeutic Healthcare, the trade association for all state-licensed dispensaries. Mahalo for allowing me to testify in favor of SB 2718.

Maui Grown Therapies made history on August 8, last year when we became Hawai'i's first licensed medical cannabis dispensary. During the past six months we have worked closely with Department of Health (DOH) staff to launch our business as well as our fledgling industry. My executive role puts me in close personal contact with a wide spectrum of Maui's medical cannabis patients.

As legislators, it is important for you to understand both the characteristics and character of our patients. Most of them--65 percent--are well over the age of 45. Nearly 50 percent are retirement aged, 55 years or older. Our oldest patient is 93. Our patients come from every community in our county, including Hana, a two and a half-hour drive away, and others who travel from Moloka'i and Lana'i.

Several of our island-born patients live in multi-generational households to help their children and grandchildren cope with Maui's cost of living. Some of our patients get by on fixed incomes while others have retired to Maui with ample means. But they all share conditions that bring them to our dispensary in search of a better quality of life.

My testimony today is delivered as patient advocate who understands that our industry must thrive if we are to serve our fellow islanders with cannabis products that are second to none.

These are our positions on key provisions of HB 2729:

1. Amend the Reciprocity Program

Act 231 provides that qualifying patients, verified as a patient in their home state, may be served by licensed dispensaries beginning January 1, 2018. Maui Grown Therapies started receiving inquiries from hopeful out-of-state patients as soon as we opened our doors. However, both phone and email inquiries have accelerated dramatically last month because some websites are erroneously reporting that reciprocity in Hawai'i began at the start of 2018.

Even with information on our homepage explaining the status of reciprocity, we have received 107 email inquiries from out-of-state patients and our staff has answered slightly over 250 telephone phone queries. Although we do not request personal information, many of those inquiring through our website offer medical reasons for their requests. Mentioned most often are cancer/chemotherapy, severe pain, and end-of-life care.

Compassion dictates that Hawai'i develop its medical cannabis reciprocity program without further delay. Pragmatism suggests the program be simple to implement and execute without unnecessary bureaucracy. More than 30 American jurisdictions oversee medical cannabis programs, each with different laws and regulations. To try to design a reciprocity program that synchronizes the unique requirements of each jurisdiction with those of Hawai'i is a recipe for failure.

For this reason, we recommend that any patient with a letter from their licensed healthcare provider be eligible to shop in a Hawai'i-licensed dispensary if their provider is licensed and in good standing in the patient's home state. This allows physicians to determine medical options for their patients. State-licensed dispensaries can vet and process visitor registrations as the only sanctioned method for them to access medical cannabis while in Hawai'i. Additionally, dispensaries can collect visitor registration fees on behalf of the state to help offset costs of the medical cannabis dispensary program without adding to the financial burden of Hawai'i patients.

Smart business dictates that reciprocity must begin before the end of this year. Licensees have invested millions of dollars based upon statute that promised out-of-state visitors would have access to dispensaries in 2018. As a result of DOH staffing shortages, the rate of growth for registered 329 patients has fallen from 4 percent per month one year ago to 0.55 percent during the last month of 2017. This is an area of concern for all licensees, especially those operating on the neighbor islands, serving several small rural communities.

Because the Hawai'i medical cannabis program requires high fixed costs, the number of patients served is tied to product prices. The ability to serve out-of-state patients will benefit Hawai'i patients. In every single jurisdiction, when the sector becomes economically viable, prices to patients inevitably fall. This is especially important for our kūpuna on fixed incomes.

2. Extend the maximum validity of a qualifying patient's written certification

The current requirement for annual renewal for a 329 card does not consider the chronic nature of the vast majority of Hawai'i's qualifying conditions. Annual renewals add both cost and inconvenience for patients, and because of unpredictable registry response times, patients often experience a lapse in treatment.

3. Allow the department of health to provide a dispensary the opportunity for retesting a failed batch of cannabis

In the interest of transparency and fairness, dispensaries must have a mechanism to appeal failed lab results and testing methods. The complexities of various methods for cannabis lab-testing is a matter for analytical chemists, but Maui Grown Therapies works closely with Justin Fishedick, Ph. D, principal scientist at Excelsior Analytical Labs in Union City, California. Dr. Fishedick has

authored, or co-authored several scientific articles on cannabis, cannabinoids and terpenoids that were published in top scientific and medical journals.

