

HB2729 HD2

Measure Title: RELATING TO CANNABIS FOR MEDICAL USE.

Report Title: Medical Cannabis; Reciprocity; Written Certification;
Manufactured Cannabis Products

Description: Amends the reciprocity program and adds a visiting patient certifying fee. Extends expiration of a written certification to 3 years for chronic conditions. 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 tetrahydro cannibinol limit for multi-pack cannabis products and single containers of oil. (HB2729 HD2)

Companion: [SB2718](#)

Package: None

Current Referral: CPH, WAM

Introducer(s): MIZUNO, BELATTI, BROWER, EVANS, C. LEE, MCKELVEY, NISHIMOTO, Gates, Nakamura



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

ON THE FOLLOWING MEASURE:

H.B. NO. 2729, H.D. 2, RELATING TO CANNABIS FOR MEDICAL USE.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Thursday, March 15, 2018 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 229

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

Chair Baker and Members of the Committee:

The Department of the Attorney General provides the following comments.

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 329D-8, HRS, to allow for retesting of a failed batch of medical cannabis or manufactured cannabis products; (4) 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; (5) 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 (6) 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 7, through page 5, line 20)

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 5, lines 18-20, 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 5, lines 18-20, be deleted.

Comments on Section 5 (page 6, line 1, through page 7, line 7)

This section would amend section 329D-10, HRS, to allow for the production of “[d]evices that provide safe pulmonary administration” (page 6, line 16), and that have a temperature control on the device “to ensure a sub-combustion temperature” (page 7, line 4). While this bill would allow distribution of these devices solely for use with disposable, pre-filled, and tamper-resistant sealed containers that do not contain nicotine or other tobacco related products, the terms "safe pulmonary administration" and "sub-combustion temperature" are not defined. If the Committee is inclined to allow for the production of these devices, we suggest that it define these terms in order to clarify what type of devices are "safe" and what temperature is "sub-combustion." These definitions are needed to ensure consumer protection and to instruct dispensaries what products may be manufactured.

Comments on Section 7 (page 7, line 19, through page 9, line 18)

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 system where out-of-state patients may purchase cannabis from dispensaries by providing a government issued photo identification and an active medical cannabis card from the patient's home state, or a written certification from the patient's primary care physician certifying that the patient has a debilitating medical condition. The dispensaries "may make reasonable good faith efforts to verify" that the identification is valid and that the medical cannabis card has not expired, and that the certifying physician is in good standing with the applicable jurisdiction (page 9, lines 5-

10). But the dispensary is not required to make those good faith efforts in order to sell cannabis to the out-of-state patient. The dispensaries "may make copies of all documents presented and used in the verification of the patient's eligibility for reciprocity and log all eligible patients into the computer software tracking system . . . to ensure compliance with dispensing limits" (page 9, lines 11-16). But the dispensary is not required to take these steps to track an out-of-state patient's purchase limits.

Without a reliable requirement to determine an out-of-state patient's qualifications to purchase cannabis, there is a substantial 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. Without a reliable requirement to track the amount of cannabis purchased, there is a substantial risk of selling amounts of cannabis that exceed the legal limits.

Even if the dispensaries were required to make good faith efforts to verify an out-of-state patient's qualifications to purchase medical cannabis, it is unclear what would constitute reasonable good faith efforts and 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.

An additional problem with the proposed scheme is that out-of-state qualifying patients would be able to obtain cannabis more easily and with fewer requirements than residents of the State. [The amendment to section 329D-13\(c\)\(2\)\(B\), HRS](#) (page 8, lines 15-20), would allow an out-of-state patient to purchase cannabis from a dispensary merely by providing identification and a medical cannabis card, or furnishing a written certification from the patient's primary care physician certifying that the patient has a debilitating medical condition, and paying a fee. Hawaii's qualifying patients have the additional step of registering with the Department of Health before they can purchase cannabis from a dispensary. Also, what qualifies as a debilitating medical condition outside of Hawaii might not be consistent with Hawaii's definition of a debilitating medical condition, and that could result in a visitor being able to purchase cannabis for a condition for which a Hawaii resident could not qualify to be certified to use cannabis. These disparities could lead to equal protection challenges by Hawaii residents.

We recommend that this section of the bill be deleted so that the Department of Health can establish and control a registration process for qualifying patients from outside of the State that will be reliable and fair for residents and visitors alike.

It is our understanding that the Department of the Health, via its Medical Cannabis Registry Program, is drafting proposed amendments to chapters 329 and 329D, HRS, which would allow out-of-state patients the ability to register for the medical use of cannabis in Hawaii. We support those efforts and are working to assist the Department of Health in its goals of providing rights, protections, and limitations to out-of-state patients while maintaining fairness to Hawaii residents and a means of preventing the unauthorized diversion of cannabis to those who are not entitled to have it.

Thank you for considering our comments.

HB-2729-HD-2

Submitted on: 3/12/2018 6:00:59 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Courtney Mrowczynski	Testifying for Hawai'i Justice Coalition	Support	No

Comments:

Aloha Chair Baker, Vice Chair Tokuda & Committee Members,

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients, as well as visitors to our islands. In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

>> The original version of this bill, and the Senate version (SB2718 SD1), had a telehealth option for consultations between patients and their healthcare professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i, as well as visiting patients, who need to be certified by a Hawai'i healthcare professional before using dispensaries here.

>> SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients from discrimination by their employers. Several other states protect patients. There is NO reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill.

>> SB3053, which passed out of your committee on Health, would permit the sale of medical cannabis edibles at dispensaries. Having this option is important to many patients who find it difficult to ingest other forms of medical cannabis, or are unable to make their own edibles. *I have been working in the Hawai'i Cannabis Industry for 6 months now and I interact with the patients on a daily basis. Edibles are the most common request we have been receiving from our patients.*

>> SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.



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

TO: Senate Committee on Commerce, Consumer Protection and Health
FROM: Carl Bergquist, Executive Director
HEARING DATE: 15 February 2018, 9:30AM
RE: HB2729 HD2, RELATING TO CANNABIS FOR MEDICAL USE, **SUPPORT/COMMENTS**

Dear Chair Baker, Vice Chair Tokuda, 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. Those 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:
 - Several states follows this process, e.g. Oregon. [Oregon Revised Statutes 475B.797](#) specifically says:

(12) For any purpose described in ORS 475B.785 to 475B.949, including exemption from criminal liability under ORS 475B.907, **a receipt issued by the authority** verifying that an application has been submitted to the authority under subsection (2), (3) or (6)(b) of this

section *has the same legal effect as a registry identification card for 30 days* following the date on which the receipt was issued to the applicant.

- 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);

Further, **we request that the telehealth provisions**, expanding the definition of what constitutes a “bona fide” relationship between the patient and his/her health care professional, **be reinserted** from the original version of this bill. This would also dovetail with the reciprocity provisions discussed above, and neither conflicts with state nor federal law.

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

Finally, the **protections for medical cannabis patients from discrimination by their employers**, as contained in [SB2220 SD1](#), should be added to the bill. This was also a key recommendation from the Act 230 Working Group.

Thank you for the opportunity to testify.



March 13, 2018

TO: Senate Committee on Commerce, Consumer Protection and Health
Senator Rosalyn H. Baker, Chair, Senator Jill N. Tokuda, Vice Chair
Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair, Senator Gil Keith-Agaran, Vice Chair

RE: Testimony-**SUPPORT SENATE BILL (HB) 2729, HD 2**
RELATING TO CANNABIS FOR MEDICAL USE

FROM: Teri Freitas Gorman, Maui Grown Therapies

Aloha e Chairs Baker and Dela Cruz and Vice Chairs Tokuda and Keith-Agaran and committee members,

As 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 2729, HD2.

Maui Grown Therapies made history on August 8, last year when we became Hawai'i's first licensed medical cannabis dispensary. Those of you who have toured our facilities can appreciate the financial and intellectual investment we've made in the state's medical cannabis dispensary program. During the past six months we have worked closely with Department of Health (DOH) to launch our business as well as our fledgling industry.

