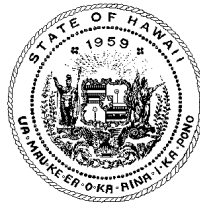


DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

MAX N. OTANI
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Tommy Johnson
Deputy Director
Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

**TESTIMONY ON HOUSE BILL 1578
RELATING TO CANNABIS.**

By
Max N. Otani, Director

House Committee on Health, Human Services and Homelessness
Representative Ryan I. Yamane, Chair
Representative Adrian K. Tam, Vice Chair

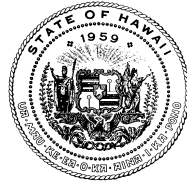
Tuesday, February 8, 2022; 9:00 p.m.
Via Teleconference

Chair Yamane, Vice Chair Tam, and Members of the Committee:

The Department of Public Safety (PSD) opposes House Bill (HB) 1578, which authorizes the Department of Health to approve in-vehicle receipt of medical cannabis and medical cannabis products on or near the premises of dispensaries under certain conditions

Although HB 1578 requires that in-vehicle receipt of cannabis occur on or near dispensary premises in an area under security camera coverage, PSD is concerned that both employees and customers who use what is essentially curbside receipt of medical cannabis will be vulnerable to ambush and robbery. Moreover, if a criminal places surveillance on the activities outside a dispensary, such a criminal could ambush recipients of medical cannabis away from the dispensary leading to an even worse situation. For these reasons, PSD opposes HB 1578.

Thank you for the opportunity to provide testimony.



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

Testimony in SUPPORT of HB1578
RELATING TO MEDICAL CANNABIS

REPRESENTATIVE RYAN I. YAMANE, CHAIR
HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS

Hearing Date: 02/08/2022

Room Number: 329

1 **Fiscal Implications:** None.

2 **Department Testimony:** Thank you for the opportunity to testify in SUPPORT of this bill
3 WITH AMENDMENTS.

4 Statute currently requires the dispensing of medical cannabis or manufactured medical
5 cannabis products from inside the dispensary's retail store (HRS §329D-6). The COVID-19
6 pandemic presented a viable circumstance that warranted flexibility in how qualified patients
7 obtain their medical cannabis at the dispensary's retail store location. To minimize patients
8 gathering inside the retail store, the Department could have allowed for outdoor, on-premises
9 dispensing if not for the lack of authority under HRS. And while the Department does not wish
10 for future pandemics, other future circumstances may warrant such flexibility. This bill is the
11 vehicle that authorizes the Department this flexibility. However, the prescribed criteria should
12 not be in statute. Instead, the criteria should be in a duly promulgated policy and procedure, not
13 in administrative rules, if possible, in order to sustain the Department's flexibility.

14 Thank you for the opportunity to testify in SUPPORT of this bill WITH
15 AMENDMENTS as follows.

16 **Offered Amendments:** Beginning on page 1 line 15 and continuing through page 4 line 10:
17 SECTION 2. Section 329D-6, Hawaii Revised Statutes, is amended by amending subsection (n)
18 and inserting a new subsection (o) to read as follows and renumbering the following subsections:

1 "(n) A dispensary shall ~~[f]~~ be prohibited from ~~[j]~~ ~~[not make an]~~ off-premises delivery of
2 cannabis or manufactured cannabis products to a qualifying patient, primary caregiver,
3 qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient~~[f].[j], unless~~
4 ~~authorized by the department and:~~

5 — ~~(1) The dispensary receives a pickup order by telephone or electronic means from the~~
6 ~~qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of the~~
7 ~~qualifying out-of-state patient;~~

8 — ~~(2) The qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of~~
9 ~~the qualifying out-of-state patient arrives in a vehicle, provides the license number for the~~
10 ~~vehicle, and notifies the dispensary upon arrival at the dispensary in a designated area for pickup;~~

11 — ~~(3) The area designated for pickup:~~

12 — ~~(A) Is no further than one hundred feet from the main entry of a secured retail location;~~

13 — ~~(B) Complies with section 329D-6(f) and paragraph (6) of section 329D-7;~~

14 — ~~(C) Is monitored by a video recording system that:~~

15 — ~~(i) Is under the control of the dispensary; and~~

16 — ~~(ii) Regularly records and stores video of pickup transactions, including vehicles,~~
17 ~~vehicle license plates, and persons receiving the medical cannabis or medical cannabis product;~~