Dr. Fishedick has identified anomalies in Hawai'i lab test results that he believes are directly tied to the use of deficient testing methods. Currently licensees have no mechanism to appeal suspect lab results or validity of methods even when there is ample evidence that testing methods are flawed. In our case, the affected products include CBD-dominant cannabis flower preferred by several of our patients for its therapeutic effects.

The State Labs Division did not respond to our requests to investigate the situation. Labs and licensees are currently forced to resolve significant disagreements with no oversight by a state authority. The inability to appeal the validity of lab results and methods is unfair to everyone involved, especially patients.

4. Allow a bona fide physician-patient or advanced practice registered nurse-patient relationship to be established via telehealth

Telemedicine is an especially important option for physicians to certify extremely ill patients including those who cannot leave their homes and/or are receiving hospice care. However, this option is especially needed on the neighbor islands. Maui's largest single employer of physicians is Kaiser Permanente, with 73 MDs on their payroll. These physicians are prevented from certifying patients for medical use of cannabis and they represent 26.6 percent of all Maui physicians. Additionally, our neighbors on Lana'i and Moloka'i must commute to Maui for many of their medical appointments. Telemedicine would increase their accessibility to MDs and APRNs who understand and support the applications of cannabis therapy to qualifying conditions.

4. Add certain devices that provide safe pulmonary administration to the list of medical cannabis products that may be distributed

This provision is crucial for the large number of our patients who do not want to smoke herbal cannabis. Pulmonary administration of cannabinoids provides quick relief for severe pain, nausea and other conditions; effects are typically felt within two minutes of dosage. Ingestible forms of cannabis (tinctures, capsules, etc.) can take up to three hours before patients experience relief.

With DOH permission, Maui Grown Therapies sold pre-filled cartridges intended for use in personal vaporization devices for about four weeks in October of 2017. This position was later reversed and we were required to sell concentrate oils packaged in syringes that forced patients to fill their own cartridges. Our patients were angry about this development and wanted to express their displeasure, so we provided printed postcards for their signature and comment. We are aware of 114 signed postcards that our patients mailed to Department Director Pressler.

Because so many of our older patients live in multigenerational households, they prefer to use vaporization devices to get quick relief without the pungent, tell-tale smell of burning cannabis. Other patients have conditions such as paralysis, arthritis, tremors, or injuries that prevent them from using a syringe to fill a cartridge. This is not only callous it is also discriminatory because it prevents patients with disabilities from using this form of administration.

5. Increase the tetrahydrocannabinol limit per pack or container of certain manufactured cannabis products

As with all packaged products, smaller sizes are always more expensive for consumers than larger sizes. The current limit of 10 mg. per dose and 100 mg. per package for THC does not accomplish much more than increase final cost to patients. Many conditions and symptoms require larger doses of THC for relief so increasing the THC limit for manufactured products is important for our patients both therapeutically and economically.

Mahalo for your consideration.
Me ka ha'a ha'a (humbly yours),



Teri Freitas Gorman
Director of Community Relations & Patient Affairs



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

TO: House Committee on Judiciary
FROM: Carl Bergquist, Executive Director
HEARING DATE: 15 February 2018, 2PM
RE: HB2729 HD1, RELATING TO CANNABIS FOR MEDICAL USE, **SUPPORT/COMMENTS**

Dear Chair Nishimoto, Vice Chair San Buenaventura, Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) **supports** this measure and offers the following comments. Among the provisions are several that would directly benefit *current* registered patients as well as help encourage *prospective* patients to register with the state. While these reforms are essential, there are *additional* reforms recommended to the legislature by a majority of the Act 230 Legislative Oversight Working Group. These are all found in [HB2740](#).

We particularly support the following provisions in **this** bill: ;

- the outlining of a reciprocity system for out of state patients, which will ultimately also benefit Hawaii's patients when they travel.
 - The reciprocity provisions in this bill are good for visiting patients and by extension for Hawai'i's current and prospective patients;
 - If we want to make medical cannabis accessible to visitors, the process to check if they are compliant needs to be secure yet not burdensome;
 - The process for out of state patients cannot be less cumbersome than for in-state ones, so we should use the prospect of reciprocity to make the certification of a condition by a health care professional, and a receipt to that effect, as the point when a patient can legally use and buy medical cannabis.
 - The current subsequent wait for a physical card results in delays for patients who need relief and may turn elsewhere for it;
 - Finally, if the dispensaries have more clients, this should help reduce the cost to all patients including local ones.
- longer valid certification periods for patients (up to 3 years in cases of chronic conditions);

- allowing telehealth certification by expanding the definition of what constitutes a “bona fide” relationship between the patient and his/her health care professional. This would also dovetail with the reciprocity provisions discussed above.