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 a Program to Serve Visiting Patients

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 qualified visitors to Hawai'i may shop at a state-licensed dispensary beginning this year.

Even with information on our homepage explaining the status of reciprocity, we have received 143 email inquiries from out-of-state patients and our staff has answered nearly 300 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 a program to serve visiting patients 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 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 medical cannabis card or 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.

Relying on the reciprocity provisions in Act 241, many licensees made substantial investments to scale our operations to serve a growing local patient base as well as out-of-state patients in 2018. In fact Maui Grown Therapies received DOH approval on January 12, 2018 to expand our plant count from 6,000 to 10,000 at our two production centers. We now have the capacity to serve 100 percent of Maui's medical cannabis patients, if necessary, plus the needs of visiting patients. We are ready.

However, we are currently experiencing slow growth in Hawai'i patients while have no way to serve inquiring visiting patients. 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 in December 2017. This is an area of concern for all licensees, especially those operating on the neighbor islands that serve 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. The Department of Health should have to option to extend validity for patients with chronic health conditions.

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. 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 licenses have no mechanism to appeal suspect lab results. In our case, the affected products include CBD-dominant cannabis flower preferred by several of our patients for its therapeutic effects. An inability to appeal the validity of lab results and lab testing methods is unfair to both patients and licensees.

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 138 signed postcards that our patients have 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.

6. Additional considerations currently not in this bill

In addition to the above provisions, we request reconsideration of telemedicine for the purpose of verifying a patient's pre-existing health condition that may qualify for the use of cannabis. This is an important distinction between diagnosing a condition or prescribing controlled substances via telemedicine consultations. With Hawaii's ongoing physician shortage and the lack of physicians in several remote rural locations, telemedicine is an important option for patients.

Finally, we join our fellow licensees in HEALTH in requesting this amendment to Section 329D-6 to be added to HB2729 HD2:

(r) A dispensary licensed pursuant to this chapter may communicate with the public via internet, social media, email or text message or other electronic medium in which an adult patient, caregiver or member of the public has opted-in or requested to be included in such communications.

Me ka ha'a ha'a (humbly yours),

Teri Freitas Gorman
Director of Community Relations & Patient Affairs

ON THE FOLLOWING MEASURE:

HB2729, HD2, RELATING TO CANNABIS FOR MEDICAL USE

BEFORE THE:

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Thursday, March 15, 2018 TIME: 9:30 AM

LOCATION: Conference Room 229

TESTIFIER: Brian Goldstein, Noa Botanicals

POSITION: **STRONG SUPPORT WITH REQUESTED CHANGES**

Chair BAKER, Vice Chair TOKUDA and Members of the Committee:

Noa Botanicals is a licensed medical marijuana dispensary in the City and County of Honolulu. We **strongly support** this bill and request that a new section be added relating to the use of op-in marketing by dispensaries.

Allow dispensaries the opportunity for retesting of a failed batch of medical cannabis. - STRONG SUPPORT

It is not uncommon for test results to show a false positive. That is, showing positive for the presence of microbials or contaminants that come back negative upon re-testing. Given the extremely high operating costs in Hawaii, and the need to provide high quality medicine at reasonable prices, it is important that dispensaries have the opportunity to re-test failed batches.

Allowing devices for pulmonary administration to be sold by dispensaries. - STRONG SUPPORT WITH CHANGES

A survey of our patients before their visit (via a pre-registration form) shows that over 52% of Hawaii patients are interested in vaping cannabis oil. Since we are not allowed to sell pre-filled cartridge, we sell cannabis oil in dispensing syringes. It is then up to the patient to purchase an appropriate tool for vaporizing the cannabis oil and for filling the cartridge. This increases patient cost and complexity and can place undue stress on oftentimes fragile patients.

Vaporizing cannabis is a safe delivery system. This is demonstrated in the peer reviewed, clinical study *Vaporization as a Smokeless Cannabis Delivery System: A Pilot Study*. According to this study "CO levels were reduced with vaporization.

No adverse events occurred. Vaporization of cannabis is a safe and effective mode of delivery of THC.”¹

REQUESTED CHANGE: Given the challenge in defining “safe” we respectfully request that the word “safe” be removed to read “Devices that provide safe pulmonary administration...” “

Increase Dosage Limitation to 1000 milligrams of THC per pack or container - STRONG SUPPORT

The current limit of 100mg is unworkable, increases patient costs and does not provide any risk reduction or patient benefit. This limitation was likely mistakenly modeled after restrictions on edible products in other jurisdictions. Edibles are not allowed to be sold by dispensaries in Hawaii so this limitation is not needed.

Reciprocity program – STRONG SUPPORT

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.

We further understand that the Department of the Attorney General has some concerns about the out-of-state patients being verified by the dispensaries rather

¹ Abrams et al (2007): Vaporization as a smokeless delivery system, Clinical Pharmacology and Therapeutics 82(5) pg. 572: ‘Vaporization is a safe and effective mode of delivery of THC.’

than the DOH. However, this is exactly the way in which the Nevada program was implemented, and it was found to have 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.

Because dispensaries carry all of the liability and even potential loss of their license if there are abuses or violations, this alone is a strong deterrent and incentive for dispensaries to put forth a good faith effort and reasonable steps to avoid any basis for improper sales to an unqualified patient. But more importantly, as Hawaii is a state known for welcoming visitors, we believe that it is also important for Hawaii to allow patients with debilitating conditions to come here and still have access to their medical cannabis, which they would not be able to legally transport here.

As such we believe following that program and its experience would be prudent and a balanced way of ensuring patient access, with required safeguards.

REQUESTED AMENDMENT to Allow the use of opt-in marketing by dispensaries.

We would like to respectfully request that the committee consider the addition of language to allow dispensaries to be able to communicate with qualified patients who have opted-in to receive such communications such as via email and text message. We respectfully request that the following language be added to HB2729

Section 329D-6, Hawaii Revised Statutes, is amended by amending subsection (r) to read as follows:

(r) A dispensary licensed pursuant to this chapter may communicate with the public via internet, social media, email or text message or other electronic medium in which the patient or member of the public has opted-in or requested to be included in such communications.

Thank you for your consideration.

HAWAII EDUCATIONAL ASSOCIATION FOR LICENSED THERAPEUTIC HEALTHCARE

To: Senator Rosalyn Baker, Chair Consumer Protection and Health (CPH)
Senator Jill Tokuda, Vice-Chair CPH
Members of the CPH Committee

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

Re: **Testimony In Strong Support on House Bills (HB) 2729, HD2 WITH
PROPOSED AMENDMENTS**

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 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 tetrahydro cannabinol limit for multi-pack cannabis products and single containers of oil

Dear Chair Baker, Vice-Chair Tokuda, 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, HD1** 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. This bill is similar to Senate Bill 2718 that was passed out by this committee and therefore, we are hopeful the committee will be inclined to do so again.

Also, we have been in recent discussions with the Department of Health (DOH) to find compromises on reciprocity, pulmonary devices, telehealth and laboratory testing. While we have attached some proposed language for your consideration on reciprocity, we are still in discussions on language for pulmonary devices, and we are trying to see if we can reach any agreement on an approach for telehealth and laboratory testing.

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.

However, we have attached proposed amendments to the reciprocity issues which we believe encompasses the very recent discussions with the DOH which we believe sets forth the approach that we understand is in their testimony and an attached memorandum. We acknowledge that due to the limited time afforded to present this the

language in our testimony, it has only been partially vetted and therefore, we understand, and expect, it may be subject to some change. Nonetheless, we sincerely appreciate the willingness of the DOH to reach a mutually agreeable approach on this issue, and respectfully request and are hopeful that the committee will consider and incorporate these changes based on this understanding and allow the parties to continue to work together in good faith towards final agreed upon language very soon.

The attached amendments change the process so that the DOH would still register out-of-state patients, and out-of-state patient parents, under certain conditions where the DOH maintains its authority to uphold a rigorous system, and provides the DOH the authority to ensure that Hawaii residents are not adversely affected. As Hawaii is a state known for welcoming visitors, we believe that it is important for Hawaii to allow patients with debilitating conditions to come here and still have access to their medical cannabis, which they would not be able to legally transport here.

