



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony in SUPPORT of SB 1139, SD2, HD1
RELATING TO THE OFFICE OF MEDICAL CANNABIS
CONTROL AND REGULATION**

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

Hearing Date: Tuesday, March 23, 2021

Room Number: Video Conference

- 1 **Fiscal Implications:** This bill would move staffing and operating costs to special funds and
2 allow the Department of Health (DOH) to increase patient registration fees as necessary enabling
3 the Office of Medical Cannabis Control and Regulation (OMCCR) to be financially sustainable
4 and fully operational without general funds.
- 5 **Department Testimony:** Thank you for the opportunity to testify in **SUPPORT** of S.B. 1139,
6 S.D. 2, H.D. 1 with an amendment to reinstate the original request for 3.0 FTE for critical
7 program operations. The bill proposes to: 1) change the means of financing for general-funded
8 positions to the medical cannabis registry and regulation special fund; 2) authorize DOH to adopt
9 administrative rules to establish patient registration fees beginning in FY 2022; 3) allow
10 OMCCR to establish one new permanent full-time position; and 4) require DOH to establish a
11 taskforce to explore the issues and development of a dual system program of legalization for
12 cannabis, the impacts of legalization on qualifying patients, including access to medical cannabis
13 by qualifying patients.

1 **1) Changing the means of financing for general-funded position to the medical**
2 **cannabis registry and regulation special fund will allow OMCCR to fully operationalize.**

3 DOH **STRONGLY SUPPORTS and appreciates** the legislature changing the means of
4 financing for six critical, general-funded positions to the medical cannabis registry and
5 regulation special fund. These six critical positions (program manager, secretary, IT specialist,
6 epidemiologist, administrative officer, and office assistant) were unfunded under Act 9, SLH
7 2020 to mitigate budget shortfalls caused by COVID-19. Changing the means of financing will
8 provide continuity and improve program effectiveness and efficiency by enabling essential
9 administrative infrastructure and relieving dependence on departmental divisions that previously
10 supported the separate medical cannabis registry and dispensary programs.

11 **2) Authorizing DOH to establish patient registration fees through**
12 **administrative rules will allow OMCCR to remain financially self-sustaining.** DOH
13 **STRONGLY SUPPORTS and appreciates** the financial flexibility this will provide to ensure
14 that OMCCR maintains adequate personnel and operating costs needed to meet statutory
15 requirements and programmatic growth.

16 **3) Authorizing DOH to establish only one new position is not adequate to**
17 **support current program needs.** DOH **OPPOSES** the reduction from 3.0 FTE (public health
18 educator, investigator, and program specialist) proposed in the original measure to 1.0 FTE
19 proposed by the H.D. 2 and respectfully urges the legislature to re-instate the originally proposed
20 3.0 FTE.

21 A public health educator is greatly needed for OMCCR to meet its mandate in section
22 329D-26, HRS, that DOH "shall conduct a continuing education and training program" and

1 "shall employ at least one full-time staff member whose qualifications and duties include the
2 provision of medical cannabis health education." Until now, education and training duties have
3 been distributed among the program's surveyors and program specialists who are not trained
4 health educators and efforts have focused on regulatory requirements and enforcement activities.
5 Health education efforts need to expand into non-regulatory, health awareness topics for patients,
6 potential patients, physicians, and the medical community. This cannot be achieved without a
7 dedicated full-time health educator position.

8 The patient registry continues to grow at about 1.8% per month – from 19,858 patients at
9 the end of 2017 to 30,868 by the end of 2020. Registry staff currently process an average of
10 2,523 applications (2,390 Hawaii, 133 out-of-state) each month or about 115 each work day, and
11 as enrollment increases, additional work is added in other areas. The additional program
12 specialist position is needed to address the increases in the number of special cases that Registry
13 office assistants cannot resolve, including statutory changes affecting applications and the online
14 application process. Statutory amendments often require modifications to the online application
15 system itself and the program specialist will assist with contract specifications, roll-out of
16 system enhancements, and unforeseen issues that must be dealt with immediately and generally
17 on a case by case basis.

