



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2020**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2787, RELATING TO MEDICAL CANNABIS.

**BEFORE THE:**

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

**DATE:** Friday, January 31, 2020

**TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Tara K.C.S. Molnar, Deputy Attorney General

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Chair Baker and Members of the Committee:

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

This measure would add two new sections to chapter 329D, Hawaii Revised Statutes (HRS), to allow the Department of Health to issue: (1) a medical cannabis delivery permit to a qualified medical cannabis dispensary to transport medical cannabis or manufactured cannabis products to a qualifying patient or primary caregiver; and (2) a medical cannabis transporter license to a person to transport medical cannabis or manufactured cannabis products to a qualifying patient or primary caregiver.

**Comments on section 329D-A, which allows the department to issue a medical cannabis delivery permit. (page 2, line 6, through page 7, line 10)**

The bill's wording with respect to the proposed permit raises concerns, because it does not require the cannabis or manufactured cannabis products being delivered to be tracked by the computer software tracking system required in section 329D-6(j), HRS. The lack of tracking may result in qualified patients or primary caregivers being able to purchase cannabis or manufactured cannabis products in excess of statutory limits. If the Committee is inclined to move this measure forward, we recommend that the bill include a requirement of tracking cannabis or manufactured cannabis products

being delivered by a qualifying medical cannabis dispensary via a medical cannabis delivery permit.

**Comments on section 329D-B, which allows the department to issue a medical cannabis transporter license. (page 7, line 11, through page 8, line 13)**

The bill's wording with respect to the proposed license raises several concerns. First, it does not require the tracking of deliveries. This is a concern for the reasons discussed above. Second, while the measure requires that the licensee "meet all of the requirements of this chapter applicable to subcontractors," it appears that this wording is insufficient to require the licensee to undergo a background check as outlined in section 329D-12, HRS, as may be intended. If the Committee is inclined to move this measure forward, we recommend that the bill include the following changes: (1) a requirement of tracking cannabis or manufactured cannabis products being delivered by a medical cannabis transporter licensee; and (2) adding medical cannabis transporter licensees to the list of persons requiring background checks in section 329D-12, HRS.

Thank you for the opportunity to share these comments.

# HAWAI'I CANNABIS INDUSTRY ASSOCIATION

January 31, 2020

To: Senator Rosalyn Baker, Chair  
Senator Stanley Chang, Vice Chair  
Members of the Senate Committee on Commerce, Consumer Protection, and Health

Fr: Jaclyn Moore, Pharm D., Member of the Hawai'i Cannabis Industry Association Board

Re: TESTIMONY IN SUPPORT OF SENATE BILL 2787

RELATING TO MEDICAL CANNABIS.

Provide for a safe, secure, and transparent system for qualifying patients and primary caregivers to have medical cannabis and manufactured cannabis products delivered to their homes.

The Hawai'i Cannabis Industry Association, formerly known as the Hawai'i Educational Association for Therapeutic Health (HEALTH), represents all eight of the state's licensed medical cannabis dispensaries plus associate members. We submit testimony today in support of **SB2787**, a needed bill that improves access for patients on all islands.

The association supports legislation that will expand access to isolated, rural populations by providing a mechanism for dispensaries to either deliver products themselves or subcontract the service to qualified entities.

It is important to understand that numerous registered medical cannabis patients live in either geographically isolated or unable to access dispensaries on their respective islands for many reasons including lack of transportation. While this need certainly exists for patients living on all islands, the need is most prevalent on the neighbor islands--Hawai'i Island, Maui and Kaua'i where geographical distances and drive times are greatest. Rural areas on each of these islands typically have low population densities that make the opening of a nearby dispensary economically infeasible for licensees.

Patients living in these underserved rural areas are also often those with the greatest need for safe and reliable access. Those who are unable to find reliable caregiver services are left with virtually no legal option to obtain cannabis for medical use, so must frequently turn to more readily available black-market options. The recent lung injuries (EVALI) caused by illicit THC vaporizing devices demonstrate the true danger of using unregulated products. Mobile delivery services would effectively address the needs of these underserved patients while safeguarding product, patient and public safety.

