



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

H.B. NO. 1219, H.D. 1, RELATING TO CANNABIS FOR MEDICAL USE.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Wednesday, February 15, 2023 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Andrew Goff, Deputy Attorney General

Chair Nakashima and Members of the Committee:

The Department of the Attorney General offers the following comments.

This measure would amend section 329D-1, Hawaii Revised Statutes (HRS), to add two new definitions, "cannabis cutting" and "cannabis propagule," and amend the existing definition for "cannabis" to include cannabis propagules and cannabis cuttings (page 3, lines 6-18). The bill would also amend section 329D-13, HRS, to: (1) set dispensing limits for propagules and cuttings for qualifying patients and primary caregivers; and (2) prohibit qualifying out-of-state patients and caregivers for qualifying out-of-state patients from purchasing propagules and cuttings (page 3, lines 19 through page 5, line 20).

The measure's wording with respect to dispensing quantity limits (page 4, lines 10-18) raises concerns because it allows a qualifying patient or primary caregiver to purchase "a total of not more than five cannabis propagules or cannabis cuttings within a consecutive period of fifteen days, or a total of not more than ten cannabis propagules or cannabis cuttings within a consecutive period of thirty days[.]" It is unclear how these limits would work in conjunction with section 329-122, HRS, which permits qualifying patients to possess cannabis in an amount that does not exceed an adequate supply. Section 329-121 defines "adequate supply," in relevant part, as no more than ten cannabis plants at any time, whether immature or mature. Whether the intent is to expand the allowable supply of cannabis or to include cuttings and propagules within

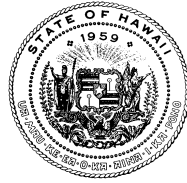
the current definition of "adequate supply," we believe it would help regulators, dispensaries, and certificate holders if this were clarified with amendments appropriate to section 329-121, HRS.

For example, if the intent is to include cuttings and propagules within the current definition of "adequate supply," the amendments to section 329D-13(b) at page 4, line 19, through page 5, line 5, may be clarified by adding a new paragraph (1) to read as follows:

- (1) The amount of cannabis, including cannabis propagules and cannabis cuttings, possessed by the qualifying patient at any time shall not exceed the amount permitted under section 329-122;
- (2) The cannabis propagules or cannabis cuttings dispensed to the qualifying patient or primary caregiver shall have undergone laboratory-based testing for residual pesticides and heavy metals; and
- (3) The laboratory-based test results shall indicate that no pesticides or heavy metals have been detected from the cannabis propagules or cannabis cuttings.

We will be happy to work with the Committee to draft wording that would reflect the intent of the Legislature.

Thank you for the opportunity to provide comments.



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on HB1219_HD1
RELATING TO CANNABIS FOR MEDICAL USE**

REPRESENTATIVE MARK M. NAKASHIMA
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Hearing Date: Wed., Feb. 15, 2023

Room Number: 329

1 **Fiscal Implications:** N/A.

2 **Department Testimony:** The Department of Health (DOH) Office of Medical Cannabis
3 Control and Regulation (OMCCR) recognizes that the intent of this measure is to provide
4 qualifying patients with a legal channel from which to obtain laboratory tested propagules and
5 cuttings for personal cultivation (i.e., “home grow”). However, DOH OPPOSES this measure
6 because of the risk of diversion from the dispensary system and of patients exceeding their
7 allowed plant count limit.

8 To maintain accountability over all cannabis plant material within a licensee’s operation, the
9 dispensary licensing system mandates the use of an electronic seed-to-sale tracking system which
10 tracks each individual plant and all the material from that plant, from cultivation through
11 production, manufacturing, and retail or destruction. Chapter 329D, HRS, defines “plant” as “a
12 cannabis plant that is greater than twelve vertical inches in height from where the base of the
13 stalk emerges from the growth medium to the tallest point of the plant, or greater than twelve
14 horizontal inches in width from the end of one branch to the end of another branch; provided that
15 multiple stalks emanating from the same root ball or root system shall be considered part of the
16 same single plant.” This means that propagules and cuttings would not be considered a “plant”
17 and would not be tracked. DOH would lose the accountability of all cannabis plant material
18 within the dispensary system, increasing the risk of diversion.

1 This measure would allow patients to acquire up to ten (10) propagules or cuttings within a
2 consecutive thirty (30) day period and to continuously acquire additional propagules and
3 cuttings. Each propagule or cutting could become a plant, allowing a patient to reach or exceed
4 their total limit of ten (10) plants within a short period of time. DOH would have no means of
5 maintaining oversight on patient compliance with plant limits creating a risk for diversion
6 outside the legal medical use system.

7 Thank you for the opportunity to testify.

8 **Offered Amendments:** N/A.

