



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2021**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 477, H.D. 1, RELATING TO CANNABIS.

**BEFORE THE:**

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

**DATE:** Friday, February 12, 2021 **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 329, Via Videoconference

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY.**  
(For more information, contact Tara K.C.S. Molnar,  
Deputy Attorney General, at 587-3050)

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Chair Johanson and Members of the Committee:

The Department of the Attorney General offers the following comments.

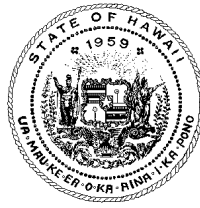
The measure would allow a licensed medical cannabis dispensary to purchase and transport up to three thousand grams of cannabis or manufactured cannabis products from another licensed dispensary to ensure ongoing qualified patient access. The bill also amends section 329D-1, Hawaii Revised Statutes (HRS), to increase the number of production centers and retail dispensing locations per dispensary license; section 329D-6, HRS, to clarify that the transport of cannabis for the sole purpose of laboratory testing is allowed only if no certified laboratory is located in the county or on the island where the dispensary is located; section 329D-1, HRS, to add two new definitions, "cutting" and "propagule," and amend the existing definition of "cannabis"; and section 329D-13, HRS, to: (1) set dispensing limits for propagules and cuttings for qualifying patients and primary caregivers; and (2) prohibit a qualifying out-of-state patient and a caregiver for a qualifying out-of-state patient from purchasing propagules and cuttings.

The measure's wording with respect to dispensing limits (page 27, line 6, through page 28, line 14) raises concerns because it allows a qualifying patient or primary caregiver to purchase "no more than five propagules or cuttings within a consecutive period of fifteen days, or no more than ten propagules or cuttings within a consecutive

period of thirty days.” It is unclear how these limits would work in conjunction with the definition of "adequate supply" in section 329-121, HRS, which permits no more than ten cannabis plants, whether immature or mature. Whether the intent is to expand the allowable supply of cannabis or to include cuttings and propagules within the current definition of "adequate supply," we believe it would help regulators, dispensaries, and certificate holders and regulators if this were clarified.

Thank you for the opportunity to provide comments.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

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**MAX N. OTANI**  
DIRECTOR

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**Jordan Lowe**  
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No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 477, HOUSE DRAFT 1  
RELATING TO CANNABIS.

By  
Max N. Otani, Director

House Committee on Consumer Protection and Commerce  
Representative Aaron Ling Johanson, Chair  
Representative Lisa Kitagawa, Vice Chair

Friday, February 12, 2021; 2:00 p.m.  
Via Videoconference

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee:

The Department of Public Safety (PSD) offers comments on House Bill (HB) 477, House Draft (HD) 1, which proposes several changes to Hawaii's medical cannabis dispensary program. The Department has several concerns.

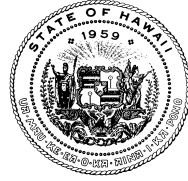
First, this proposal would allow the sale and transport of up to three thousand grams of cannabis or manufactured cannabis products to another dispensary. Three thousand grams is nearly seven pounds of cannabis, which would command a high street value on the black market. Consequently, PSD is concerned that allowing the sale and transport of such a sizeable amount of cannabis between dispensaries could lead to the commission of robberies and other violent crimes.

Second, this proposal would allow for the interisland transportation of up to three thousand grams of medical cannabis and manufactured cannabis products between a selling and purchasing dispensary. Ostensibly, the only practical way to transport medical cannabis interisland in Hawaii is by air transportation or delivery. The air transportation and delivery system in the

United States is closely regulated and monitored by federal law enforcement authorities and the Transportation Security Administration (TSA). Also, as noted, three thousand grams of cannabis is a substantial amount to be allowed for interisland transportation. These two factors taken together significantly increase the risk that people who act under the authority to transport cannabis proposed in HB 477, HD 1 could be arrested and prosecuted by federal law enforcement authorities who do not recognize Hawaii's medical cannabis program.

Finally, the bill proposes to allow the sale of cuttings and propagules to participants in the medical cannabis program. PSD shares the Department of Health's concern that allowing the sale and purchase of propagules and cuttings increases the chances for participants to exceed the supply limits set forth in the original legislation that carefully constructed the closely-regulated medical cannabis program. Consequently, PSD respectfully requests that if the Legislature chooses to authorize the sale and purchase of cuttings and propagules, as part of growing the medical cannabis program proposed in HB 477, that it also balance this growth with the provision of funding for additional positions to monitor the medical cannabis program and allow for laws that will assist the State in monitoring compliance with federal and State statutes.

Thank you for the opportunity to present this testimony.



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**Testimony COMMENTING on H.B.0477 H.D.1  
RELATING TO CANNABIS**

REPRESENTATIVE AARON LING JOHANSON, CHAIR  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Hearing Date: Sunday, February 12, 2021

Room Number: Via Videoconference

1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's  
2 Executive Budget Request for the Department of Health's appropriations and personnel  
3 priorities. Permitting licensees to purchase cannabis and manufactured cannabis products from  
4 each other and increasing the number of licensed facilities will require two (2) additional  
5 Surveyors and one (1) additional Office Assistant, and supplemental mileage and interisland  
6 travel at an estimated cost of \$295,000, to implement this measure and maintain adequate  
7 regulatory oversight to ensure patient, product, and public safety.