The association would also like to share legislation from the other states that currently provide a legal framework for delivery programs. Hawai'i Senate Bill 2787 references states with regulated cannabis delivery programs as described here:

Hawai'i Cannabis Industry Association (HICIA)  
220 S King St #1600, Honolulu, HI 96813  
[www.808hicia.com](http://www.808hicia.com)

# HAWAI'I CANNABIS INDUSTRY ASSOCIATION

## Arizona

State establishes a set of requirements for the safe distribution of marijuana to eligible patients  
SB-1494

- 36-2806: Registered nonprofit medical marijuana dispensaries; requirements; rules; inspections; testing
- Section D: A registered nonprofit medical marijuana dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the registered qualifying patients' designated caregivers.
- <https://www.azleg.gov/legtext/54leg/1r/bills/sb1494p.pdf>

## Colorado

HB: 19-1234

Summary: Cannabis delivery permits/regulations

- [https://leg.colorado.gov/sites/default/files/documents/2019A/bills/2019a\\_1234\\_rev.pdf](https://leg.colorado.gov/sites/default/files/documents/2019A/bills/2019a_1234_rev.pdf)

## New Mexico

7.34.4.17 - DEPARTMENT-APPROVED COURIERS; GENERAL PROVISIONS:

- May approve use of a courier for transporting for 1+ licensed non-profit producers
- Different than other states where courier was required to be an employee
- <http://164.64.110.134/parts/title07/07.034.0004.html>

## Oregon

First state to allow delivery

OAR\_845\_025, Division 25: Recreational Marijuana Rules

- 845-025-2800 Retailer Privileges; Prohibitions
  - o Permits delivery of "Bona fide" orders as described by 845-025-2880
- 845-025-2880 Delivery of Marijuana Items by Retailer
  - o Provides specifics to delivery area, procedure, requirements, and limitations
- [https://www.oregon.gov/olcc/marijuana/Documents/Rules/OAR\\_845\\_025\\_Division25\\_Recreational\\_MarijuanaRules.pdf](https://www.oregon.gov/olcc/marijuana/Documents/Rules/OAR_845_025_Division25_Recreational_MarijuanaRules.pdf)
- [https://www.oregon.gov/olcc/marijuana/Documents/Licensing\\_Forms/mj\\_ref\\_delivery\\_guide.pdf](https://www.oregon.gov/olcc/marijuana/Documents/Licensing_Forms/mj_ref_delivery_guide.pdf)

## California

DIVISION 10. Cannabis, Chapter 9: Delivery

Code section 26090

- (a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.
- (b) All employees of a retailer, microbusiness, or nonprofit delivering cannabis or cannabis products shall carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license. The employee shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this division.
- (c) During delivery, the licensee shall maintain a copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request

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# HAWAI'I CANNABIS INDUSTRY ASSOCIATION

documentation shall comply with state and federal law regarding the protection of confidential medical information.

- (d) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.
- (e) A local jurisdiction shall not prevent delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.
- [https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=BPC&division=10.&title=&part=&chapter=9.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=10.&title=&part=&chapter=9.&article=)

## California (cont'd)

### DIVISION 10. Cannabis, Chapter 8: Distribution and Transport

#### Code section 26080

- (a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, cannabis or cannabis products outside the state, unless authorized by federal law.
- (b) A local jurisdiction shall not prevent transportation of cannabis or cannabis products on public roads by a licensee transporting cannabis or cannabis products in compliance with this division.

As with all elements of the Hawai'i medical cannabis dispensary program, the delivery service proposed in SB2787 would be subject to the strict regulatory oversight of the Department of Health's Office of Medical Cannabis Control and Regulation. As the only island-state in the nation, it is important to acknowledge and mitigate the challenges unique to Hawai'i.

On behalf of the Hawai'i Cannabis Industry Association, thank you for the opportunity to testify in support of SB2787.



To: Senator Rosalyn Baker, Chair  
Senator Stanley Chang, Vice Chair  
Members of the Senate Committee on Commerce, Consumer Protection, and Health

Fr: Jaclyn L. Moore, Pharm D., CEO Big Island Grown Dispensaries

TESTIMONY IN SUPPORT OF SENATE BILL 2787

RELATING TO MEDICAL CANNABIS.

Provide for a safe, secure, and transparent system for qualifying patients to have medical cannabis and manufactured cannabis products delivered to their homes.

Big Island Grown Dispensaries is one of eight dispensary licensees in the State. We operate a production facility and 3 retail locations on the Big Island of Hawaii. We submit testimony today **in support of SB2787** which seeks to improve access for patients in rural, underserved areas as well as those that suffer from a disability or condition that precludes them from easily gaining access to a dispensary.

Hawaii Island's land mass is approximately 4028 square miles compared to Oahu at approximately 597 square miles (Big Island is approximately 7x the size of Oahu). This creates a geographical challenge for Hawaii Island Dispensary Licensee's to properly serve all of Hawaii Island patients effectively. Big Island Grown has maximized the retail locations currently allowed by law with the opening of 3 retail locations in Hilo, Waimea, and Kona this past year-serving the highest density of cardholders on the island. Delivery increases access for patients in areas that are underserved with low density populations, or for patients experiencing difficulty accessing a dispensary due to physical limitations or geographical distance. State licensed dispensaries exist to provide legal infrastructure to patients that choose to consume clean, lab tested cannabis medicine. A framework for delivery extends our ability to serve all Big Island patients.