18 Dispensary workload has likewise increased as new retail locations and production
19 centers are opened, new products are introduced, violations are issued, and complaints are
20 received, all of which require follow-up inspections. In 2017, there were a total of ten facilities
21 (6 production, 4 retail) to inspect and a total of 57 on-site inspections were conducted. By the
22 end of 2020, there were were a total of 26 facilities (11 production, 15 retail) and 155 on-site

1 inspections were conducted. Two additional retail locations have already opened in 2021 and
2 another three retail and one production are planned for this year. This is an almost 3-fold
3 increase in workload, however, inspection staffing has not increased beyond the original two
4 positions since the dispensary system was implemented in 2017. Similarly, the array of products
5 that the licensees produce has increased exponentially. Beginning with a modest array of flower
6 and tinctures in 2017, licensees now produce over 200 varieties of products from flower to
7 tinctures, concentrates, lotions, lozenges, pills, tablets, and inhalational cartridges. Licensees are
8 also eagerly awaiting revised administrative rules which will allow them to manufacture edible
9 products per Act 38 SLH 2020. At least one additional investigator position is urgently needed
10 to maintain adequate regulatory oversight to ensure patient, product, and public safety.

11 DOH respectfully urges the legislature to re-instate the originally proposed 3.0 FTE
12 (public health educator, investigator, and program specialist) positions as requested.

13 **4) Legalization of adult-use cannabis is not solely a qualifying patient concern.**

14 DOH respectfully asks the legislature to place responsibility for convening a task force to
15 explore the development of a system for legalization of cannabis appropriately with the agency
16 that will be responsible for implementation of adult-use. While DOH acknowledges the need for
17 careful consideration of the potential impacts to patients of legalized adult-use cannabis, the
18 impact on patients is only one aspect of many that need to be taken into account.

19 In November 2020, the state of Virginia published its report on the “Impact on the
20 Commonwealth of Legalizing the Sale and Personal Use of Marijuana” (see [HD11 \(Published](#)
21 [2020\)](#)). Virginia’s legislation required the equivalents of Hawaii’s departments of Agriculture,
22 Land and Natural Resources, Commerce and Consumer Affairs, Taxation, Health, Human

1 Resources, Transportation, and Public Safety, to convene a work group to study the impact of
2 legalizing the sale and personal use of cannabis. Also in November 2020, the Ohio State
3 University, Moritz College of Law, Drug Enforcement and Policy Center, published “From
4 Medical to Recreational Marijuana: Lessons for States in Transition” (see osu.edu) which
5 documented the lessons learned of Colorado, Michigan, Nevada, and Oregon, to provide
6 “actionable and concrete advice to states that are transitioning, or are planning for a transition,
7 from a medical marijuana regime to an adult-use or recreational framework...”

8 These assessments highlight the complexities and multiple competing viewpoints that
9 need to be carefully weighed in implementing legalized adult-use. Public health and patient
10 medical use is but one of these myriad considerations. A task force to explore adult use for
11 Hawaii should be administered by the agency that will be responsible for its implementation.

12 **Thank you for the opportunity to testify on this measure.**



Akamai Cannabis Clinic
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TESTIMONY ON SENATE BILL 1139 SENATE DRAFT 2 HOUSE DRAFT 1
RELATING TO THE OFFICE OF MEDICAL CANNABIS CONTROL AND
REGULATION

By
Clifton Otto, MD

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

Tuesday, March 23, 2021; 2:00 PM
State Capitol, Videoconference

Thank you for the opportunity to provide testimony in **SUPPORT WITH CHANGES** on this measure.

The Office of Medical Cannabis Control and Regulation (OMCCR) does not currently have a cannabis medicine expert on staff. Hawaii is nothing like other states, which means that we cannot rely upon the guidance of other state regulators to determine what is best for Hawaii's Medical Cannabis Program and our patients. A simple way to remedy this situation is to make the one full time position in this bill specifically for a Cannabinoid Medicine Specialist, a change that Chair Yamane suggested during his committee's public hearing of this measure would fall under the purview of CPC:

"SECTION 5. There is appropriated out of the medical cannabis registry and regulation special fund, established pursuant to section 321-30.1, Hawaii Revised Statutes, the sum of \$ or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 for staff, operations, and administrative services, including the administration of the task force established by section 4 of this Act, of the office of medical

cannabis control and regulation, including the establishment of one full-time equivalent (1.00 FTE) permanent position, which shall be a Cannabinoid Medicine Specialist.”