8 **Department Testimony:** The Department of Health (DOH) appreciates the intent of H.B. 477  
9 H.D.1 to improve patient access by: (1) authorizing DOH to allow licensed dispensaries to  
10 purchase cannabis or manufactured cannabis products from another licensed dispensary; (2)  
11 increasing the allowable number of production centers and retail dispensing locations per  
12 dispensary license; and (3) authorizing dispensaries to distribute cannabis propagules and  
13 cuttings. Additional personnel and operational costs will be required to implement these  
14 measures. DOH provides the following COMMENTS:

1 (1) **Allowing licensed dispensaries to purchase cannabis or manufactured cannabis**  
2 **products from another licensed dispensary will increase DOH's regulatory burden and**  
3 **pose potential risks to patients and the licensees.** Although this request would support  
4 patient access in the event that a licensee suffers an unexpected catastrophe, which impacted  
5 their supply, DOH is seriously concerned about: (a) the increased regulatory burden that will  
6 result from the need to monitor additional transports; (b) the potential for impact on product  
7 quality and safety; (c) the challenges presented by interisland transport; and (d) the potential  
8 risks of product loss and diversion to the illegal cannabis market.

9 (a) **Monitoring additional transports.** The licensees currently average about 10 transports  
10 a week between their production centers and retail locations. For each transport,  
11 licensees are required to: create a manifest documenting the transport personnel, vehicle  
12 used, route taken, and estimated duration; conduct the packing, loading, unloading, and  
13 unpacking of the transport containers under video camera surveillance; verify receipt of  
14 all items; and immediately report any discrepancies, including delayed transport time, to  
15 DOH. DOH surveyors review transport documents and video surveillance during  
16 inspections and conduct investigations each time a discrepancy is reported. DOH will  
17 require additional inspector personnel for this increased regulatory activity.

18 (b) **Potential impact on product quality and safety.** Manufactured cannabis products have  
19 not undergone stability studies to determine tolerance for conditions outside of the  
20 production center and retail locations. Licensees store certain products under  
21 refrigeration. DOH respectfully requests authority to require licensees to conduct

1 stability studies of manufactured products to determine appropriate storage and transport  
2 conditions and to require labeling of manufactured products with these requirements.

3 (c) **Interisland transport concerns.** As with interisland patient transport, DOH's primary  
4 concern is that interisland transport involves the transport of cannabis outside of state  
5 jurisdiction and in federal jurisdiction, and there is no exception for medical cannabis  
6 under federal law. DOH respectfully requests that until such time as clear federal  
7 guidance is available, any authorized transport be limited to licensees on the same island.

8 (d) **Licensee risk of product loss due to theft and resulting diversion to illegal market.**

9 Three thousand (3,000) grams of cannabis or manufactured cannabis products represents  
10 substantial monetary value. For example, at \$30 per eighth (3.5 grams) of cannabis  
11 flower, the market value of 3,000 grams would be \$25,714. At \$52 each for half-gram  
12 cartridges, the market value of 6,000 half-gram cartridges would be \$312,000. While  
13 DOH understands that risking the cost of losses is a licensee's prerogative, such loss from  
14 theft creates a risk of diversion to the illegal cannabis market.

15 (2) **Increasing the allowable number of production centers and retail dispensing locations**  
16 **per licensee is not needed at this time and will increase DOH's regulatory burden.** Only  
17 three (3) of the current eight (8) licensees have used their current allotment of production  
18 centers or retail dispensing locations. Also, only an average of 36% of registered patients  
19 made purchases from dispensaries in 2020. Should additional patient access be needed,  
20 DOH suggests soliciting for additional licensees instead. DOH already has authority to issue  
21 additional licenses based on patient need. Additional licensees would create added  
22 competition which could help lower product costs. Either way, DOH will require additional

1 personnel and operational funds to provide adequate regulatory oversight of any additional  
2 licensees and facilities. DOH inspects each facility at least once every eight (8) weeks. The  
3 existing two (2) Surveyor positions are already inadequate for the current 26 facilities  
4 statewide. Additional operational costs are also needed for travel to the neighbor islands to  
5 conduct onsite inspections as over half of the facilities the licensees could currently  
6 operationalize would be located on the neighbor islands.

7 **Authorizing dispensaries to distribute cannabis propagules and cuttings will increase**  
8 **DOH and law enforcement's enforcement burden and creates a substantial potential for**  
9 **patients to exceed their statutory limit because of unclear and inadequate enforcement**

10 **capacity.** Although patients and caregivers are required to remain within a ten (10) plant limit,  
11 home grow plants are not tracked within the state's electronic seed-to-sale tracking system.

12 H.B.477 H.D.1 would allow a patient to acquire up to ten (10) propagules or cuttings each  
13 month. Since plants take between 2-3 months to reach harvest age, and H.B.477 H.D.1 excludes  
14 these purchases from a patient's purchase limit, one patient could accumulate up to 30 plants  
15 before their first month's purchase is ready to harvest. In addition, because there is no current  
16 limit to the number of patient grow sites that can be registered to a single location, a substantial  
17 number of plants could result on a single site. There is already at least one site that is registered  
18 to almost 400 cardholders. DOH and law enforcement routinely receive complaints of cannabis  
19 plant odor from neighbors of patient grow sites. However, because enforcement authority is  
20 unclear and DOH and law enforcement lack the personnel resources, patient limits remain  
21 unchecked, and little can be done to assist neighbors whose enjoyment of their properties is  
22 impacted. Under the current system, the licensed production centers act as regulated grow sites



1 and the source for regulated, tested cannabis and manufactured cannabis products for the  
2 registered qualifying patients who access the dispensaries. This system should not be diluted.