Thank you,

Jaclyn L. Moore, Pharm.D., CEO Big Island Grown Dispensaries



**X Big Island Grown Waimea**

**Hawaiian Ethos Kona X**  
**Big Island Grown Kona X**

**X Big Island Grown Hilo**



## **Akamai Cannabis Clinic**

3615 Harding Ave, Suite 304  
Honolulu, HI 96816

### TESTIMONY ON SENATE BILL 2787 RELATING TO MEDICAL CANNABIS

By  
Clifton Otto, MD

Senate Committee on Commerce, Consumer Protection, and Health  
Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair

Friday, January 31, 2020; 9:30 AM  
State Capitol, Conference Room 229

Thank you for the opportunity to provide testimony on this measure. Please consider the following comments related to this bill:

Any changes to our Medical Cannabis Program require that we also address the misconception that our program is violating federal law in order to eliminate the injuries that the current situation is causing our patients and dispensaries.

These injuries include **patients** not being able to obtain employment because of a positive cannabis screening drug test, being terminated from employment because of failing a cannabis urine drug test that does not test for impairment in the workplace, being evicted from federally subsidized housing, not being able to obtain life insurance, not being able to enjoy the protections of the Americans with Disabilities Act, being discriminated against in child custody hearings, not being able to travel to other islands with their medicine, not being able to obtain firearms for home protection and hunting. In addition, our **dispensaries** are suffering from not being able to carry on normal banking activity, having to conduct a majority of their transactions in cash, not being able to enjoy standard business expense deductions which is creating a 70%+ tax burden that only raises product costs for patients, and not being able to conduct medical research with the University of Hawaii System.

Our patients and dispensaries should not be required to operate under the false assumption that they are violating federal law in order to engage in the medical use of cannabis in Hawaii.

“An Accepted Medical Use Supporter”



The State of Hawaii created this situation when it lawfully decided that cannabis has medical use in Hawaii, which means that the State cannot simply wait for Congress to fix a situation that it created. We can no longer stand for the federal regulation that has the non-medical use of cannabis on the Schedule I list being unconstitutionally applied to our medical cannabis program.

There is a simple solution to this problem, which is presented in Senator Ruderman's federal exemption bill, [SB2462](#), which was recently introduced into the Senate.

In order to increase the chances that this important change will be made to our Medical Use of Cannabis Act this session, I ask that you please adopt the following language from SB2462 into the bill before you:

**"329D-25 Coordination among state and federal agencies.** The department shall initiate ongoing dialogue among relevant state and federal agencies to identify processes and policies that ensure the privacy of qualifying patients and qualifying out-of-state patients and the compliance of qualifying patients, primary caregivers, qualifying out-of-state patients, and caregivers of qualifying out-of-state patients and medical cannabis dispensaries with state laws and regulations related to medical cannabis. The department shall submit a written request, in accordance with title 21 C.F.R. section 1307.03, to the Office of Diversion Control, Drug Enforcement Administration by September 1, 2020, stating that part IX of chapter 329 and this chapter do not create any positive conflict with state or federal drug laws and regulations and are consistent with title 21 U.S.C. section 903, and requesting formal written acknowledgement that the listing of marijuana as a controlled substance in federal schedule I does not apply to the nonprescription use of cannabis under the medical cannabis registry and dispensary programs established pursuant to chapters 329 and 329D."

Thank you for considering this very necessary amendment.

Aloha.

"An Accepted Medical Use Supporter"

**SB-2787**

Submitted on: 1/30/2020 8:23:19 AM

Testimony for CPH on 1/31/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brian Murphy	Testifying for PATIENTS WITHOUT TIME	Oppose	No

Comments:

Aloha Lawmakers,

PATIENTS WITHOUT TIME strongly OPPOSE this bill. Allowing dispensaries to charge delivery fees, so wealthy patients can order online, and have their cannabis delivered, while poor patients are priced completely out of Hawaii's PAY-TO-PLAY medical cannabis monopoly is shameful, and based on greed for profits, not compassion for patients.

Cannabis consumers have been persecuted and prosecuted for generations, now Hawaii's cannabis patients are being abused for profits. Meanwhile the opioid crisis and alcohol crisis in Hawaii continues to worsen, while citizens die.

Hawaii's PAY-TO-PAY, vertically-integrated, seed-to-sale, medical cannabis monopoly, is operated like a mafia "protection from prosecution" racket, instead of a compassionate health care program.