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, it not an option for, their ongoing treatment.

Please note, that the bill already contains this change in the definition of "written certification" under Haw. Rev. Stat. 329-121, but our proposed amendments changes to the reciprocity system affects the same definitions of "written certification" so it is included in that attachment.

3) 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.

We have been in fruitful discussions with the DOH and believe we are getting closer to reaching some proposed compromise language. As such, we respectfully request that you leave this section in the bill so that we can continue our discussions.

4) 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.

5) Appeal process for laboratory testing

The bill also includes a provision in Section 5 of the bill for a process for appealing a failed batch from a laboratory test.

While recent discussions with the DOH have indicated that they realize the current administrative rule implies only testing by the same laboratory, we are in discussions to see if we can find an administrative or implementation work-around on this issue.

We request that the committee please keep this provision in for now to see if we can reach agreement with the DOH before this bill reaches its final states. If we can find resolution of this outside the need to change the law, that is our preferred approach and we will be engaging with the DOH to see if that is possible.

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.

SECTION 1. Section 329-121, Hawaii Revised Statutes, is amended to read as follows:

§329-121 Definitions. As used in this part:

"Adequate supply" means an amount of medical cannabis jointly possessed between the qualifying patient and the primary caregiver that is not more than is reasonably necessary to ensure the uninterrupted availability of cannabis for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition; provided that an "adequate supply" shall not exceed: ten cannabis plants, whether immature or mature, and four ounces of usable cannabis at any given time. The four ounces of usable cannabis shall include any combination of usable cannabis and manufactured cannabis products, as provided in chapter 329D, with the cannabis in the manufactured cannabis products being calculated using information provided pursuant to section 329D-9(c).

"Adequate supply for out-of-state patient" or "adequate supply for out-of-state parent" means four ounces of usable cannabis in any combination of usable cannabis and manufactured cannabis products, obtained from a licensed dispensary as provided in chapter 329D, with the cannabis in the manufactured cannabis products being calculated using information provided pursuant to section 329D-9(c).

"Advanced practice registered nurse" means an advanced practice registered nurse with prescriptive authority as described in section 457-8.6 and registered under section 329-32.

"Cannabis" shall have the same meaning as "marijuana" and "marijuana concentrate" as provided in sections 329-1 and 712-1240.

"Debilitating medical condition" means:

(1) Cancer, glaucoma, lupus, epilepsy, multiple sclerosis, rheumatoid arthritis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions;

(2) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:

- (A) Cachexia or wasting syndrome;
- (B) Severe pain;
- (C) Severe nausea;

- (D) Seizures, including those characteristic of epilepsy;
- (E) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis or Crohn's disease; or
- (F) Post-traumatic stress disorder; or

(3) Any other medical condition approved by the department of health pursuant to administrative rules in response to a request from a physician or advanced practice registered nurse or potentially qualifying patient.

"Medical use" means the acquisition, possession, cultivation, use, distribution, or transportation of cannabis or paraphernalia relating to the administration of cannabis to alleviate the symptoms or effects of a qualifying patient's debilitating medical condition, provided that a registered out-of-state patient shall only be authorized to acquire, possess and use cannabis or paraphernalia, and provided further that a registered out-of-state patient parent shall only be authorized to acquire and possess cannabis or paraphernalia. For the purposes of "medical use", the term distribution is limited to the transfer of cannabis and paraphernalia.

"Out-of-state patient" means a person who is registered for the medical use of cannabis in another state, territory of the United States or the District of Columbia."

"Out-of-state patient parent" means a parent, guardian, or person having legal custody of an out-of-state patient who is under the age of eighteen years."

"Physician" means a person who is licensed to practice under chapter 453 and is licensed with authority to prescribe drugs and is registered under section 329-32. "Physician" does not include a physician assistant as described in section 453-5.3.

"Primary caregiver" means a person eighteen years of age or older, other than the qualifying patient and the qualifying patient's physician or advanced practice registered nurse, who has agreed to undertake responsibility for managing the well-being of the qualifying patient with respect to the medical use of cannabis. In the case of a minor or an adult lacking legal capacity, the primary caregiver shall be a parent, guardian, or person having legal custody.

"Qualifying patient" means a person who has been diagnosed by a physician or advanced practice registered nurse as having a debilitating medical condition, and may include an out-of-state patient or an out-of-state patient parent registered under this chapter.

"Usable cannabis" means the dried leaves and flowers of the plant Cannabis family Moraceae, and any mixture or preparation thereof, that are appropriate for the medical use of cannabis. "Usable cannabis" does not include the seeds, stalks, and roots of the plant.

"Written certification" means the qualifying patient's medical records or a statement signed by a qualifying patient's physician or advanced practice registered nurse, stating that in the physician's or advanced practice registered nurse's professional opinion, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of cannabis would likely outweigh the health risks for the qualifying patient. The department of health may require, through its rulemaking authority, that all written certifications comply with a designated form. "Written certifications" are valid for only one year from the time of signing[-]; provided that the department may allow any certification to be valid for up to three years when the qualifying patient's physician or advanced practice registered nurse states that the debilitating medical condition is chronic in nature, provided further that certification duration for an out-of-state patient or a registered out-of-state patient parent shall be limited to the period of validity for the use of medical cannabis in their home jurisdiction.

SECTION 2. Hawaii Revised Statutes, Section 329-123 shall be amended for its title to read as follows:

"§329-123 Registration requirements of qualifying patients and primary caregivers.

SECTION 3. Hawaii Revised Statutes, Chapter 329 shall be amended to add a new section to read as follows:

"§329-123.5, Registration requirements for out-of-state patients and out-of-state patient parents. (a) Notwithstanding section 329-123, out-of-state patients and out-of-state patient parents shall register with the department of health as established by rule. The registration shall be effective for no

more than 60 days and may be renewed for no more than one additional 60-day period within 12 months of the preceding issuance date, provided that the department shall not register any out-of-state patient for a period that exceeds the validity of their authority to use medical cannabis in their home jurisdiction.

(b) Out-of-state patients shall, at a minimum, meet the following criteria for registration with the department:

- (1) Possess a valid government-issued medical cannabis card from another state, territory of the United States, or the District of Columbia, provided that the medical cannabis card has an expiration date and has not yet expired;
- (2) Possess a valid photographic identification card or driver's license from the same jurisdiction that issued the medical cannabis card; and
- (3) Have a debilitating medical condition as defined in section 329-121.

(c) Out-of-state patients shall pay a registration or renewal fee of \$45.

(d) In the case of out-of-state patients who are under the age of eighteen, the department shall register both the out-of-state patient and the out-of-state patient parent.

(e) Upon inquiry by a law enforcement agency, which inquiry may be made twenty-four hours a day, seven days a week, the department of health shall immediately verify whether the subject of the inquiry has registered with the department of health and may provide reasonable access to the registry information for official law enforcement purposes."

SECTION 4. Hawaii Revised Statutes, section 329-125 shall be amended to read as follows:

"§329-125 Protections afforded to a qualifying patient or primary caregiver. (a) A qualifying patient, out-of-state patients, out-of-state patient parents or the primary caregiver may assert the medical use of cannabis authorized under this part as an affirmative defense to any prosecution involving [cannabis or marijuana] under this part or part IV; or part IV of chapter 712; provided that the qualifying patient, out-of-state patients, out-of-state patient parents or the primary caregiver strictly complied with the requirements of this part.

(b) Any qualifying patient, out-of-state patients, out-of-state patient parents or primary caregiver not complying with the permitted scope of the medical use of cannabis shall not be

afforded the protections against searches and seizures pertaining to the misapplication of the medical use of cannabis.

(c) No person shall be subject to arrest or prosecution for simply being in the presence or vicinity of the medical use of cannabis as permitted under this part.

SECTION 5. Hawaii Revised Statutes, section 328-128 shall be amended by adding a new subsection (c) to read as follows:

"§329-128 Fraudulent misrepresentation; penalty. (a) Notwithstanding any law to the contrary, fraudulent misrepresentation to a law enforcement official of any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution under this part or chapter 712 shall be a petty misdemeanor and subject to a fine of \$500.