3 **Offered Amendments and Alternate Language:**

4 To address patient limit enforcement concerns, **DOH requests the following amendments:**

5 **Section 329-130(a), HRS:**

6 (a) After December 31, [~~2023,~~] 2021, a qualifying patient shall obtain medical  
7 cannabis or manufactured cannabis products only:

8 (1) From a dispensary licensed pursuant to chapter 329D; provided that the  
9 cannabis shall be purchased and paid for at the time of purchase; or

10 (2) By cultivating cannabis in an amount that does not exceed an adequate  
11 supply for the qualifying patient, pursuant to section 329-122; provided that each  
12 location used to cultivate cannabis shall be used by no more than [~~five~~] two  
13 qualifying patients; and provided further that the department or law enforcement  
14 upon the request of the department, may make administrative inspections of  
15 registered grow sites to verify compliance with the requirements of this chapter  
16 pursuant to authority under this chapter.

17 After December 31, [~~2023,~~] 2021, no primary caregiver shall be authorized to  
18 cultivate cannabis for any qualifying patient."

19 To address the interisland transport concern, **DOH offers the following alternate language**  
20 **(underlined) for the proposed amendment under SECTION 5 (page 18, lines 11-14)**  
21 **amending section 329D-6, HRS:**

1 (r) The department may permit a dispensary to purchase cannabis and  
2 manufactured cannabis products from another dispensary located on the same  
3 island in a manner prescribed by the department by rules adopted pursuant to this  
4 chapter and chapter 91; provided that:

5 To address product quality and safety concerns, **DOH requests the following amendments:**

6 **Section 329D-7(5), HRS:**

7 (5) Procedures for announced and unannounced inspections by the department of  
8 its agents of production centers and dispensaries licensed pursuant to this chapter,  
9 including the collection of samples of cannabis and manufactured cannabis  
10 products for laboratory testing; provided that inspections for license renewals  
11 shall be unannounced;

12 **Section 329D-9(b), HRS:**

13 (b) The department shall establish health, safety, [~~and sanitation~~] manufacturing,  
14 and product stability standards regarding the manufacture of manufactured  
15 cannabis products.

16 Thank you for the opportunity to testify on this measure.



To: Representative Aaron Johanson, Chair  
Representative Lisa Kitagawa, Vice-Chair  
Members of the House Consumer Protection and Commerce Committee

Fr: Randy Gonce, Executive Director of Hawai'i Cannabis Industry Association

Re: **Testimony In Support of House Bill (HB) 477, House Draft (HD) 1**

RELATING TO CANNABIS

Authorizes the department of health to allow a licensed dispensary to purchase up to three thousand grams of medical cannabis or manufactured cannabis products from another licensed dispensary to ensure ongoing qualified patient access. Increases the allowable number of production centers and retail dispensing locations per dispensary license. Authorizes medical cannabis dispensaries to distribute cannabis propagules and cuttings to individuals authorized to cultivate cannabis plants for medical use, subject to quantity limits and quality requirements. Effective 7/1/2060.

Dear Chair Johanson, Vice-Chair Kitagawa, and Members of the Committee:

The Hawai'i Cannabis Industry Association, formerly known as the Hawai'i Educational Association for Therapeutic Health, represents all eight of the state's licensed medical cannabis dispensaries. HICIA **strongly supports HB477, HD1** as an important bill for the dispensary industry in order to enhance the medical cannabis dispensary program with additional facilities to strengthen patient access, product controls and safety, and provide improvements to the administration of the program.

There are three main issues that this bill aims to change: **FIRST**, allow each licensee to increase the number of facilities currently allowed from two (2) production facilities and (2) two retail facilities; and **SECOND**, allow the Department of Health (DOH) to permit a licensee to sell and transport medical cannabis and medical cannabis products to another licensee; and **THIRD**, allow dispensaries to sell propagules and cuttings to qualified patients.

This bill has provided a great opportunity for HICIA and the Department of Health to work together to find collaborative solutions to increase access to patients and strengthen the MedCan program. HICIA understands the resource constraints the department is currently facing and we are actively engaged in discussions with the Department of Health to address these concerns.



## **ADDITIONAL FACILITIES**

When established in 2015, the law envisioned each of the 8 licensees being permitted to have 2 retail facilities and 2 production facilities, with a cap of 3,000 plants per production facility.<sup>1</sup>

The dispensaries seek the authority to increase the amount of retail locations from **two** to **five** and increase the amount of production facilities from **two** to **four**. The dispensaries believe this is necessary to strengthen the legal cannabis industry and help secure a stronger position and footing, especially as it faces continued pressure from the illicit and completely unregulated (and untaxed) black market. Using information from New Frontier Data and monthly MedCan Dispensary Sales Data, the dispensaries provided only 5.2% of the total cannabis consumed in Hawaii in 2020. Another data platform, BDSA Analytics, estimated the illicit market in Hawaii to be approximately 10x the size of the legal medical market. All data collected on this issue shows the illicit market providing 10-20x the cannabis supply than the amount provided within the legal cannabis. We are requesting a reasonable increase in the industry footprint to be able to provide clean, tested, safe, regulated (and taxed) cannabis medicine.

Some licensees have built out all 3 retail locations, and still have underserved patient populations, such as Big Island. Although some licensees have yet to build out their maximum allotted retail locations (due to various different circumstances such as which island the license operates on, business plan considerations, and patient population location), the licensees are in agreement that slower growth on one island should not hold back the program and hinder legal access for patients on another island.

Additional production facilities will also help strengthen the legal marketplace by allowing dispensaries to diversify their crop, product pipeline, and potential use of subcontractors. Some licensees, given factors such as their geographical location and patient count, have built out the maximum allowable production centers, and still cannot meet demand. When a dispensary sells out of medicine and cannot replace it fast enough it drives patients to seek medicine from the unregulated, untested, and untaxed illicit market.

