

JAN 17 2020

A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that although the State
2 has taken many important steps to make medical cannabis
3 available, further action is needed to ensure access. One way
4 is to expand the scope of professionals who may provide written
5 certification for qualifying patients to use medical cannabis.
6 The legislature further finds that, as determined by the state
7 board of naturopathic medicine, it is within the scope of
8 naturopathic practice that medical cannabis be prescribed by
9 naturopathic physicians.

10 Accordingly, the purpose of this Act is to improve patient
11 access to medical cannabis by authorizing naturopathic
12 physicians to provide written certification for medical cannabis
13 use to qualifying patients.

14 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
15 amended by adding a new section to part III to be appropriately
16 designated and to read as follows:



1 "§329- Registration of naturopaths; medical cannabis;
2 restrictions. (a) A naturopathic physician may register
3 pursuant to this part to provide written certifications under
4 part IX for the medical use of cannabis.

5 (b) All provisions of this part relating to practitioners
6 who prescribe controlled substances shall be applied to
7 naturopathic physicians providing written certifications under
8 part IX for the medical use of cannabis; provided that this
9 section shall not be construed to authorize any naturopathic
10 physician to manufacture, distribute, prescribe, dispense, or
11 conduct reverse distribution with any controlled substance
12 within this State."

13 SECTION 3. Chapter 455, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§455- Medical use of cannabis; authorization. Subject
17 to any requirements imposed by the department of public safety
18 and the federal Drug Enforcement Administration, a naturopathic
19 physician may register with the department of public safety
20 pursuant to part III of chapter 329 and may obtain any federal
21 Drug Enforcement Administration registration necessary to



1 provide written certifications under part IX of chapter 329 for
2 the medical use of cannabis."

3 SECTION 4. Section 329-121, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By adding a new definition to be appropriately inserted
6 and to read:

7 "Naturopathic physician" means a person who holds a
8 current license issued under chapter 455 to practice
9 naturopathic medicine and is registered pursuant to part III to
10 provide written certifications under this part for the medical
11 use of cannabis."

12 2. By amending the definition of "written certification"
13 to read:

14 "Written certification" means the qualifying patient's
15 medical records or a statement signed by a qualifying patient's
16 physician, naturopathic physician, or advanced practice
17 registered nurse, stating that in the physician's, naturopathic
18 physician's, or advanced practice registered nurse's
19 professional opinion, the qualifying patient has a debilitating
20 medical condition and the potential benefits of the medical use
21 of cannabis would likely outweigh the health risks for the



1 qualifying patient. The department of health may require,
2 through its rulemaking authority, that all written
3 certifications comply with a designated form. "Written
4 certifications" are valid for one year from the time of signing;
5 provided that the department of health may allow for the
6 validity of any written certification for up to three years if
7 the qualifying patient's physician, naturopathic physician, or
8 advanced practice registered nurse states that the patient's
9 debilitating medical condition is chronic in nature."

10 SECTION 5. Section 329-122, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Notwithstanding any law to the contrary, the medical
13 use of cannabis by a qualifying patient shall be permitted only
14 if:

15 (1) The qualifying patient has been diagnosed by a
16 physician, naturopathic physician, or advanced
17 practice registered nurse as having a debilitating
18 medical condition;

19 (2) The qualifying patient's physician, naturopathic
20 physician, or advanced practice registered nurse has
21 certified in writing that, in the physician's,



1 naturopathic physician's, or advanced practice
2 registered nurse's professional opinion, the potential
3 benefits of the medical use of cannabis would likely
4 outweigh the health risks for the particular
5 qualifying patient; and

6 (3) The amount of cannabis possessed by the qualifying
7 patient does not exceed an adequate supply."