(b) Notwithstanding any law to the contrary, fraudulent misrepresentation to a law enforcement official of any fact or circumstance relating to the issuance of a written certificate by a physician or advanced practice registered nurse not covered under section 329-126 for the medical use of cannabis shall be a misdemeanor. This penalty shall be in addition to any other penalties that may apply for the non-medical use of cannabis. Nothing in this section is intended to preclude the conviction of any person under section 710-1060 or for any other offense under part V of chapter 710.

(c) Notwithstanding any law to the contrary, fraudulent misrepresentation to the department of an entitlement in another state, territory of the United States, or the District of Columbia for the medical use of cannabis for the purpose applying to register as an out-of-state patient or out of state patient parent shall be a misdemeanor. This penalty shall be in addition to any other penalties that may apply for the non-medical use of cannabis. Nothing in this section is intended to preclude the conviction of any person under section 710-1060 or for any other offense under part V of chapter 710."

SECTION 5. Hawaii Revised Statutes, section 329D-1, shall be revised to add new definitions as follows:

"Out-of-state patient" shall have the same meaning as in section 329-121.

"Out-of-state patient parent" shall have the same meaning as in section 329-121.

SECTION 6. Hawaii Revised Statutes, subsections 329D-7 shall be amended to read as follows:

"§329D-7 Medical cannabis dispensary rules. The department shall establish standards with respect to:

(1) The number of medical cannabis dispensaries that shall be permitted to operate in the State;

(2) A fee structure for the submission of applications and renewals of licenses to dispensaries; provided that the department shall consider the market conditions in each county in determining the license renewal fee amounts;

(3) Criteria and procedures for the consideration and selection, based on merit, of applications for licensure of dispensaries; provided that the criteria shall include but not be limited to an applicant's:

- (A) Ability to operate a business;
- (B) Financial stability and access to financial resources; provided that applicants for medical cannabis dispensary licenses shall provide documentation that demonstrates control of not less than \$1,000,000 in the form of escrow accounts, letters of credit, surety bonds, bank statements, lines of credit or the equivalent to begin operating the dispensary;
- (C) Ability to comply with the security requirements developed pursuant to paragraph (6);
- (D) Capacity to meet the needs of qualifying patients;
- (E) Ability to comply with criminal background check requirements developed pursuant to paragraph (8); and
- (F) Ability to comply with inventory controls developed pursuant to paragraph (13);

(4) Specific requirements regarding annual audits and reports required from each production center and dispensary licensed pursuant to this chapter;

(5) Procedures for announced and unannounced inspections by the department or its agents of production centers and dispensaries licensed pursuant to this chapter; provided that inspections for license renewals shall be unannounced;

(6) Security requirements for the operation of production centers and retail dispensing locations; provided that, at a minimum, the following shall be required:

- (A) For production centers:
 - (i) Video monitoring and recording of the premises; provided that recordings shall be retained for fifty days;
 - (ii) Fencing that surrounds the premises and that is sufficient to reasonably deter intruders and prevent anyone outside the premises from viewing any cannabis in any form;
 - (iii) An alarm system; and
 - (iv) Other reasonable security measures to deter or prevent intruders, as deemed necessary by the department;
- (B) For retail dispensing locations:
 - (i) Presentation of a valid government-issued photo identification and a valid identification as issued by the department pursuant to section 329-123, by a qualifying patient or caregiver, upon entering the premises;
 - (ii) Video monitoring and recording of the premises; provided that recordings shall be retained for fifty days;
 - (iii) An alarm system;
 - (iv) Exterior lighting; and
 - (v) Other reasonable security measures as deemed necessary by the department;

(7) Security requirements for the transportation of cannabis and manufactured cannabis products between production centers and retail dispensing locations and between a production center, retail dispensing location, qualifying patient, or primary caregiver and a certified laboratory, pursuant to section 329-122(d);

(8) Standards and criminal background checks to ensure the reputable and responsible character and fitness of all license applicants, licensees, employees, subcontractors and their employees, and prospective employees of medical cannabis dispensaries to operate a dispensary; provided that the standards, at a minimum, shall exclude from licensure or employment any person convicted of any felony;

(9) The training and certification of operators and employees of production centers and dispensaries;

(10) The types of manufactured cannabis products that dispensaries shall be authorized to manufacture and sell pursuant to sections 329D-9 and 329D-10;

(11) Laboratory standards related to testing cannabis and manufactured cannabis products for content, contamination, and consistency;

(12) The quantities of cannabis and manufactured cannabis products that a dispensary may sell or provide to a qualifying patient, a registered out-of-state patient, a registered out-of-state patient parent, or primary caregiver; provided that no dispensary shall sell or provide to a qualifying patient or primary caregiver any combination of cannabis and manufactured products that:

- (A) During a period of fifteen consecutive days, exceeds the equivalent of four ounces of cannabis; or
- (B) During a period of thirty consecutive days, exceeds the equivalent of eight ounces of cannabis;

(13) Dispensary and production center inventory controls to prevent the unauthorized diversion of cannabis or manufactured cannabis products or the distribution of cannabis or manufactured cannabis products to qualifying patients, registered out-of-state patients, registered out-of-state patient parents, or primary caregivers in quantities that exceed limits established by this chapter; provided that the controls, at a minimum, shall include:

- (A) A computer software tracking system as specified in section 329D-6(j) and (k); and
- (B) Product packaging standards sufficient to allow law enforcement personnel to reasonably determine the contents of an unopened package;

(14) Limitation to the size or format of signs placed outside a retail dispensing location or production center; provided that the signage limitations, at a minimum, shall comply with section 329D-6(o)(2) and shall not include the image of a cartoon character or other design intended to appeal to children;

(15) The disposal or destruction of unwanted or unused cannabis and manufactured cannabis products;

(16) The enforcement of the following prohibitions against:

- (A) The sale or provision of cannabis or manufactured cannabis products to unauthorized persons;
- (B) The sale or provision of cannabis or manufactured cannabis products to qualifying patients or primary caregivers in quantities that exceed limits established by this chapter;
- (C) Any use or consumption of cannabis or manufactured cannabis products on the premises of a retail dispensing location or production center; and
- (D) The distribution of cannabis or manufactured cannabis products, for free, on the premises of a retail dispensing location or production center;

(17) The establishment of a range of penalties for violations of this chapter or rule adopted thereto; and

(18) A process to recognize and register patients who are authorized to purchase, possess, and use medical cannabis in another state, United States territory, or the District of Columbia as qualifying patients in this State; provided that this registration process may commence no sooner than January 1, 2018.

SECTION 7. Hawaii Revised Statutes, section 329D-13, shall be revised to read as follows:

"§329D-13 Qualifying patients and primary caregivers; dispensing limits; other states. (a) A qualifying patient, registered out-of-state patient, registered out-of-state patient parent or a primary caregiver on behalf of a qualifying patient shall be allowed to purchase no more than four ounces of cannabis within a consecutive period of fifteen days, or no more than eight ounces of cannabis within a consecutive period of thirty days.

(b) A qualifying patient, registered out-of-state patient, registered out-of-state patient parent or a primary caregiver on behalf of a qualifying patient may purchase cannabis from any dispensary location in the State, subject to the limits set forth in subsection (a).

~~[(c) Beginning on January 1, 2018, this section may apply to qualifying patients from other states, territories of the United States, or the District of Columbia; provided that the patient is verified as a patient in their home state and registers with the department through a registration process established by the department.]~~

(c) The department may temporarily suspend purchase of cannabis by registered out-of-state patients or registered out-of-state patient parents for a period of up to thirty days by providing licensed dispensaries written notice of the effective date and duration of the temporary suspension, if the department finds that qualifying patients or primary caregivers who reside in that county, are being adversely affected by a limited supply of cannabis in their county. This temporary suspension may be extended by 30 day periods until the department finds that the cannabis supply in that county is adequate to serve the qualifying patients or primary caregivers who reside in that county.