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<sup>1</sup> In 2017, Act 41 (HB1488, HD1, SD1, CD1) increased the number of plants to 5,000 and allowed an additional retail facility, provided that the DOH “shall consider the licensee's capability to serve and supply medical marijuana to qualified patients in a rural or underserved geographical area of a county.” Haw. Rev. Stat. Section 329D-2(l).



The current law allows a dispensary to subcontract its production operations to an entity. The definitions under HRS Section 329D-1, “medical cannabis production center” and “subcontractor,” read together with HRS Section 329D-6(g) appear to envision this relationship and holds a subcontractor and its employees to same level of scrutiny and background checks as dispensary employees.

However, the practical limitation is that the current 2 production facilities cap under HRS329D-2(f) means that dispensary licensees have so far only remained a “vertical” system, operating their own productions rather than subcontracting it out.

All of these additional facilities would still be subject to the same rigorous standards of inspection before licensure, security and safety, video surveillance, and tracking of cannabis and cannabis products from seed-to-sale. While the dispensaries recognize these are costly and expensive regulatory systems to put into place, the dispensaries are also willing to make these investments if they know that it will help strengthen and maintain their overall industry.

### **SALES BETWEEN LICENSEES**

The bill also allows a licensed dispensary to purchase medical cannabis or manufactured cannabis products from another licensed dispensary, with approval from the DOH to ensure patient access to cannabis.

Other states have created a provision so that in the event of a crop failure or other foreseeable circumstance that devastates or eliminates an entire cannabis crop for a dispensary, there is an alternative safeguard by which a licensed dispensary can purchase from another dispensary to ensure that their patients continue to have access to their medical cannabis. This is especially important for counties such as Kauai which only have one licensed dispensary, or Hawaii Island where the dispensaries could be located far away from one another. All transactions would be monitored and regulated by the DOH.

In order for this process to be implemented though, changes and clarification to the allowance for inter-island transport would need to be made.

As initially introduced, the bill also proposed to authorize intrastate transport for this purpose. However, this provision was taken out in the prior committee because of concerns for inter-island transport and conflict with federal law.



However, we would respectfully request that this language be put back into the bill with a provision instead that it is only prohibited as long as continuing to be prohibited by federal law.

The law on transport appears to be uncertain. See the following article in the Boston Globe: <https://www.bostonglobe.com/business/2017/10/25/state-eyes-flight-rule-ship-marijuana-islands/WDMRa9NnylZ5Z301Oc0AK/story.html>

While there is an old law that MAY permit transport, there is also some opinion that a state law authorizing such transport is necessary. The 1972 Federal Aviation Administration (FAA) rule that bans pilots from operating aircraft with illegal substances on board specifies that it “does not apply to any . . . marihuana, . . . authorized by or under any Federal or State statute or by any Federal or State agency.”<sup>2</sup>

Thus, the adoption of this language into law would provide some necessary protection and clarification on the state’s position, and some further support for dispensaries to be able to transport medical cannabis under these limited circumstances.

However, we recognize that there remain issues with inter-island and intrastate transport. As such, should the Committee seek to address that issue, rather than striking this entire provision, we would respectfully request that you amend the bill so that it reads:

On page 3, lines 15-18

(4) Dispensaries as permitted by section 329D-6(r); provided that **so long as the federal law prohibits transportation of medical cannabis over a body of water and therefore, interisland transport in our state,** a selling dispensary may **only sell and**

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<sup>2</sup> Title 14: Aeronautics and Space  
PART 91—GENERAL OPERATING AND FLIGHT RULES  
Subpart A—General

§91.19 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.  
(a) Except as provided in paragraph (b) of this SECTION, no person may operate a civil aircraft within the United States with knowledge that narcotic drugs, marihuana, and depressant or stimulant drugs or substances as defined in Federal or State statutes are carried in the aircraft.

(b) Paragraph (a) of this SECTION does not apply to any carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances authorized by or under any Federal or State statute or by any Federal or State agency.



*transport medical cannabis or manufactured medical cannabis products within its island to a purchasing dispensary and only transport up to four thousand grams of cannabis or manufactured cannabis products to a purchasing dispensary; or*

And on page 5, lines 8-10:

provided that *so long as the federal law prohibits transportation of medical cannabis over a body of water and therefore, interisland transport in our state, a selling dispensary may only sell and transport medical cannabis or manufactured medical cannabis products within its island to a purchasing dispensary and only transport up to four thousand grams of cannabis or manufactured cannabis products to a purchasing dispensary.*

The bill, as reflected in current language above, has a limit on transport from a dispensary to a dispensary of 4,000 grams (reduced to 3,000 grams in HD1) of product. 4,000 grams for manufactured products is reasonable, however, 4,000 grams of cannabis would not be enough to satisfy flower demand for some dispensaries for a day. The current law allows patients to receive 4 oz (113 grams) every 15 days for a total of 8 oz (226 grams) per 30 days. 4,000 grams of flower would essentially satisfy the demand of only 17 patients equivalent to less than 1% of any dispensary's patient base. We would respectfully request that the Committee increase this to **45,560 grams (1600 ounces or 100 lbs)**. A 100lb limit would allow dispensaries to ensure that in the case of crop failure or other foreseeable circumstance that devastates or eliminates an entire cannabis crop for a dispensary, they are still able to serve a total of 200 patients for 30 days.

## **PROPAGULES AND CUTTINGS**

HICIA **supports** adding language to allow dispensaries to distribute cannabis propagules and cuttings patients.

HICIA supports a patient's right to grow their medicine for themselves. HICIA believes patients should have access to clean, safe, tested and proven genetics if they wish to grow their medicine at home. This enables patients to obtain the appropriate medicine that has the properties for which they are seeking while minimizing the risk of unwanted pests and pathogens, such as powdery mildew, from being introduced into a homegrown environment. Thank you for the opportunity to testify.