The instant bill would be improved by incorporating the following from HB2740:

- An end to the prohibition on interisland travel by patients and caregivers carrying medicine, whether for personal use, for delivery to a patient or for testing at a laboratory on another island, see Part I, Section 4 of HB2740:
 - The explicit language in HRS 329-122 (d) prohibiting such travel blocks any kind of accommodation of the kind seen in other states, including Alaska, which also has a complex geography;
 - Federal law has not stood in the way of a solution in other states like Alaska;
 - It would not in Hawai'i but for our current state law;
 - If compliance with the spirit of the now rescinded Cole Memo is the guiding principle of our medical cannabis system, this simple fix would adhere to that principle;
- Protections for using medical cannabis, not including smoking, in places of public accommodation such as a café, restaurant or other place of business, see Part I, Section 10 of HB2740;
- Making it easier for incapacitated or bedridden patients to get the necessary identification in order to become a medical cannabis patient, see Part II, Section 18 of HB2740

Thank you for the opportunity to testify.

**13 February 2018, 9AM. Room 229
Senate Committee on Commerce, Consumer Protection and Health.**

Dear Chair Baker, Chair; Vice Chair Tokuda:

Thank you for hearing this important bill...

The reciprocity provisions in this bill are good for visiting patients and by extension for Hawai'i's current and prospective patients.

- **If we want to make medical cannabis accessible to visitors, the process to check if they are compliant needs to be secure yet not burdensome;**
- **The process for out of state patients cannot be less cumbersome than for in-state ones, so we should use the prospect of reciprocity to make the certification of a condition by a health care professional, and a Department of Health receipt to that effect, as the point when a patient can legally use and buy medical cannabis;**
- **The current subsequent and required wait for a physical card to buy and use medical cannabis results in delays for patients who need relief and may turn elsewhere for it;**
- **Further, if the dispensaries have more clients, this should help reduce the cost to all patients including local ones.**

The telehealth provisions in the bill will help with reciprocity as well as with local patients in rural areas.

Please request that the following be added to the bill.

- These are all recommendations made to, and adopted by, the Legislature's own Act 230 Legislative Oversight Working Group;

- This fact alone, and that there is already introduced language to use, means they deserve more consideration than being part of a bill that never got a hearing, HB2740;

- An end to the prohibition on interisland travel by patients and caregivers carrying medicine, whether for personal use, for delivery to a patient or for testing at a laboratory on another island. The explicit language prohibiting this travel blocks any kind of accommodation of the kind seen in other states, including Alaska, which has also has a complex geography. Federal law has not stood in the way of a solution there. It would not in Hawai'i but for our current state law;**
- A new process regarding the application for civil identification cards, making it easier for bedridden hospice patients to secure the ID they need to become registered patients;**
- Protections for patients who choose to, or must, use their medicine in places of public accommodation such as restaurants, bars, cafes etc.**

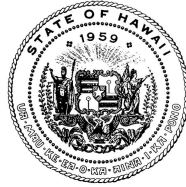
Mahalo, Marilyn Mick, Honolulu

13 February 2018, 9AM. Room 229
Senate Committee on Commerce, Consumer Protection and Health.

Dear Chair Baker, Chair; Vice Chair Tokuda:

Thank you for hearing this important bill..

JACK . . . from Hale FAESSLER
> Freedom is my religion.



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



**Testimony COMMENTING on H.B. 2729, HD1
RELATING TO CANNABIS FOR MEDICAL USE.**

REPRESENTATIVE SCOTT Y. NISHIMOTO, CHAIR
HOUSE COMMITTEE ON JUDICIARY

Hearing Date: Thursday, February 15, 2018 Room Number: 325

1 **Fiscal Implications:** None determined.

2 **Department Testimony:** Thank you for the opportunity to COMMENT on this bill. The
3 Department SUPPORTS some provisions with clarifications, definitions, and recommended
4 language changes, and OPPOSES other provisions.

5 In summary, the bill:

- 6 1. Allows but does not require the Department to accept written certifications of
7 debilitating medical condition for up to 3 years if the condition is chronic in
8 nature;
- 9 2. Defines bona fide patient-provider relationship as including a relationship
10 established via telehealth;
- 11 3. Allows the Department to provide dispensaries an opportunity to retest their failed
12 batches of cannabis or manufactured products;
- 13 4. Adds devices used for safe pulmonary delivery of cannabis as an allowed product;
- 14 5. Increases milligrams of products sold in multiple dose packs to 1,000 ml; and
- 15 6. Provides a provision for reciprocity where the dispensary verifies the out-of-state
16 (OOS) patient qualifications.