SECTION 8. Hawaii Revised Statutes, section 329D-24, is amended to read as follows:

"§329D-24 Cultivation of medical cannabis by qualifying patients and primary caregivers. Nothing in this chapter shall be construed as prohibiting a qualifying patient or primary caregiver from cultivating or possessing an adequate supply of medical cannabis pursuant to part IX of chapter 329 provided that a registered out-of-state patient or a registered out-of-state patient parent shall be prohibited from cultivating an adequate supply of medical cannabis and can only purchase an adequate supply for out-of-state patient or an adequate supply for out-of-state patient parents as defined in section 329-121.

HB-2729-HD-2

Submitted on: 3/14/2018 7:42:32 AM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

To the Honorable Rosalyn H. Baker, Chair; the Honorable Jill N. Tokuda, ViceChair, and Members of the Senate Committee on Commerce, Consumer Protection, and Health:

Good morning. 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 **HB2729 HD2** regarding Medical Cannabis; Reciprocity; Written Certification; and Manufactured Cannabis Products.

The OCC Legislative Priorities Committee is in favor of **HB2729 HD2** and support its passage.

HB2729 HD2 is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it amends the reciprocity program and adds a visiting patient certifying fee; extends expiration of a written certification to 3 years for chronic conditions; permits retesting of a failed batch of medical cannabis or products; permits dispensary licensees to distribute devices that provide safe pulmonary administration; and increases the maximum allowable tetrahydro cannibinol limit for multi-pack cannabis products and single containers of oil.

Specifically, the DPH Platform provides that we "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 **HB2729 HD2** amends the reciprocity program and adds a visiting patient certifying fee; extends expiration of a written certification to 3 years for chronic conditions; permits retesting of a failed batch of medical cannabis or products; permits dispensary licensees to distribute devices that provide safe pulmonary administration; and increases the maximum allowable tetrahydro cannibinol 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, Text/Tel.: (808) 258-8889

Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- the original version of this bill, and the Senate version (SB2718 SD1), had a telehealth option for consultations between patients and their health care professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a Hawai'i care professional before using dispensaries here;
- SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients from discrimination by their employers. Several other states protect patients. There is no reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill;
- SB3053, which passed out of your committee on Health, would permit the sale of medical cannabis edibles at dispensaries. Having this option is important to many patients who find it difficult to ingest other form of medical cannabis or are unable to make their own edibles;
- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

HB-2729-HD-2

Submitted on: 3/11/2018 1:34:48 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Thayne Taylor	Individual	Support	No

Comments:

Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

I also ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- the original version of this bill and the Senate version (SB2718 SD1) had a telehealth option for consultations between patients and their healthcare professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a Hawai'i care professional before using dispensaries here;
- SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients from discrimination by their employers. Several other states protect patients. There is no reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill;
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- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

Sincerely,

Thayne Taylor

5350 Puulima Road, Kalaheo, HI 96741

808-332-0877

HB-2729-HD-2

Submitted on: 3/11/2018 3:20:11 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lee Eisenstein	Individual	Support	No

Comments:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- the original version of this bill, and the Senate version (SB2718 SD1), had a telehealth option for consultations between patients and their health care professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a**

Hawai'i care professional before using dispensaries here;

- SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients from discrimination by their employers. Several other states protect patients. There is no reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill;

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- SB2651, also passed by this

committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

HB-2729-HD-2

Submitted on: 3/11/2018 4:16:29 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

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

Comments:

Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- the original version of this bill, and the Senate version (SB2718 SD1), had a telehealth option for consultations between patients and their health care professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a Hawai'i care professional before using dispensaries here;
- SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients from discrimination by their employers. Several other states protect patients. There is no reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill;
- SB3053, which passed out of your committee on Health, would permit the sale of medical cannabis edibles at dispensaries. Having this option is important to many patients who find it difficult to ingest other form of medical cannabis or are unable to make their own edibles;
- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake. **This is of particular importance to me personally. I went to college for Agriculture, and I am unable to apply for a job that I'm extremely qualified for, because of legal problems that began with an arrest for cannabis cultivation.**

Sincere respect and heartfelt gratitude, IN ADVANCE, for your considerate and compassionate approval of this bill.

Michael K. Stacy

From: [Marilyn Mick](#)
To: [CPH Testimony](#)
Subject: Support for HB2729 HD2
Date: Sunday, March 11, 2018 2:20:22 PM

Hearing Date/Time: Thursday, 15 March 2018, 9:30 AM, Room 229
Senate Committee on Commerce, Consumer Protection and Health

Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- the original version of this bill, and the Senate version (SB2718 SD1), had a telehealth option for consultations between patients and their health care professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a Hawai'i care professional before using dispensaries here;
- SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients from discrimination by their employers. Several other states protect patients. There is no reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill;
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- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

Mahalo for the opportunity to testify.

Marilyn Mick, Honolulu

From: [Roger Nakanishi](#)
To: [CPH Testimony](#)
Subject: Support for HB2729 HD2
Date: Sunday, March 11, 2018 1:15:24 PM

Hearing Date/Time: Thursday, 15 March 2018, 9:30 AM, Room 229
Senate Committee on Commerce, Consumer Protection and Health

Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- the original version of this bill, and the Senate version (SB2718 SD1), had a telehealth option for consultations between patients and their health care professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a Hawai'i care professional before using dispensaries here;
- SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients from discrimination by their employers. Several other states protect patients. There is no reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill;
- SB3053, which passed out of your committee on Health, would permit the sale of medical cannabis edibles at dispensaries. Having this option is important to many patients who find it difficult to ingest other form of medical cannabis or are unable to make their own edibles;
- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

Mahalo for the opportunity to testify.

Sent from my iPhone

From: [Healing System](#)
To: [CPH Testimony](#)
Subject: Support for HB2729 HD2
Date: Monday, March 12, 2018 2:41:26 PM

Hearing Date/Time: Thursday, 15 March 2018, 9:30 AM, Room 229
Senate Committee on Commerce, Consumer Protection and Health

Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- the original version of this bill, and the Senate version (SB2718 SD1), had a telehealth option for consultations between patients and their health care professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a Hawai'i care professional before using dispensaries here;
- SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients from discrimination by their employers. Several other states protect patients. There is no reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill;
- SB3053, which passed out of your committee on Health, would permit the sale of medical cannabis edibles at dispensaries. Having this option is important to many patients who find it difficult to ingest other form of medical cannabis or are unable to make their own edibles;
- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

Mahalo for the opportunity to testify.

Deborah Umiamaka

HB-2729-HD-2

Submitted on: 3/13/2018 11:02:07 AM

Testimony for CPH on 3/15/2018 9:30:00 AM

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

Comments:

I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- the original version of this bill, and the Senate version (SB2718 SD1), had a tele-health option for consultations between patients and their health care professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a Hawai'i care professional before using dispensaries here;**
- SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients**

from discrimination by their employers. Several other states protect patients. There is no reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill;

- SB3053, which passed out of your committee on Health, would permit the sale of medical cannabis edibles at dispensaries. Having this option is important to many patients who find it difficult to ingest other form of medical cannabis or are unable to make their own edibles;

- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

From: [Georgina McKinley](#)
To: [CPH Testimony](#)
Subject: Support for HB2729 HD2
Date: Tuesday, March 13, 2018 1:31:04 PM

Hearing Date/Time: Thursday, 15 March 2018, 9:30 AM, Room 229
Senate Committee on Commerce, Consumer Protection and Health

Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients and visitors to our islands who use medicinal cannabis.

In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- the original version of this bill, and the Senate version (SB2718 SD1), had a telehealth option for consultations between patients and their health care professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a Hawai'i care professional before using dispensaries here;
- SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients from discrimination by their employers. Several other states protect patients. There is no reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill;
- SB3053, which passed out of your committee on Health, would permit the sale of medical cannabis edibles at dispensaries. Having this option is important to many patients who find it difficult to ingest other form of medical cannabis or are unable to make their own edibles;
- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

Mahalo for the opportunity to testify.