Second, OMCCR is currently understaffed and poorly equipped to properly manage Hawaii’s growing Medical Cannabis Program. One way to quickly remedy this situation is to move OMCCR from the Health Resources Administration (HRA) to the Environmental Health Administration (EHA), where the capabilities of the Food Safety Branch can be brought back online.

This change, along with the addition of a Cannabinoid Medicine Specialist to OMCCR, would allow for the implementation of more effective regulatory oversight.

Therefore, please consider the following statutory amendment to this bill:

“§329D-2.5 Office of medical cannabis control and regulation;

established; duties. (a) There is established within the department the office of medical cannabis control and regulation, which shall report to the deputy director of environmental health administration effective September 1, 2021

[health resources administration].

And finally, medical professionals and the public need to be involved in the formation of new dispensary rules that will affect patient safety. Current interim dispensary rules have suspended Chapter 91 administrative procedures, which is preventing any formal public involvement in the rulemaking process. Statements that interim rules are essential to adapt to a rapidly changing industry do not stand up to the reported lack of new dispensary rules during the past two year.

Therefore, please consider the following statutory amendment to this bill:

"§329D-27 Administrative rules. (a) The department shall adopt rules pursuant to chapter 91 to effectuate the purposes of this chapter.

(b) No later than January 4, 2016, the department shall adopt interim rules, which shall be exempt from chapter 91 and chapter 201M, to effectuate the purposes of this chapter; provided that the interim rules shall remain in effect until September 1, 2021 [~~July 1, 2025~~], or until rules are adopted pursuant to subsection (a), whichever occurs sooner.

(c) The department may amend the interim rules, and the amendments shall be exempt from chapters 91 and 201M, to effectuate the purposes of this chapter; provided that any amended interim rules shall remain in effect until September 1, 2021 [~~July 1, 2025~~], or until rules are adopted pursuant to subsection (a), whichever occurs sooner."

Thank you for considering these suggestions for changes.

Aloha.



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

Fr: Blake Oshiro, Esq. on behalf of the HICIA Hawai'i Cannabis Industry Association

Re: Testimony in **Support of Senate Bill (SB) 1139, Senate Draft (SD) 2, House Draft (HD) 1**
RELATING TO OFFICE OF MEDICAL CANNABIS CONTROL AND REGULATION
Authorizes the department of health to set patient registration fees by administrative rulemaking. Appropriates moneys from the medical cannabis registry and regulation special fund for positions and operations, including administrative services, of the office of medical cannabis control and regulation. Requires the office of medical cannabis control and regulation to convene a task force on the effect of legalization of cannabis on qualifying medical cannabis patients.

Dear Chair, Vice-Chair 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 **supports** SB1139, SD2 which would allow the Department of Health (DOH) to administratively set the fee for a medical cannabis card ("329 card"), change the means of financing from general to special funds, and authorize additional a full-time employee position. We also support the establishment of a task force to explore the issues and development of a dual system program of legalization for cannabis and the impacts of legalization on qualifying patients, including access to medical marijuana by qualifying patients.

We sincerely appreciate the hard-work, dedication, on-going communications with the Office of Medical Cannabis Control and Regulation (OMCCR), along with its leadership. While they take their regulatory role very seriously, they are also willing to engage and communicate about their positions and interpretations on issues, and their execution and implementation of the laws and regulations.

However, as a highly regulated and scrutinized industry, there is a high level of demand on skilled and knowledgeable OMCCR employees, willing to look at ongoing research and science, and evolving business and best-practices in an industry that is constantly changing, not just here, but world-wide.

Unfortunately, our experience is that the current OMCCR staff is stretched-thin and unable to keep up with the demands of the industry and its qualified patients. This is



not to fault the OMCCR employees, or even its leadership, but there is just simply a need for more resources to be invested into this agency.

As such, we support this bill as a modest means of finding the fiscal resources to fund the need for these additional services.

We also support the establishment of a task force to look at a dual use system. There have been several bills this year that looked at allowing recreational adult use. However, none of those proposals have adequately addressed the necessary balance needed to ensure that Hawaii's existing medical cannabis dispensary system remains viable and sustainable. None of those proposal have adequately provided for a system to ensure product safety and public safety, especially given the rigorous seed-to-sale tracking and laboratory safety testing for cannabis and cannabis products similar to the medical cannabis system.