8 SECTION 6. Section 329-123, Hawaii Revised Statutes, is
9 amended by amending subsections (a) and (b) to read as follows:

10 "(a) Physicians, naturopathic physicians, or advanced
11 practice registered nurses who issue written certifications
12 shall provide, in each written certification, the name, address,
13 patient identification number, and other identifying information
14 of the qualifying patient. The department of health shall
15 require, in rules adopted pursuant to chapter 91, that all
16 written certifications comply with a designated form completed
17 by or on behalf of a qualifying patient. The form shall require
18 information from [~~the~~]:

19 (1) The applicant[τ];

20 (2) The primary caregiver[τ]; and



1 (3) The physician, naturopathic physician, or advanced
 2 practice registered nurse, as specifically required or
 3 permitted by this chapter.

4 The form shall require the address of the location where
 5 the cannabis is grown and shall appear on the registry card
 6 issued by the department of health. The certifying physician,
 7 naturopathic physician, or advanced practice registered nurse
 8 shall be required to have a bona fide physician-patient
 9 relationship, bona fide naturopathic physician-patient
 10 relationship, or bona fide advanced practice registered nurse-
 11 patient relationship, as applicable, with the qualifying
 12 patient. All current active medical cannabis permits shall be
 13 honored through their expiration date.

14 (b) Qualifying patients shall register with the department
 15 of health. The registration shall be effective until the
 16 expiration of the certificate issued by the department of health
 17 and signed by the physician, naturopathic physician, or advanced
 18 practice registered nurse. Every qualifying patient shall
 19 provide sufficient identifying information to establish the
 20 personal identities of the qualifying patient and the primary
 21 caregiver. Qualifying patients shall report changes in



1 information within ten working days. Every qualifying patient
2 shall have only one primary caregiver at any given time. The
3 department of health shall issue to the qualifying patient a
4 registration certificate, and shall charge \$35 per year."

5 SECTION 7. Section 329-126, Hawaii Revised Statutes, is
6 amended by amending its title and subsection (a) to read as
7 follows:

8 "**§329-126 Protections afforded to a treating physician,**
9 **naturopathic physician, or advanced practice registered nurse.**

10 (a) No physician, naturopathic physician, or advanced practice
11 registered nurse shall be subject to arrest or prosecution,
12 penalized in any manner, or denied any right or privilege for
13 providing written certification for the medical use of cannabis
14 for a qualifying patient; provided that:

15 (1) The physician, naturopathic physician, or advanced
16 practice registered nurse has diagnosed the patient as
17 having a debilitating medical condition, as defined in
18 section 329-121;

19 (2) The physician, naturopathic physician, or advanced
20 practice registered nurse has explained the potential



1 risks and benefits of the medical use of cannabis, as
2 required under section 329-122;

3 (3) The written certification is based upon the
4 physician's, naturopathic physician's, or advanced
5 practice registered nurse's professional opinion after
6 having completed a full assessment of the patient's
7 medical history and current medical condition made in
8 the course of a bona fide physician-patient
9 relationship, bona fide naturopathic physician-patient
10 relationship, or bona fide advanced practice
11 registered nurse-patient relationship, as applicable;
12 and

13 (4) The physician, naturopathic physician, or advanced
14 practice registered nurse has complied with the
15 registration requirements of section 329-123."

16 SECTION 8. Section 329-128, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) Notwithstanding any law to the contrary, fraudulent
19 misrepresentation to a law enforcement official of any fact or
20 circumstance relating to the issuance of a written certificate
21 by a physician, naturopathic physician, or advanced practice



1 registered nurse not covered under section 329-126 for the
2 medical use of cannabis shall be a misdemeanor. This penalty
3 shall be in addition to any other penalties that may apply for
4 the non-medical use of cannabis."

5 SECTION 9. Section 455-1, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By adding two definitions to be appropriately inserted
8 and to read:

9 "Cannabis" shall have the same meaning as in section
10 329-121.

11 "Medical use" with respect to cannabis shall have the same
12 meaning as "medical use" as in section 329-121."