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To: Representative Aaron Johanson, Chair  
Representative Lisa Kitagawa, Vice-Chair  
Members of the House Consumer Protection and Commerce Committee

Fr: Casey Rothstein, President, Chief Operating Officer, Green Aloha Ltd.

Re: **Testimony In Support of House Bill (HB) 477, House Draft (HD) 1**  
RELATING TO CANNABIS

Authorizes the department of health to allow a licensed dispensary to purchase up to three thousand grams of medical cannabis or manufactured cannabis products from another licensed dispensary to ensure ongoing qualified patient access. Increases the allowable number of production centers and retail dispensing locations per dispensary license. Authorizes medical cannabis dispensaries to distribute cannabis propagules and cuttings to individuals authorized to cultivate cannabis plants for medical use, subject to quantity limits and quality requirements. Effective 7/1/2060.

Dear Chair Johanson, Vice-Chair Kitagawa, and Members of the Committee

Green Aloha is one of the 8 State Licensed Medical Cannabis operations. Our company currently employs 18 Kauai residents. We submit testimony today in support of HB477. HB477 is an important bill for the legal cannabis industry in order to enhance the medical cannabis dispensary program and legal infrastructure with additional facilities to strengthen patient access to clean, tested, safe cannabis medicine through regulated channels.

There is a need to fortify, and enhance patient access to regulated cannabis. This is a consumer safety issue first and foremost. It is an undeniable fact that recreational cannabis is already in Hawaii, and has been for a long time. It is called the illicit market and it is flourishing. No license required. It is completely unregulated, and untaxed with an unlimited number of grow sites and dispensing locations. There is no annual fees or audits, **no product testing requirements**, and absolutely no accountability or oversight from any State agency. HB477 will



strengthen the legal cannabis industry by securing a stronger position and footing, especially as it faces continued pressure from the illicit and completely unregulated (and untaxed) black and gray cannabis market.

According to information from New Frontier Data and monthly MedCan Dispensary Sales Data, the dispensaries provided only 5.2% of the total cannabis consumed in Hawaii in 2020. Another data platform, BDSA Analytics, estimated the illicit market in Hawaii to be approximately 10x the size of the legal medical market. All data collected on this issue shows the illicit market providing 10-20x the cannabis supply than the amount provided within the legal cannabis framework. Green Aloha believes that the provisions in this bill provide a reasonable increase to the existing footprint which enhances our ability to provide clean, tested, safe, high quality, regulated (and taxed) cannabis medicine to our island community.

## PRODUCTION

One size does not fit all. County restrictions and ordinances, on Kauai for example, make it extremely difficult to get the permits needed to build a facility large enough to accommodate the maximum allowable plant count of 5,000. Our Production Center #1 can only hold approximately 2500 plants and due to current regulations that limit a Production Center to one physical building, our small processing and manufacturing building located less than 10 ft from the entrance to our Production Center #1 was determined by the Department of Health to count as our Production Center #2. Therefore, we have reached the maximum number of production centers and are not able to produce enough product to open the second Dispensary location that we currently have under lease. The combination of these creates a situation where our license is not able to satisfy the demand needed to reach our maximum number of retail locations, with the 2 production facilities operational. Additional Production Centers or a rule change to allow multiple buildings within one secured property, to count as one Production Center. This combined with an increased plant count would allow us the flexibility to more quickly build the necessary infrastructure to increase production and meet the demand needed to expand patient access and open additional dispensary locations.

## WHOLESALE

The ability to wholesale amongst licenses would be a primary building block for a thriving medical program allowing it to be stimulated and fed by a diverse pipeline of products available to patients across the State. Allowing wholesale between licensees would promote a diversity of products and enable patients in every County to access specialized formulations that may not otherwise be available as different licensees have specialized in different products across the current medical program. This is an important component that is needed to overcome the restrictions that are inherent in a vertical program where each licensee is currently required to



grow, process, manufacture, package, transport, and dispense cannabis and manufactured products that are 100% made in house only. This essentially requires a licensee to be a jack of all trades in cultivation, and in product development formulations as well as manufacturing, AND have the physical infrastructure and specialized equipment needed to produce the wide array of cannabis medical products. The ability to purchase wholesale products from other licenses would allow Green Aloha on Kauai to open more stores and expand patient access, bringing more patients into the MedCann program and away from the unregulated, untested, untaxed and unsafe, illicit black market. Wholesale would allow us to make available products made by other licensees who have the resources to make the types of cannabis medicine that we can not yet provide to our patients. All sales and purchases of cannabis and manufactured cannabis products would fall under the same regulations we operate under, and be subject to the data collection and reporting requirements of the computer software tracking system outlined in section 329D-6(j). The bill, as reflected in current language above, has a limit on transport from a dispensary to a dispensary of 4,000 grams (reduced to 3,000 grams in HD1) of product. 4,000 grams for manufactured products is reasonable, however, 4,000 grams of cannabis would not be enough to satisfy flower demand for some dispensaries for a day. The current law allows patients to receive 4 oz (113 grams) every 15 days for a total of 8 oz (226 grams) per 30 days. 4,000 grams of flower would essentially satisfy the demand of only 17 patients equivalent to less than 1% of any dispensary's patient base. We would respectfully request that the Committee increase this to 45,560 grams (1600 ounces or 100 lbs). A 100lb limit would allow dispensaries to ensure that in the case of crop failure or other foreseeable circumstance that devastates or eliminates an entire cannabis crop for a dispensary, they are still able to serve a total of 200 patients for 30 days.