Thank you for the opportunity to provide testimony.



PATIENTS WITHOUT TIME



~ helping cannabis patients in Hawaii since 2004.

Aloha Lawmakers.

Monday, March 22, 2021

I **OPPOSE** this bill, **SB1139 SD2 HD1**.

Hawaii's vertically-integrated-medical-cannabis-dispensary-system is not working for most of Hawaii's medical cannabis patients. A one-stop shop can never provide the variety and individualized cannabis medications that seriously-ill patients require.

Most of Hawaii's cannabis patients rely on their caregivers, friends, and families to provide the medications that they need, whether the patients are register with the state, or not.

Making cannabis patients pay an increased fee, for more inspections services, of a dispensary system that is not meeting their needs, is not fair. Many, if not most, seriously ill cannabis patients do not want to buy from the dispensaries.

Where is Hawaii's Health Dept **concerns for the low-income cannabis patients, who are completely priced-out of the dispensary system?** Poor patients have been completely left out of the dispensary legislation.

Cannabis is already the largest selling agricultural product in Hawaii!

\$ 🌱 \$

Let me repeat that, Cannabis is already the largest selling agricultural product in Hawaii!

Hawaii's cannabis "grey" market supports thousands of small businesses. However, it seems Hawaii legislators favor a "dual Use" program, wherein they would like to see the big 8 dispensary corporations control both the medical and eventually the recreational (adult use) programs. The medical "requirements" are commonly known to be a sham, because anyone can buy a recommendation, with a wink, and a nod, a couple hundred dollars. This NOT the "medical cannabis" program patients need.

It is estimated that the dispensaries amount to only 5% of cannabis sales in Hawaii. Still HB477 wants to give the existing dispensaries more retail stores, increase their rights, and production,... trying to increase a monopoly system that is not working.

Cannabis customers want to buy from their friends and relatives to help them support their families,... **like they have been doing for generations.**



PWTmaui.org

For more info email: info@PWTmaui.org



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Thousands of small growers sell cannabis to supplement their income, to pay rent, buy school clothes, etc ... Cannabis sales are a vital component of Hawaii's economy.

This legislative session HB477 tried to end the caregiver program this year and allow home grow inspections! Outrageously cruel to low-income patients, who depend on their caregivers. Fortunately, hundreds of testimonies got the caregiver termination struck from the bill. Mahalo, Testifiers! ❤️✅👍

Hawaii needs a program based on what we have had for the last half-a-century, which is thousands of independent growers, patient cooperatives, and cannabis cottage industries.

Hawaii's cannabis growers have faced arrest and incarceration for 50 years, but were still able to build a "world-famous" billion-dollar-a-year cannabis industry despite the government's prejudice, persecution, and prosecution.

Brian Murphy, Director of **Patients Without Time**, was honored by Hawaii House of Representatives for helping cannabis patients, but jailed by Maui County for the same thing. The Maui County prosecutor even claimed, in open court, that PWT's cannabis sales supported Al-Qaeda!

Cannabis is the largest selling agricultural product in Hawaii! Gross sales of cannabis exceed coffee, mac nuts, and papayas, combined! \$\$\$ Hawaii's lawmaker's psychosis over cannabis is hurting patients, the economy, and Hawaii's vast cannabis industry.

Hawaii needs cannabis legalization that helps patients, and supports small businesses, small farmers, and food security, ... not that promote the profits of corporations.

Mahalo for considering OPPOSING SB1139 SD2 HD1,

Brian Murphy, Director
PATIENTS WITHOUT TIME



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

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

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Dear Chair, Vice-Chair 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 SB1139, SD2 which would allow the Department of Health (DOH) to administratively set the fee for a medical cannabis card ("329 card"), change the means of financing from general to special funds, and authorize additional a full-time employee position. We also support the establishment of a task force to explore the issues and development of a dual system program of legalization for cannabis and the impacts of legalization on qualifying patients, including access to medical marijuana by qualifying patients.

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

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Mahalo for considering OPPOSING SB1139 SD2 HD1,

Mary Whispering Wind