13 2. By amending the definition of "naturopathic formulary"
14 to read:

15 "Naturopathic formulary" means vitamins, minerals, dietary
16 supplements, botanical medicines, homeopathic medicines,
17 hormones, ~~and~~ those legend drugs consistent with naturopathic
18 medical practice[-], and cannabis for medical use; provided that
19 the naturopathic formulary shall not include any narcotic drugs
20 or other controlled substances, as defined in section 329-1."



1 SECTION 10. Section 455-11, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) In addition to any other actions authorized by law,
4 the board shall have the power to deny, revoke, suspend, or
5 refuse to renew any license to practice naturopathic medicine
6 applied for or issued by the board in accordance with this
7 chapter, and to fine or otherwise discipline a licensee for any
8 cause authorized by law, including but not limited to the
9 following:

- 10 (1) Failing to meet or maintain the conditions and
11 requirements necessary to qualify for the issuance of
12 a license;
- 13 (2) Procuring, or aiding or abetting in procuring, a
14 criminal abortion;
- 15 (3) Employing any person to solicit patients;
- 16 (4) Obtaining a fee on the assurance that a manifestly
17 incurable disease can be permanently cured;
- 18 (5) Betraying a patient's confidence;
- 19 (6) Making any untruthful and improbable statement in
20 advertising one's naturopathic practice or business;
- 21 (7) False, fraudulent, or deceptive advertising;



- 1 (8) Being habituated to the excessive use of drugs or
2 alcohol; or being addicted to, dependent on, or an
3 habitual user of a narcotic, barbiturate, amphetamine,
4 hallucinogen, or other drug having similar effects;
- 5 (9) Practicing naturopathic medicine while the ability to
6 practice is impaired by alcohol, drug, physical
7 disability, or mental instability;
- 8 (10) Procuring a license through fraud, misrepresentation,
9 or deceit or knowingly permitting an unlicensed person
10 to perform activities requiring a license;
- 11 (11) Professional misconduct or gross carelessness or
12 manifest incapacity in the practice of naturopathic
13 medicine;
- 14 (12) Conduct or practice contrary to recognized standard of
15 ethics of the naturopathic profession;
- 16 (13) Using medical service or treatment which is
17 inappropriate or unnecessary;
- 18 (14) Submitting to or filing with the board any notice,
19 statement, or other document required under this
20 chapter [~~which~~] that is false or untrue or contains
21 any material misstatement of fact, including any false



- 1 certification of compliance with the continuing
- 2 education requirement specified under section 455-8;
- 3 (15) Failure to report to the board any disciplinary action
- 4 taken against the licensee in another jurisdiction
- 5 within thirty days after the disciplinary action
- 6 becomes final;
- 7 (16) Using the title "physician" without clearly
- 8 identifying oneself as being a naturopathic physician;
- 9 (17) Prescribing, administering, and dispensing
- 10 naturopathic formulary that are not included in the
- 11 formulary established by the board under section
- 12 455-6; [and]
- 13 (18) Violation of chapter 329, the uniform controlled
- 14 substances act, or any rule adopted thereunder, except
- 15 as provided in section 329-122; and
- 16 [~~18~~] (19) Violation of any provision of this chapter or
- 17 rules adopted under this chapter."

18 SECTION 11. This Act does not affect rights and duties
 19 that matured, penalties that were incurred, and proceedings that
 20 were begun before its effective date.



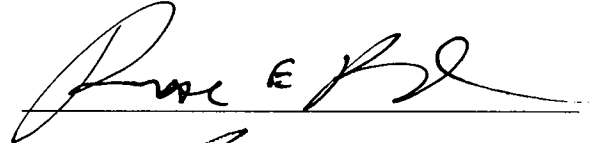

S.B. NO. 2476

1 SECTION 12. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 13. This Act shall take effect upon its approval.

4

INTRODUCED BY:



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S.B. NO. 2476

Report Title:

Medical Cannabis; Naturopathic Physicians; Written Certification

Description:

Authorizes naturopathic physicians to provide written certification to qualifying patients for medical cannabis use.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