1 Regarding accepting medical certifications for up to three (3) years, the department
2 supports the intent of this provision with the understanding that the department will likely take a
3 more cautious approach based on standard medical practices and recognizing that the language
4 gives the department the authority to accept multi-year certifications but does not require it.
5 Standard medical practice normally requires annual visits to physicians or APRNs to continue
6 receiving ongoing prescriptions for chronic conditions. This ensures the medical condition is in
7 fact ongoing and determines whether specific medication or medication dosing needs to be
8 changed. Medical cannabis was authorized by the Legislature for medical purposes and its
9 continued access should be consistent with other medical practices. Otherwise, the department
10 could be accepting certification for medical use of cannabis for a time period that exceeds the
11 debilitating condition.

12

13 Regarding patient-provider relationships, the bill seeks to redefine bona fide patient-
14 provider relationship as including a relationship established via telehealth. The Department
15 supports the use of telemedicine to be consistent with its support for telemedicine in the medical
16 community and especially in rural areas with physician/APRN shortages. However, the bill
17 defines "telehealth" by cross-referencing to Section 453-1.3(j), HRS, and that creates an
18 inconsistency with Section 453-1.3(c), HRS, which requires an in-person consultation to
19 establish a physician-patient relationship. The Department recommends the legislature address
20 the above inconsistency.

21

1 Regarding retesting of failed batches, the Department OPPOSES this provision as
2 unnecessary. The bill implies that certified labs are using scientifically unreliable methods and
3 procedures. Although all testing has limitations, the certification process is intended to minimize
4 or prevent eliminate this. Specifically, this provision is unnecessary since:

- 5 1. Retesting is already allowed under Chapter 850-85(d) Hawaii Administrative
6 Rules (HAR) which says “The certified laboratory may retest or reanalyze the
7 sample or a different sample from the same batch by following its standard
8 operating procedure to confirm or refute the original result, upon request by the
9 dispensary licensee or upon request by the department at the dispensary licensee’s
10 expense.” And
- 11 2. The laboratory certification process established by the Department’s State
12 Laboratory Division (SLD) is a rigorous process to ensure optimal scientifically
13 reliable testing methods and procedures are used by the laboratories. All certified
14 laboratories are certified using a consistent certification process to ensure product
15 safety.

16
17 Regarding adding devices that provide safe pulmonary administration of cannabis to the
18 list of allowed manufactured products, the Department requests the Legislature define “safe
19 pulmonary administration” and “sub-combustion temperature” and amends the bill language to
20 ensure against the use of vaping devices for vaping or smoking of tobacco or tobacco products.
21 The Department offers an amendment as follows to ensure against the use of devices for
22 consumption of tobacco consistent with the Department's anti-smoking policy (amended

1 language is underlined): “Devices which provide safe pulmonary administration, provided that
2 the device is distributed solely for use with single use, disposable, pre-filled and tamper-resistant
3 sealed containers that do not contain nicotine or other tobacco related products and is used to
4 deliver cannabis orally, the heating element of the device is made of inert materials such as glass,
5 ceramic, or stainless steel, and not of plastic or rubber, and there is a temperature control on the
6 device to ensure a sub-combustion temperature.” Dispensaries would be required to provide
7 signage and packaging inserts consistent with the above and Department inspections will
8 determine compliance.

9 Also, inserting in this section of the current statute the language on devices that provide
10 safe pulmonary administration would require the dispensaries to manufacture the devices. The
11 Legislature should clarify whether the intent is to require dispensaries to manufacture the devices
12 they sell or if they could buy manufactured devices and sell them.

13

14 Regarding multi-dose packs, the Department SUPPORTS this as cost beneficial to
15 dispensaries and patients as long as dispensing limits are not exceeded. Department inspections
16 will determine compliance.

17

18 Regarding reciprocity, the Department OPPOSES the proposed system. This system
19 would place dispensaries in a conflict of interest position of self-validating patients to whom they
20 would sell products. Other questions are unanswered by the bill, namely: 1. Would this bill
21 provide the state’s legal protection for an out-of-state individual to possess and use cannabis; 2.
22 Do out-of-state individuals have to meet the state definition of qualifying patient including a

1 debilitating medical condition recognized by the state; and 3. Would the reciprocity proposed in
2 this bill require changes to other state statute? On the question of meeting the debilitating
3 medical condition, this bill would provide an out-of-state individual the ability to obtain medical
4 cannabis for a medical condition not allowed to a resident of the State of Hawaii.