Sincerely,
Georgina McKinley

From: [Susan Palazzo](#)
To: [CPH Testimony](#)
Subject: Support for HB2729 HD2
Date: Tuesday, March 13, 2018 1:39:08 PM

Hearing Date/Time: Thursday, 15 March 2018, 9:30 AM, Room 229
Senate Committee on Commerce, Consumer Protection and Health

Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- the original version of this bill, and the Senate version (SB2718 SD1), had a telehealth option for consultations between patients and their health care professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a Hawai'i care professional before using dispensaries here;
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- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

Mahalo for the opportunity to testify.

Susan Palazzo RN BSN
808-397-3975

From: [Alan Yoshimoto](#)
To: [CPH Testimony](#)
Subject: Support for HB2729 HD2
Date: Tuesday, March 13, 2018 1:40:32 PM

Senate Committee on Commerce, Consumer Protection and Health
Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- the original version of this bill, and the Senate version (SB2718 SD1), had a telehealth option for consultations between patients and their health care professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a Hawai'i care professional before using dispensaries here;
- SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients from discrimination by their employers. Several other states protect patients. There is no reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill;
- SB3053, which passed out of your committee on Health, would permit the sale of medical cannabis edibles at dispensaries. Having this option is personally important and to many patients who find it difficult to ingest other form of medical cannabis or are unable to make their own edibles;
- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

Mahalo for the opportunity to testify.

Alan Yoshimoto

HB-2729-HD-2

Submitted on: 3/13/2018 1:52:08 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bonnie Marsh	Testifying on behalf of UpCountry Doctor	Support	No

Comments:

I am in support of this amendment yet feel it still needs further amending.

HB-2729-HD-2

Submitted on: 3/13/2018 2:28:47 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristin Wohlschlagel	Individual	Support	No

Comments:

To Honored Members of the Legislature,

I am an Oncology and Hospice/Palliative RN, who has extensively worked with patients who have been attempting to use medicinal cannabis legally as registered patients in Hawaii. Most of my patients have cancer and have found it almost impossible to access medicines here, even in areas with service from dispensaries, due to product availability limitations and price per milligram of oils/tinctures that are much higher than they can afford.

Regarding inhaled options: This is crucially important. Patients often depend on reasonably priced (\$50 or lower pricepoint) vaporizer pens filled with cannabis concentrates for inhaled doses which are fast acting (often less than 3 minutes) and are easy for them to judge dosing effects within 20 minutes or less. They prefer being able to safely dose in 1 or 2 (or more, as needed) inhalations and can quickly determine their effective dose and also minimize risk of using "too much" and not realizing that later, as can sometimes happen with swallowed medicines, such as tinctures, which often do not provide symptom relief onset for an hour or longer.

Patients will often begin with use of inhaled use of lab-tested oils vaporized and then we can work with the doctors or nurse practitioners to calculate reasonable comparable starting oral dosing of oils or tinctures to be taken for longer term relief, which allows the inhaled form to be used as needed for "breakthrough" symptom relief. Healthcare providers are already accustomed to teaching patients about short-acting and long-acting forms of many other medicines, such as blood pressure medicines, pain medicines nausea medicines and more.

The slim design of commonly used "vape pens" promotes ease of use by the patient and does not require expensive larger and more complicated devices. Please do not prevent use of these designs due to some irrational comparison to cigarette smoking. This design is practical both economically and functionally. It is more discrete and portable for patients to keep with them, especially as they may experience nausea or pain, or other symptoms, suddenly and this convenient device and make it possible for them to keep it handy, just like they would with quick-release medicines of other types. Forcing them to purchase complicated devices or more expensive delivery systems just

to avoid the *appearance* of "e-cigarettes places an undue burden on the patients and interferes with their use and convenience.

I fully support the longer certification periods for patients and their recommending practitioners for chronic conditions. The currently required process of returning to a consulting practitioner every year and paying \$125 to \$200 or more just for this certification places a significant financial burden on patients, unreasonably. If the consulting practitioner certification makes good recommendations, this information can be shared by the patient with their primary care provider who can assist in managing ongoing patient care and fosters a more appropriate and safe overall patient treatment protocol. This is beginning to happen more, so it is not unreasonable to expect patients to receive comprehensive support, even if they only need to see the consulting cannabis specialist every 3 years. Allowing this will, of course, not mean the patient cannot access the consultant more often, but that they will not be forced to unreasonably.

I also fully support the reciprocity authorization. I am puzzled by the language which appears to specify only cannabis flowers to be available to visitors? Many visitors do not wish to use cannabis flowers but will want to be able to access the liquids and other formulations as well. I suggest that the language not limit their purchases to only flower forms of cannabis.

There is an urgent need to allow patients to be able to purchase their oral form cannabis medications in packages containing more than the currently allowed 100 mg THC per container. Many of the patients using these types of products are using 100 to 500 milligrams of THC per day, with medical guidance, for their conditions. While these doses seem larger than others may use, these doses are commonly used with disease conditions that appear refractory to lower dosing. Please note that GW Pharmaceuticals recently published that they used a cannabis oral medicine called Sativex, in daily totals of 50 to 75 mg THC per day in their brain tumor study on Glioblastoma and those same researchers have also been exploring higher dosing for possibly enhanced effectiveness. On the mainland, patients routinely purchase bottles of their daily medicine that contain 4000 + milligrams of THC, which allows them the convenience and cost savings of purchasing these. Average price per milligram of THC or CBD may be 25% or less when purchased in these quantities, as packaging and handling costs are more efficient. When you consider that many patients are dosing on a regular, daily basis, you can see that requiring smaller totals of THC per container places an unreasonable cost and convenience burden on the patients.

Regarding the 1000 mg THC limit per container, please remember the relative safety compared to opioid medicines. Then, please know that patients prescribed oral liquids of morphine, such as Roxanol, are provided 30 ml bottles of liquid containing 20 mg or more of morphine per milliliter, or 600 mg morphine per bottle. And these liquid morphine medicines are often fruit flavored to mask bitterness. They do use childproof caps and I think this would be prudent as well with the THC-rich medicine packages. Another common tool used to increase safety and reduce risk of accidental misuse, is a

plastic fitting/reducer inserted into the opening of the bottle, requiring 1 milliliter syringe insertion to draw up carefully measured doses. This system works very well, both with opioid medicines as well as THC-cannabis medicines.

The use of high doses of THC are not limited to just cancer patients, but are sometimes used by other patients, with various autoimmune diseases, neurological disorders and a growing number of conditions. Patients often are seen to reap profound therapeutic benefits and the psychoactivity becomes minimal quickly as their tolerance to that effect develops rapidly. I strongly support increasing the THC milligram quantity to 1000 mg per container immediately. Patients using medicinal cannabis should not be limited to smaller quantities due to some arbitrary fear of overdose. Please remember that people are already able to access liquid fruit-flavored morphine liquids in 600 mg containers, and often are dispensed two or more bottles at one time, as prescribed doses increase due to tolerance to drug effect develops, which is common. The brain has the ability to become tolerant to the sedation and other THC side effects quickly, often within a week or only several days. We must remember this when we look at product packaging and availability. Patients deserve to be able to access high quality and lab tested medicines in convenient package sizes and for a lower price per milligram. This can be done efficiently and at a better price point if we increase THC content to 1000 mg per container.

I am very pleased to see improvements to the previous legislation. Patients need this urgently Thank you so much for your careful consideration and support of HB2729, HD2.

Sincerely,

Kristin Wohlschlagel, RN

HB-2729-HD-2

Submitted on: 3/13/2018 3:43:54 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
R. Kinslow	Individual	Support	No

Comments:

I support this bill. Please make this bill more effective by including the following provisions:

- a telehealth option for consultations between patients and their health care professional. One of my friends is 92 and cannot easily drive or make it to see her healthcare provider.

- Please protect Hawai'i medical cannabis patients from discrimination by their employers. Hawaii can as other states protect their citizen-patients.

- Please permit the sale of medical cannabis edibles at dispensaries.