## RETAIL

As explained above, on Kauai, it is the limitations on production that has held back our ability to open the full amount of retail locations. We believe that with expanded production centers and the ability to buy wholesale from another license, we would quickly be able to open the maximum number of 3 dispensaries allowed under the current laws and regulations. When these locations are open, we would still only be able to service a small amount of the geographic communities on Kauai. It should be noted that Kauai is almost as physically large as Oahu yet it only has  $\frac{1}{3}$  the allowed dispensary locations. We believe that an increase of the number of Dispensaries permitted under the license to 5 locations would allow us to service all the communities of Kauai. Enabling more retail locations per current licensee enables a quicker rollout and opening of additional retail locations increasing legal access for patients. The increase in demand would require an increased plant count and/or additional production facility per licensee. We support the provision in this bill that would allow for an increase in production facilities as stated above.



We understand that this industry can be controversial and the conversation around cannabis in Hawaii is one that holds varying different opinions. But if there is one thing everyone can agree on with this topic it is: the cannabis illicit market in Hawaii is thriving in every community. Unregulated, untaxed, and untested products are being sold. What we are proposing and asking here today, is a reasonable expansion of the current LEGAL program that is providing the highest standard of quality and clean medicine to registered medical patients. The State of Hawaii was a leader in the entire nation agreeing 20 years ago that cannabis has very real and tangible medicinal purposes. They solidified this by implementing our law in the year 2000 allowing medical cannabis in our state. We are now here in 2021 still trying to find ways to ensure that the ones who need this medicine receive the best medicine they can get in our state.

It is incumbent on the decision makers of our state to address the large illicit market which dominates the cannabis landscape and expand the accessibility to the legal industry in which the state has spent a lot of resources ensuring it produces the highest quality of medicine. Not making progress in this area strengthens Hawaii's illicit market and essentially signals that decision makers will continue to turn their head and ignore the fact that an illegal underground market continues to flourish. We believe that the provisions in this bill would help the dispensary program build out the necessary infrastructure to provide the safe access footprint needed to turn patients away from the illicit black market and bring them into the safe, regulated, tested and taxed Medical Cannabis system.

Thank you for the opportunity to testify.

Warmest Aloha,

Casey Rothstein, President, Chief Operating Officer, Green Aloha Ltd.



To: Representative Aaron Johanson, Chair  
Representative Lisa Kitagawa, Vice-Chair  
Members of the House Consumer Protection and Commerce Committee

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

Re: **Testimony In Support of HB477, House Draft (HD) 1**  
RELATING TO CANNABIS

Increases the allowable number of production centers and retail dispensing locations per dispensary license. Authorizes the department of health to allow a licensed dispensary to purchase medical cannabis or manufactured cannabis products from another licensed dispensary to ensure ongoing qualified patient access.

Dear Chair Johanson, Vice-Chair Kitagawa, and Members of the Committee:

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. Our medical cannabis operation currently employs 60+ Big Island residents. We submit testimony today in **support of HB477, HD1. HB477 is an important bill for the legal cannabis industry in order to reinforce the medical cannabis dispensary program and legal infrastructure with additional facilities to strengthen patient access to clean, tested, safe cannabis medicine through regulated channels.**

There is a need to fortify and reinforce patient access to regulated, lab tested cannabis. It is a consumer safety issue first, and foremost. The reality is that recreational cannabis is already in Hawaii, and has been for a long time. It is the illicit market. There are no licenses required. It is completely unregulated, and untaxed with an unlimited number of grow sites, and dispensing locations. There is no annual fees, taxes, or audits, no product testing requirements, and absolutely no accountability or oversight from any State agency. **The demand of cannabis will be filled in one of two ways, and I implore you to help strengthen the option that provides the legal supply.**

**HB477 will strengthen the legal cannabis industry by securing a stronger position and footing, especially as it faces continued pressure from the illicit and completely unregulated (and untaxed) black and gray cannabis market.** Using information from New Frontier Data and monthly MedCan Dispensary Sales Data, the dispensaries provided only 5.2% of the total cannabis consumed in Hawaii in 2020. Another data platform, BDSA Analytics, estimated the illicit market in Hawaii to be approximately 10x the size of the legal medical market. All data collected on this issue shows the illicit market providing 10-20x the cannabis supply than the amount provided within the legal cannabis framework.

Big Island Grown believes the provisions in this bill provide a reasonable increase to the existing footprint which supports our ability to provide clean, tested, safe, high quality, regulated (and taxed) cannabis medicine to our island community.

#### **PRODUCTION**

**One size does not fit all.**

County restrictions and ordinances may not permit a build out of a facility to accommodate the maximum allowable plant count of 5,000. 11-850 strictly requires "if two production centers are located

Lau Ola LLC, dba Big Island Grown Dispensaries  
HILO WAIMEA KONA



on the same property at the same address, they shall be in physically separated and individually identifiable structures with no shared exterior walls..." The combination of these creates a situation where licensees are not able to satisfy the demand of their retail location(s) even with 2 production facilities operational.

#### **RETAIL**

**The slower growth on one island should not hold back the program and hinder legal access for patients on another island.**

Both Big Island licensees have built out all three-retail location for a total of 6 on the island currently operating. Even with this, there are still underserved patient populations stretching from Pahoia to Kau to Ocean View. Patients in these areas drive upwards of an hour to visit the nearest dispensary locations on the island. Enabling more retail locations per current licensee enables a quicker rollout and opening of additional retail locations increasing legal access for patients. The increase in demand would require an increased plant count and/or additional production facility per licensee. We support the provision in this bill that would allow for an increase in production facilities.