9



February 14, 2023

To: Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair
Members of the House Committee on Consumer Protection & Commerce

From: David C. Cole, General Manager

Re: TESTIMONY IN SUPPORT OF House Bill 1219 HD1

Maui Grown Therapies (MGT) is licensed by the Department of Health pursuant to HRS 329D to cultivate, manufacture and dispense medical cannabis and medical cannabis manufactured products to registered patients. In calendar year 2022 MGT served 5,364 unique patients on Maui.

MGT **supports** House Bill 1219 HD1, which would improve patient access to affordable, quality assured medical cannabis by allowing licensed dispensaries to supply genetic material needed for safe and reliable home cannabis cultivation.

The right of registered patients to cultivate medical cannabis plants is enshrined in Hawai'i law. Indeed, **the medical dispensary system created by the legislature in 2015 did not intend to sunset the ability for qualified patients to cultivate a limited number of cannabis plants for their personal use*** (although the law clearly established sunset provisions for caregivers in anticipation of the dispensary system ultimately meeting the needs of qualified patients for safe, laboratory tested products).

Patients frequently ask if they can purchase cuttings, seeds or other propagative material from MGT. Unfortunately, because propagative material is not included on the list of products licensed dispensaries may manufacture and distribute, we are unable to meet their needs – leaving patients with no alternative other than to turn to the illicit market to obtain questionable and often mislabeled genetics to propagate their gardens.

* Act 241 SLH 2015:

"SECTION 1. The legislature finds that Hawaii's medical use of marijuana law was enacted on June 14, 2000, as Act 228, Session Laws of Hawaii 2000, to provide medical relief for seriously ill individuals in the State. While the current law recognizes the beneficial use of marijuana in treating or alleviating pain or other symptoms associated with certain debilitating illnesses, it is silent on how patients can obtain medical marijuana if they or their caregivers are unable to grow their own supply of medical marijuana. The legislature further finds that many of the State's nearly thirteen thousand qualifying patients lack the ability to grow their own supply of medical marijuana due to a number of factors, including disability and limited space to grow medical marijuana. As a result, a regulated statewide dispensary system for medical marijuana is urgently needed by qualifying patients in the State." (*emphasis added*)

Maui Grown Therapies
44 Pa'a St., Kahului, HI 96732
(808) 866 7576



By allowing dispensaries licensed under HRS 329D to dispense cuttings and other propagative material to registered medical cannabis patients, House Bill 1219 would establish a legal, transparent channel for the distribution of such products. Furthermore, because propagative material dispensed by licensed dispensaries would be subject to mandatory testing by an independent laboratory for the presence of contaminants, House Bill 1219 ensures 329 cardholders who wish to cultivate their medical cannabis at home have a source of safe, quality-assured plant material.

Mahalo for your consideration.

Maui Grown Therapies
44 Pa'a St., Kahului, HI 96732
(808) 866 7576

HB-1219-HD-1

Submitted on: 2/13/2023 4:16:17 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dakin retzlaff	Individual	Support	Written Testimony Only

Comments:

Please allow patients to access what they need to grow their own medicine! Thank you!

HB-1219-HD-1

Submitted on: 2/13/2023 7:51:57 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support HB1219 HD1.

HB-1219-HD-1

Submitted on: 2/15/2023 12:50:47 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joshua Siefman	Individual	Oppose	Remotely Via Zoom

Comments:

I oppose HB1219. I believe it is an over controlling proposition which in the end leaves as much gray areas as before . with an Understanding of how the plant grows and the dynamics of running a farm operation, it is essential that caregivers and patients be able make their own "cuttings". The dispensaries should have educational classes on how to make your own clones so patients and caregivers can benefit. There should be no restriction on how many clones you can buy per card or grow site because that's not how nursery operations function properly. There needs to be extras to have proper grow cycles, crop rotations, and so there is no gaps in between medicine production. Will grow sites be able to legally make their own cuttings? It makes more practical sense for this to take place, to keep a closed loop system going and prevent cross contamination & transfer of plant diseases and pests. Even with the guarantee of dispensaries having "clean and tested" pathogen free clones the plant is still subject to the elements and environment upon arrival and introduction to Patient/caregiver grow site. Unless a proper IPM regimen at grow site is in place, "certified clean" clones can still be contaminated after the fact, making a closed loop system and allowing grow site to make their own clones a better option. We will have more control and know what's going with our own plants, it's a relationship that takes years to develop and understand how to keep plants pathogen & disease free. Will caregivers/patients be able to take their clones to a testing facility for pathogens? Mass produced clone operations have major potential for breeding disease. A good example is that Dark heart nursery research facility in california found that 90% of licensed facilities in california had a pathogen called "hop latent viroid" that caused a 4 billion dollar loss for the industry in 2021. This was traced back to nursery stock being infected with a pathogen they didn't know they had until it was too late. We can do better and take a more educational route, instead of trying to over control how the plant is manipulated even before there is an end product.

HB-1219-HD-1

Submitted on: 2/15/2023 1:38:40 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ruth Love	Individual	Comments	Written Testimony Only

Comments:

Just make Marijuana in all forms legal already