Poor patients are priced out of the system. While anyone with money can buy a certification, no matter what their actual physical condition, rendering any medical research completely unreliable.

Hawaii rejected the federal marijuana prohibition in 2000, by landmark, first in the nation, legislative action, based on compassion.

However, for the last two decades, Hawaii has been enforcing laws unequally upon cannabis consumers.

Hawaii needs a real medical cannabis program, AND an adult use program; two separate programs, not the "DUAL-Use" closed-program, as discussed in legislative meetings, and outlined in SB 686 SD1, which would give the entire adult-use cannabis market to the dispensary monopoly.

Hawaii's adult-use market should be legalized just as it has been operating for generations; which is thousands of small cannabis entrepreneurs, growing, processing, packaging and delivering world-famous brands of Hawaiian cannabis.

Hawaii's cannabis industry should not be ripped from the hands of the thousands of local growers that support their families, and communities by growing cannabis.

Why would you place cannabis, or hemp, into the greedy hands of new-comer corporations, (like Arcadia Biosciences from California, and VAPEN MJ from Canada, and Archipelago Ventures from Delaware, and Legacy Ventures Hawaii, from Nevada), instead of supporting small local businesses?

Brian Murphy, Director  
PATIENTS WITHOUT TIME

**SB-2787**

Submitted on: 1/30/2020 7:28:25 AM

Testimony for CPH on 1/31/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Miles W. Tuttle	Testifying for Kush Hawaii	Support	No

Comments:

**SB-2787**

Submitted on: 1/29/2020 4:34:22 PM

Testimony for CPH on 1/31/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anne Wheelock	Individual	Support	No

Comments:

Honorable Senators Rosalyn Baker, Chair, and Stanley Chang, Vice Chair,

Please support SB 2787 relating to medical cannabis.

Thank you.

Sincerely,

Anne Wheelock, R.Ph., M.S.

**SB-2787**

Submitted on: 1/29/2020 5:35:58 PM

Testimony for CPH on 1/31/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Elizabeth Winternitz	Individual	Support	No

Comments:

As a senior citizen and lifelong Hawai'i resident-- and a medical cannabis user -- I support this bill.

**SB-2787**

Submitted on: 1/28/2020 4:08:14 PM

Testimony for CPH on 1/31/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rodney Evans	Individual	Support	No

Comments:

Aloha,

I support any legislature which removes restriction and any sort of punishment related to cannibus as it was legal prescribed in the USA from 1837 to 1937 and used medically for thousands of years before that. Some racist people in the US govt (Anslinger etc...) and Hearst (news paper owner paper manufacturer) changed the name to marijuana (a racial slur) and outlawed it just as US Dept of AG developed a means to make paper more efficiently from hemp instead of trees. Hearst owned, maybe still owns, many forest trees used for paper in the Southeast US. It was all about the money. They changed the name so prescribing doctors did not find out until it was done. Bring BACK leality to this helpful safe herbal remedy. We need natural homeopathic medicines that have no govt approved money making middle-man.

**SB-2787**

Submitted on: 1/29/2020 5:01:49 PM

Testimony for CPH on 1/31/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
William Caron	Individual	Support	No

Comments:

Aloha Senators,

Just as we should allow caregivers to pick up prescriptions for medical cannabis for their patients, we should also allow dispensaries to deliver this medicine directly to patients or caregivers to facilitate the access of this important medicine.

Mahalo!



**SB-2787**

Submitted on: 1/29/2020 3:30:53 PM

Testimony for CPH on 1/31/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Me	Individual	Support	No

Comments:

Strong support. Many of our patients have limited mobility and coming to town can be a burden. I think the DOH issuing licensing is paramount and should stay in the legislation.

**SB-2787**

Submitted on: 1/30/2020 8:16:08 AM

Testimony for CPH on 1/31/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Whispering Wind	Individual	Oppose	No

Comments:

Aloha Lawmakers,

I strongly OPPOSE this bill. Allowing dispensaries to charge delivery fees, so wealthy patients can order online, and have their cannabis delivered, while poor patients are priced completely out of Hawaii's PAY-TO-PLAY medical cannabis monopoly is shameful, and based on greed for profits, not compassion for patients.

Cannabis consumers have been persecuted and prosecuted for generations, now Hawaii's cannabis patients are being abused for profits. Meanwhile the opioid crisis and alcohol crisis in Hawaii continues to worsen, while citizens die.

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Why would you place cannabis, or hemp, into the greedy hands of new-comer corporations, (like Arcadia Biosciences from California, and VAPEN MJ from Canada, and Archipelago Ventures from Delaware, and Legacy Ventures Hawaii, from Nevada), instead of supporting small local businesses?