#### **WHOLESALE**

**A building block for a thriving medical program stimulated and fed by a diverse pipeline of products available to patients across the State.**

Allowing wholesale between licensees promotes a diverse pipeline of products and enables patients in every County to access specialized formulations, that may not otherwise be available. This a much-needed component to overcome the restrictions that are inherent in a vertical program where each licensee is currently required to grow, process, manufacture, package, transport, and dispense cannabis and manufactured products that are 100% manufactured in house only. This essentially requires a licensee to be a jack of all trades in cultivation, and in product development, and formulations. Wholesale between licensees would successfully address this by enabling dispensaries to purchase and dispense formulations that may not otherwise be developed until this program expands to allow for the issuance of cultivation and manufacturing licenses. **Wholesale bridges this gap, until lawmakers, regulators, and others are ready for program expansion.**

All sales and purchases of cannabis and manufactured cannabis products would fall under the same regulations we operate under, and be subject to the data collection and reporting requirements of the computer software tracking system outlined in section 329D-6(j). We support the ability of the selling dispensary to transport cannabis or manufactured cannabis products to another county or another island, for the limited purpose of completing its sale to the purchasing dispensary. The bill also proposes to authorize intrastate transport for this purpose. Please refer to 14 CFR 91.19(b) below to support this provision in this bill.

14 CFR § 91.19 - Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

(a) Except as provided in [paragraph \(b\)](#) of this section, no [person](#) may operate a [civil aircraft](#) within the [United States](#) with knowledge that narcotic drugs, marihuana, and depressant or stimulant drugs or substances as defined in Federal or State statutes are carried in the [aircraft](#).

(b) [Paragraph \(a\)](#) of this section does not apply to any carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances authorized by or under any Federal or State statute or by any Federal or State agency.



If there remain issues with the legality of inter-county and intrastate transport, we respectfully request the Committee consider revising the bill to amend language in 329D-2(c) that currently restricts licensees to produce, manufacture, and dispense cannabis and manufactured cannabis products “only in” the county for which the license was granted. Please consider the following:

**329D-2 Medical cannabis dispensaries; authorized; licensure.**

(c) Each medical cannabis dispensary license shall allow production, manufacture, and dispensing of cannabis and manufactured cannabis products ~~only~~ in any the county irrespective of ~~for~~ which county the license is granted.

Lastly, the bill currently has a limit on transport from a dispensary to a dispensary of 4,000 grams (reduced to 3,000 grams in HD1) of product. **4,000 grams for manufactured products is reasonable, however, 4,000 grams of cannabis flower would not be enough to satisfy flower demand for some dispensaries for a day.** The current law allows patients to receive 4 oz (113 grams) every 15 days for a total of 8 oz (226 grams) per 30 days. 4,000 grams of flower would essentially satisfy the demand of only 17 patients equivalent to less than 1% of any dispensary’s patient base. **We would respectfully request that the Committee increase this to 45,560 grams (1600 ounces or 100 lbs).** A 100 lb limit would allow dispensaries to ensure that in the case of crop failure or other foreseeable circumstance that devastates or eliminates an entire cannabis crop for a dispensary, they are still able to serve a total of 200 patients for 30 days.

**SEEDS & CLONES**

**Big Island Grown respects a patient’s right to grow for themselves.**

The passage of this bill helps patients that will ultimately choose to grow for themselves because of a number of reasons including geographical distance, financial, or cultural. We seek the ability to provide safe and proven genetics to this group of 329 cardholders by dispensing proven phenotyped clones that are clean and tested. This enables a patient to obtain strains with the medicinal properties for which they are seeking while minimizing the risk of unwanted pests and pathogens, such as powdery mildew, from being introduced into a home grow environment.

Thank you for the opportunity to testify.

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

# Medcan Hawaii LLC

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99-1255 Waiua Place  
Aiea, Hawaii, 96701  
(808)353-8448  
Devin.Kim@medcanlab.com



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To:  
Representative Ryan Yamane, Chair  
Representative Adrian Tam, Vice-Chair  
Members of the House Health, Human Services and Homelessness Committee  
From:  
Devin Kim, Laboratory Director, Medcan Hawaii LLC

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## Testimony in Support of HB477

Medcan Hawaii LLC is one of 3 licensed medicinal marijuana analytical laboratories in the state. Our laboratory is located in Halawa Valley on the island of Oahu. We are submitting testimony in great support of HB477. Particularly in support of two raised issues.

The first is allowance to increase the number of production facilities and retail locations. Current licensed dispensaries are required to follow stringent regulation product quality practices. Increasing availability of regulated supply will appease market demand, thereby reducing less regulated product in the market. Allowing additional oversight of product quality being publicly consumed.

The second is clarity of allowance and tolerance for transport of state authorized controlled substances. With the task to ensure product quality, it is critical that samples are transported under controlled environmental conditions and delivered as quickly as possible. HB477-(3) will allow additional clarity of available venues for sample handling and delivery. Under current regulations DEA registration is the only federally recognized way for sample shipment. DEA registration also limits transport only between other DEA registrants and utilizing only DEA recognized shipping companies. Our laboratory has reached out to 329 Card Holders and 329 Card Licensing Clinics. All responses has been a resounding "Yes" in support of clearer guidelines for interisland shipment. It is important to us that all stake holders from patients to producers get accurate results that reflect the quality of their prescriptions. Sample integrity is just as critical as testing practices. It is imperative that action is taken as soon as possible. We should equally demonstrate attention to Sample Handling as much as analytical testing.

Mahalo for your Time,

Devin Kim, Laboratory Director  
Medcan Lab

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Associating Senate Bills in support of:

SB241  
SB145  
SB481



**HB-477-HD-1**

Submitted on: 2/10/2021 1:52:50 PM

Testimony for CPC on 2/12/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Golojuch, Sr.	Individual	Support	No

Comments:

I strongly support HB477.