5 A reciprocity program for medical cannabis is complex and requires the discipline of
6 more independent and objective verification processes.

7 Implementation of reciprocity at this time could also jeopardize Hawaii patients' access
8 to medical cannabis. Only half of the dispensaries have begun to sell medical cannabis products,
9 and the Department continues to be responsive to dispensaries' requests to conduct inspections
10 when they are ready for the next phase of cultivation or manufacture or retail sales, and the
11 Department has also been responsive to dispensaries' requests for increased plant counts. We
12 have seen news stories that local dispensaries have run out of retail product. The Department's
13 focus continues to be on improving access of local medical cannabis for local patients. Creating
14 this or any other reciprocity program at this immediate point in time could strain the availability
15 of medical cannabis for local patients.

16

17 Finally, the Department respectfully requests that the exempt status of the dispensary
18 licensing supervisor position and inspector positions be made permanent to aid in the
19 Department's recruitment and retention efforts. Without permanence, the exempt status requires
20 the positions to be renewed annually and makes it difficult for qualified persons in other
21 permanent positions to want to apply.

22

1 In summary and in closing, the Department SUPPORTS THE INTENT on parts of this
2 bill as long as clarifications, definitions, and language changes are made, and OPPOSES other
3 parts of the bill as potentially diminishing the state’s robust regulatory processes, potentially
4 inviting federal law enforcement intervention, and risking access to medical cannabis by
5 Hawaii’s local patients.

6

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

LATE

Dear Chair Baker, Chair; Vice Chair Tokuda:

Thank you for hearing this important bill. As a military veteran, a medical cannabis patient, and advocate for accessible health care please pass this bill to allow medically approved patients to have legal access to medication in Hawaii.

Not only is this the just, sensible, and humane thing to do but it will keep our tourists out of our black market and in safe environments. Hawaii has elected this body to stand for bold ideas that benefit people. This is one of those ideas. I urge this committee to pass this measure. Mahalo for your time.

-Randy Gonce

Drug Policy Forum of Hawaii - Board Member

Young Progressives Demanding Action -Executive Committee

LATE

HB-2729-HD-1

Submitted on: 2/14/2018 4:24:02 PM

Testimony for JUD on 2/15/2018 2:00:00 PM

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

Comments:

LATE

HB-2729-HD-1

Submitted on: 2/14/2018 7:56:44 PM

Testimony for JUD on 2/15/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kat Culina	Individual	Support	No

Comments:

Aloha,

This bill has numerous components I support, but there are provisions in another omnibus bill that should be included.

I support following in the current bill:

The reciprocity provisions in this bill are good for visiting patients and by extension for Hawaii's current and prospective patients.

- If we want to make medical cannabis accessible to visitors, the process to check if they are compliant needs to be secure yet not burdensome;
- The process for out of state patients cannot be less cumbersome than for in-state ones, so we should use the prospect of reciprocity to make the certification of a condition by a health care professional, and a Department of Health receipt to that effect, as the point when a patient can legally use and buy medical cannabis;
- The current subsequent and required wait for a physical card to buy and use medical cannabis results in delays for patients who need relief and may turn elsewhere for it;
- Further, if the dispensaries have more clients, this should help reduce the cost to all patients including local ones.

The telehealth provisions in the bill will help with reciprocity as well as with local patients in rural areas.

I request that the following be added to the bill.

- These are all recommendations made to, and adopted by, the Legislature's own Act 230 Legislative Oversight Working Group;

- This fact alone, and that there is already introduced language to use, means they deserve more consideration than being part of a bill that never got a hearing, [HB2740](#);

- An end to the prohibition on interisland travel by patients and caregivers carrying medicine, whether for personal use, for delivery to a patient or for testing at a laboratory on another island. The explicit language prohibiting this travel blocks any kind of accommodation of the kind seen in other states, including Alaska, which has also has a complex geography. Federal law has not stood in the way of a solution there. It would not in Hawai'i but for our current state law;
- A new process regarding the application for civil identification cards, making it easier for bedridden hospice patients to secure the ID they need to become registered patients;
- Protections for patients who choose to, or must, use their medicine in places of public accommodation such as restaurants, bars, cafes etc.

Mahalo

13 February 2018, 9AM. Room 229 Senate Committee on Commerce, Consumer Protection and Health. Dear Chair Baker, Chair; Vice Chair Tokuda:

Thank you for hearing this important bill...

LATE