Smoking should not be the only way to receive the benefits of cannabis medicine. One of my friends cannot

**smoke because she has COPD. Yet,
cannibus provides her with much relief.**

Senate Committee on Commerce, Consumer Protection, and Health
Sen. Rosalyn Baker (Chair), Sen. Jill Tokuda (Co-chair)

Re: Testimony for HB2729 HD2 - Relating to Cannabis for Medical Use

From: Clifton Otto, MD (Comments)

Public Hearing: March 15, 2018, 9:30 am, Room 229

The Written Certification and the Certification Examination are the foundation of the doctor-patient relationship that is required by Hawaii's Medical Use of Cannabis Act and the administrative rules adopted by DOH.

To make the certification process for chronic debilitating conditions only necessary every three years based on what is stated by the certifying provider, which could be the written certification itself, goes against the intent of the statute, and does not conform with the standard practice of medicine.

This amendment also puts DOH in the inappropriate position of practicing medicine, by giving them the authority to make decisions on when follow up care is appropriate.

If the intent of this change is to save patients money, then a better approach would be to have DOH provide education to the public, as required by the statute, that would encourage more physicians and APRNs to provide care for medical use of cannabis patients, rather than demean the medical use of cannabis doctor-patient relationship altogether.

And please don't forget, the medical use of cannabis in Hawaii is currently accepted medical use in treatment in the United States.

From: [Marilyn Mick](#)
To: [CPH Testimony](#)
Subject: Support for HB2729 HD2
Date: Tuesday, March 13, 2018 4:39:17 PM

Hearing Date/Time: Thursday, 15 March 2018, 9:30 AM, Room 229
Senate Committee on Commerce, Consumer Protection and Health

Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- the original version of this bill, and the Senate version (SB2718 SD1), had a telehealth option for consultations between patients and their health care professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a Hawai'i care professional before using dispensaries here;
- SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients from discrimination by their employers. Several other states protect patients. There is no reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill;
- SB3053, which passed out of your committee on Health, would permit the sale of medical cannabis edibles at dispensaries. Having this option is important to many patients who find it difficult to ingest other form of medical cannabis or are unable to make their own edibles;
- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

Mahalo for the opportunity to testify.

Aloha, Marilyn Mick, Honolulu

From: [Rodney Evans](#)
To: [CPH Testimony](#)
Subject: Support for HB2729 HD2
Date: Tuesday, March 13, 2018 6:16:22 PM

Hearing Date/Time: Thursday, 15 March 2018, 9:30 AM, Room 229
Senate Committee on Commerce, Consumer Protection and Health

Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

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- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

Mahalo for the opportunity to testify.

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From: [Randy Gonce](#)
To: [CPH Testimony](#)
Subject: Testimony HB2729 HD2
Date: Wednesday, March 14, 2018 1:58:46 PM

Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I am in STRONG SUPPORT of this measure. I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

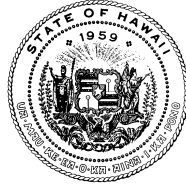
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- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.**



Candidate - Hawaii State House of Representatives District 48
Hawaii State Legislative Committee Clerk and Policy Researcher
Graduate Student - Global Leadership in Sustainable Development
Executive Committee Member - Young Progressives Demanding Action
Young Democrats of Hawaii - Male State Central Committee Representative
Board Member - Drug Policy Forum of Hawaii

"Love and compassion are necessities, not luxuries. Without them humanity cannot survive."
-Tenzin Gyatso, the 14th Dalai Lama



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, HD2
RELATING TO CANNABIS FOR MEDICAL USE.**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Hearing Date: Thursday, March 15, 2018 Room Number: 229

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. Amends the reciprocity program where the dispensary verifies the out-of-state
7 (OSP) patient qualifications.
- 8 2. Allows but does not require the Department to accept written certifications of
9 debilitating medical condition for up to three (3) years if the condition is chronic
10 in nature;
- 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 and
- 15 5. Increases milligrams of products sold in multiple dose packs to 1,000 mg.

1 Regarding reciprocity, the Department OPPOSES the proposed system. Instead, the
2 Department proposes a reciprocity system that would:

- 3 • Maintain the rigor, safety and security aspects of Hawaii’s approach to medical
4 cannabis;
- 5 • Be implemented in a fair and equitable way for Hawaii patients and not confer
6 greater access for out of state patients than for Hawaii residents;
- 7 • Provide a timely process to permit qualified out of state patients to legally obtain
8 medical cannabis from licensed dispensaries; and
- 9 • Provide protection from and defenses against state criminal laws for registered
10 OSP to possess medical cannabis in Hawaii. A reciprocity program for medical
11 cannabis is complex and requires the discipline of the state's system for
12 verification processes.

13 With the above in mind, the Department recently met with licensed dispensaries on an
14 agreeable approach on reciprocity. A representative of the dispensaries will submit testimony
15 with proposed language that the Department believe sets forth an appropriate approach. The
16 approach is in line with the Department’s proposed system outlined above and as provided in
17 more detail on the attached document.

18

19 Regarding accepting medical certifications for up to three (3) years, the Department
20 supports the intent of this provision with the understanding that the Department will likely take a
21 more cautious approach based on standard medical practices and recognizing that the language
22 gives the Department the authority to accept multi-year certifications but does not require it.

1 Standard medical practice normally requires annual visits to physicians or APRNs to continue
2 receiving ongoing prescriptions for chronic conditions. This ensures the medical condition is in
3 fact ongoing and determines whether specific medication or medication dosing needs to be
4 changed. Medical cannabis was authorized by the Legislature for medical purposes and its
5 continued access should be consistent with other medical practices. Otherwise, the Department
6 could be accepting certification for medical use of cannabis for a time period that exceeds the
7 debilitating condition. Nevertheless, an issue is that 329-123(b) requires the Department charge
8 a registration fee of \$35 per year while §321-30.1(c) requires registration fee to qualifying
9 patients of no more than \$35. If a registration is more than a year, there will be a conflict
10 regarding whether DOH charges a single \$35 for the multi-year registration or \$35 times the
11 number of years. DOH requests the following amendment to resolve this and allow a charge
12 based on number of years covered by the registration:

13 §321-30.1(c), “The department, upon completion of the transfer of the medical use of cannabis
14 program, shall charge a medical cannabis registration fee to qualifying patients of no more than
15 \$35: per year.” (Insert “per year” between \$35 and the period.)

16

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

- 21 1. Retesting is already allowed under Chapter 850-85(d) Hawaii Administrative
22 Rules (HAR) which says “The certified laboratory may retest or reanalyze the

1 sample or a different sample from the same batch by following its standard
2 operating procedure to confirm or refute the original result, upon request by the
3 dispensary licensee or upon request by the department at the dispensary licensee's
4 expense." and

- 5 2. The laboratory certification process established by the Department's State
6 Laboratory Division (SLD) is a rigorous process to ensure optimal scientifically
7 reliable testing methods and procedures are used by the laboratories. All certified
8 laboratories are certified using a consistent certification process to ensure product
9 safety.

10
11 Regarding adding devices that provide safe pulmonary administration of cannabis to the
12 list of allowed manufactured products, the Department requests the Legislature define "safe
13 pulmonary administration" and "sub-combustion temperature" and amend the bill language to
14 ensure against the use of vaping devices for vaping or smoking of tobacco or tobacco products.
15 Notwithstanding these comments, the Department supports adding devices to the list of allowed
16 products that provide safe pulmonary administration.

17
18 Regarding multi-dose packs, the Department SUPPORTS this as cost beneficial to
19 dispensaries and patients as long as dispensing limits are not exceeded. Department inspections
20 will determine compliance.