Mike Golojuch, Sr.

ON THE FOLLOWING MEASURE: HB477, RELATING TO CANNABIS

**COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

DATE: Friday, February 12, 2021      TIME: 2:00PM

TESTIFIER: Brian Goldstein

POSITION: STRONG SUPPORT WITH COMMENTS

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Chair Johanson, Vice Chair Kitagawa and Members of the Committee:

This bill is focused on patient access and has important measures that deserve your support.

There is an important matter regarding patient access that should be added to this bill;

**allow owners of firearms to access medical cannabis.**

Currently, Honolulu Police Department does not allow persons with medical cannabis cards that are current, or expired less than one year, to acquire or possess firearms or ammunition.

According to HPD Chief, Susan Ballard,

*under the provisions of the Hawaii Revised Statutes, Section 134-7(a), 329 cardholders are disqualified from owning, possessing, or controlling any firearm in the State of Hawaii.*

HRS §134-7(a) states “(a) No person who is a fugitive from justice or is a person prohibited from possessing firearms or ammunition under federal law shall own, possess, or control any firearm or ammunition therefor.”

**Tens, or hundreds, of thousands of Hawaii residents that own firearms, or wish to acquire firearms, are afraid to get a 329 card for fear of having HPD demand that their firearms be surrendered.**

**Recently, I received a letter from Chief Ballard demanding that I surrender my recently registered firearm because I have an expired 329 card.**

According to HPD, if one wants to acquire, or keep, a firearm, a medical clearance letter is required that states the applicant is “no longer adversely affected by the addiction, abuse, dependence, mental disease, disorder, or defect”.

The notion that a 329 cardholder is addicted or afflicted by mental disease, disorder or defect is both outdated and outrageous. It is hard to imagine that the legislature supports this view of medical cannabis patients.

It is time that the Hawaii legislature correct this injustice by **amending HRS §134-7 to prohibit the possession of a 329 card as cause for denying a firearm registration.**

The following pages include a copy of the order to surrender letter from Chief Ballard as well as HPD medical clearance letter instructions.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org



RICK BLANGIARDI  
MAYOR

SUSAN BALLARD  
CHIEF

JOHN D. McCARTHY  
AARON TAKASAKI-YOUNG  
DEPUTY CHIEFS

OUR REFERENCE DN-LC  
Certified Mail 7019 0140 0000 4590 7535

January 5, 2021

Mr. Brian Goldstein

[REDACTED]  
Honolulu, Hawaii 968 [REDACTED]

Dear Mr. Goldstein:

This letter is to inform you that under the provisions of the Hawaii Revised Statutes, Section 134-7(a), you are disqualified from owning, possessing, or controlling any firearm in the State of Hawaii. Our background investigation revealed that you were recently in possession of a valid medical cannabis card that expired on 09-01-2020, which disqualifies you from ownership of firearms and ammunition.

You must immediately surrender your out of state registered firearm and ammunition to the Honolulu Police Department (HPD) or otherwise transfer ownership. Our firearms records indicate that you recently registered one firearm from out of state.

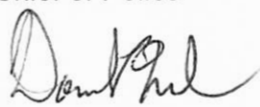
1. [REDACTED], Semi-Auto Pistol, 4.00", [REDACTED]

To be considered for future out of state registrations, firearms applications with the Honolulu Police Department, or return of firearms from HPD evidence, a medical clearance letter will be required within one year of your card's date of expiration.

Personnel from our Firearms Unit are available to assist you. Please contact our office at 723-3190 if you have any questions about your disqualification.

Sincerely,

SUSAN BALLARD  
Chief of Police

By   
DAVID P. NILSEN, Major  
Records and Identification Division

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 • INTERNET: www.honolulu.org



KIRK CALDWELL  
MAYOR

SUSAN BALLARD  
CHIEF

JOHN D. McCARTHY  
CLYDE K. HO  
DEPUTY CHIEFS

OUR REFERENCE

During the course of your background check, it was determined that you may have received or are currently receiving treatment or counseling for the following:

1. An addiction to, abuse of, or dependence upon any drug, intoxicating compound, or intoxicating liquor;

OR

2. A behavior, emotional, or mental disorder as defined by the most current manual of American Psychiatric Association;

OR

3. An organic brain syndrome.

As such, in order to complete the processing of your application, we will require written certification from a licensed psychologist, psychiatrist, or medical doctor documenting that you are no longer adversely affected by the addiction, abuse, dependence, mental disease, disorder, or defect. No further action will be taken on your application until the required letter is received.

The letter must be on the doctor's letterhead, with the doctor's full name, license number, business address, business phone number, and signature.

Section 134-18 of the Hawaii Revised Statutes provides qualified immunity for physicians, psychologists, or psychiatrists who provide information on permit applicants.

*There shall be no civil liability for any physician, psychologist, or psychiatrist who provides information or renders an opinion in response to an inquiry made for purposes of issuing a firearm permit under section 134-2 or for purposes of investigating the continuing mental health of the holder of a valid firearm permit provided that the physician, psychologist, or psychiatrist acted without malice.*

The letter may be either mailed or faxed to: Honolulu Police Department  
Attention: Firearms Unit  
801 South Beretania Street  
Honolulu, Hawaii 96813  
Facsimile: (808) 723-3266

Should you require further assistance in this matter, please call the Firearms Unit at (808) 723-3190.

A handwritten signature in black ink, appearing to read "David P. Nilsen".

DAVID P. NILSEN, Major  
Records and Identification Division