21

1 The Department respectfully requests two (2) additional amendments on language not
2 contained in the current bill regarding minor patients and parent caregivers, and exempt
3 employees. The Department supports the one-to-one patient/caregiver ratio. However, this
4 limits the ability of parents who are required to be caregivers for multiple minor children who are
5 qualifying patients. Parents or legal guardians should be permitted to be the primary caregiver
6 for more than one minor qualifying patient, so that an otherwise qualifying minor patient is not
7 prohibited from registering because the number of qualifying minor patients in the family
8 exceeds the number of parents or legal guardians. Further, where a minor qualifying patient has
9 two (2) parents or legal guardians, both parents or legal guardians should be able to be afforded
10 protection as the qualifying patient’s primary caregivers. To this end, the Department
11 respectfully requests the following amendment:

12 §329-123(c), “Primary caregivers shall register with the department of health. Every primary
13 caregiver shall be responsible for the care of only one qualifying patient at any given time[.]
14 unless the primary caregiver is the parent, guardian, or person having legal custody of more than
15 one minor qualifying patient, in which case, the primary caregiver may be responsible for the
16 care of more than one minor qualifying patient at any given time, so long as the primary
17 caregiver is the parent, guardian, or person having legal custody of all of the primary caregiver’s
18 qualifying patients. The department may permit registration of up two primary caregivers for a
19 minor qualifying patient, so long as both primary caregivers are the parent, guardian, or person
20 having legal custody of the minor qualifying patient.”

21 The 2nd requested amendment is that the exempt status of the dispensary licensing
22 supervisor position and inspector positions be made permanent to aid in the Department’s

1 recruitment and retention efforts. Without permanence, the exempt status requires the positions
2 to be renewed annually and makes it difficult for qualified persons in other permanent positions
3 to want to apply.

4

5 In summary and in closing, the Department SUPPORTS THE INTENT on parts of this
6 bill as long as definitions are included, the Department proposes an alternative reciprocity
7 approach, and requests the added amendments.

8

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

**OUT OF STATE REGISTRATION PROCESS
PROPOSED FOR HB2729 HD2 SECTION 7 RECIPROCITY
March 15, 2018**

The Department of Health (Department) supports permitting valid, verifiable out-of-state medical cannabis patients (OSP) to purchase and possess medical cannabis in Hawaii but opposes the proposed legislation that would undermine the integrity and rigor of the State's medical cannabis program and be unfair and inequitable for Hawaii registered medical cannabis (MC) patients. The Department supports an approach that meets the following criteria. It must:

- must not significantly diminish the rigor, safety and security aspects of Hawaii's approach to medical cannabis;
- be implemented in such a way that is fair and equitable for Hawaii patients and not confer greater access for OSP than for Hawaii residents;
- provide a timely process to permit qualified OSP visiting Hawaii to legally obtain MC from licensed MC dispensaries; and
- provide protection from state law enforcement for registered out-of-state patients (OSP) possess MC in Hawaii.

In place of the reciprocity process in section 7 of this bill, the Department is proposing below a practical new OSP "329 Visitor (V)" registration process that meets the stated criteria.

The proposed process will:

- mirror the registration process for current Hawaii MC patients as much as possible;
- require registration of OSP by DOH and issue 329 V cards that contain patient name, date of birth and Hawaii MC program registration (MCPR) number for verification by dispensaries and law enforcement;
- permit an OSP (including parents/guardians of minors) with a valid MC card from another issuing state, territory or jurisdiction and a valid photo ID issued by the same governmental jurisdiction to apply for the 329 V card even prior to arrival in Hawaii;
- provide email notification to OSP of approved application and permit electronic download of valid 329 V card even prior to arrival in Hawaii;
- include reasonable and practical verification of 329 V application and documents by the Department;
- provide legal protection to OSP for MC purchase and possession;
- limit approval of 329 V cards to OSP certified only with debilitating conditions approved in Hawaii for medical use of cannabis;
- not create a "back door" that provides access to cannabis (and legal protections) for individuals who could not otherwise qualify under the current program;

- include a reasonable and good faith effort by the Department to verify the OSP's medical cannabis card from another US state, territory or jurisdiction; and
- permit the Department to accept the other jurisdiction's requirements regarding certification by a medical provider, and accepting the issuing jurisdiction's due diligence with respect to medical provider qualifications.

In this way, the OSP would be legally registered with the Department and their registration can be verified by dispensaries and law enforcement in the same way that it is for registered Hawaii patients.

The 329 V Registration Process:

1. Limited to individuals with a valid government-issued medical cannabis card from another US state, jurisdiction, or DC.
2. Submit Online Application: OSP completes online application to HI Medical Cannabis Patient Registry (MCPR), uploads medical cannabis card and photo identification from home jurisdiction, attests to at least one of Hawaii's debilitating medical conditions, consents to Department verification of information provided with home state card issuer and certifying medical provider, and pays \$45 application fee and 10% portal fee.
 - a. Department accepts the other issuing jurisdiction's requirements regarding certification by a medical provider, and accepts the issuing jurisdiction's due diligence with respect to medical provider qualifications.
 - b. Department accepts attestation by OSP of the stated qualifying medical condition, but with warnings about legal consequences of fraudulent misrepresentation. OSP provides consent for MCRP to verify the information with the issuing jurisdiction and/or the certifying medical provider;
3. MCPR reviews application, home state MC card, and home state photo ID, verifies receipt of payment, approves/denies application;
4. Approved registrations are entered into MCPR database for verification by dispensaries and law enforcement;
5. Once approved, OSP applicant is notified by email to download the 329 V card from a secure website and print it for use at licensed dispensaries and to store it digitally on a smart phone or similar device for their personal record. This can be done prior to arrival in Hawaii and as often as needed;
6. 329 V card is valid for 60 days or until the expiry date of the home state MC card, whichever comes first. The OSP identifies desired effective start date on the application form for the 60 day valid period to commence;
7. Card can be renewed online for one additional 60-day period within 12 months of the original issue date. Renewal fee of \$45 and a 10% portal fee applies;

8. OSP card/renewal cannot extend beyond the valid date of the home jurisdiction MC card;
9. OSP has the same MC purchase limits as Hawaii registered patients, i.e., no more than 4 oz./15 days or 8 oz./30 days;
10. Registered OSP presents the 329 V card and the matching home state photo ID to dispensary for review and is electronically verified with the MCRP data base before purchases are permitted; and
11. Hawaii law enforcement can electronically verify the data on the 329V card the OSP photo ID and with the MCRP data base.

Timeline for Implementation:

Department is providing recommended amendments to HRS 329 and 329 D that will if approved, permit the 329V process to move towards implementation.

Statement of Work from IT contractor by 6/30/2018: The Department has already discussed with our current IT contractor the needed IT programming changes to the electronic application, verification and electronic access to 329V card process. We plan to put a new Statement of Work with this contractor in place this fiscal year, Implementation by spring 2019: Anticipate completion of work by late 2018 or early 2019.

The Department will revise Chapter 11-160 Hawaii Administrative Rules with a sub-section to include OSP registration; rules to be completed by late 2018 or early 2019.



TO: Senate Committee on Commerce, Consumer Protection and Health
FROM: Miles W. Tuttle, Owner/Co-Founder
HEARING DATE: 15 March 2018, 9:30 AM
RE: HB2729 HD2, RELATING TO CANNABIS FOR MEDICAL USE, **STRONG SUPPORT**

Aloha Chair Baker, Vice Chair Tokuda, Committee Members:

I respectfully urge you to pass this bill improving access to medical cannabis for Hawaii's patients as well as visitors to our islands.

In addition, I ask that you consider amending the bill to include the following provisions found in other bills, or in previous versions of this one:

- The original version of this bill, and the Senate version (SB2718 SD1), had a telehealth option for consultations between patients and their health care professional. Reinserting this would help immobile patients or those in rural areas in Hawai'i as well as visiting patients who need to be certified by a Hawai'i care professional before using dispensaries here;
- SB2220 was passed by the Senate Committee on Labor and would protect many Hawai'i medical cannabis patients from discrimination by their employers. Several other states protect patients. There is no reason that patients who choose this form of medicine, approved by the state, should automatically be subject to termination. They are in compliance with state law, yet the state does not protect them. Please insert that language into this bill;
- SB3053, which passed out of your committee on Health, would permit the sale of medical cannabis edibles at dispensaries. Having this option is important to many patients who find it difficult to ingest other form of medical cannabis or are unable to make their own edibles;
- SB2651, also passed by this committee, would modify the prohibition on certain individuals working in dispensaries. I feel it is important to be inclusive and not exclude someone for a past mistake.

Thank you for your time,

Miles W. Tuttle