18 — ~~(4) Before providing the medical cannabis or medical cannabis product, the dispensary~~
19 ~~confirms the identity of the qualifying patient, primary caregiver, qualifying out-of-state patient,~~
20 ~~or caregiver of the qualifying out-of-state patient by:~~

21 — ~~(A) Verifying that the license plate number of the vehicle matches the number stated by~~
22 ~~the qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of the~~
23 ~~qualifying out-of-state patient at the time the order was placed;~~

24 — ~~(B) Reviewing valid photographic identification in the form of a state identification card,~~
25 ~~driver's license, or passport;~~

1 ~~——(C) Requiring the person attempting to receive the order to sign an acknowledgment of~~
2 ~~receipt; and~~

3 ~~——(D) Comparing the signature provided pursuant to subparagraph (C) with the signature on~~
4 ~~the photographic identification described in subparagraph (B) or another reliable signature~~
5 ~~sample; and~~

6 ~~——(5) The amount of medical cannabis or manufactured cannabis products received do not~~
7 ~~exceed the limitations established by the department."]~~

8 (o) The department is authorized to allow a dispensary to dispense cannabis or manufactured
9 cannabis products to a qualifying in-state patient or in-state primary caregiver of a qualifying in-
10 state patient outside of the dispensary's retail store building but on the dispensary's premises.
11 The department shall promulgate a written policy and procedure detailing the circumstances for
12 which on-premises dispensing may be allowed and any dispensing requirements."



February 7, 2022

To: Representative Ryan I. Yamane, Chair
Representative Adrian K. Tam, Vice Chair
Members of the House Committee on Health, Human Services, & Homelessness

From: Gregory Park, M.D., Chief Compliance Officer
David C. Cole, General Manager

Re: **TESTIMONY IN SUPPORT OF HOUSE BILL 1578**

Maui Grown Therapies (MGT) is licensed by the Department of Health pursuant to HRS 329D to cultivate, manufacture and dispense medical cannabis products and services to registered patients. In 2021, MGT served 5,238 unique patients on Maui.

MGT supports House Bill 1578 authorizing the Department of Health to approve in-vehicle receipt of medical cannabis products by licensed dispensaries. The biosecurity protocols MGT implemented in consultation with the Department in 2020 in response to the COVID-19 pandemic informed the need for this measure.

In short, MGT reduced patient density by extending hours of operation and encouraging patients to make appointments online for dispensary products and services. For patients that self-selected as higher risk due to age or immunocompromised status, MGT created a supplementary sales station in a high biosecurity section of the dispensary.

Although we adopted stringent procedures for managing patient and staff interactions, we felt the requirement for patients to physically enter an enclosed area to fulfill their medical cannabis product needs was a risk that could be substantially mitigated by serving patients while they remained in their cars near the dispensary's entrance.

As the severity and duration of the pandemic became apparent, we asked the Department on August 6, 2020 for a regulatory waiver to allow us to serve patients without leaving their vehicles using dedicated parking stalls adjacent to the dispensary entrance. On October 14, 2020, Deputy Director Danette Tomiyasu, indicated that the Department lacked the statutory authority to authorize in-vehicle service, but would work with Deputy Attorney General assigned to the Office of Medical Cannabis Control and Regulation to explore how the Governor could enable the service. This correspondence is attached.

As we now know, community spread of the virus and its numerous variants is now a fact of daily life. By the state's qualifying criteria, registered medical cannabis by definition represent a high risk group for severe illness and, because registered patients skew toward the elderly, face a greater risk of death.

HB 1578 will give the Department the tools that are desperately needed to help licensed dispensaries protect the health and welfare of our registered patients and front line employees in these treacherous times. We therefore urge your favorable consideration of HB1578.

Mahalo.

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



August 6, 2020

TO: Dr. Bruce Anderson, Director of Health;
Dani Tomiyasu-Wong, Deputy Director of Health;
Michele Nakata, Supervisor, Office of Medical Cannabis Control & Regulation

FROM: Gregory Park, MD, Chief Compliance Officer, Maui Grown Therapies

RE: REQUEST FOR REGULATORY WAIVER TO BETTER PROTECT
THE HEALTH OF REGISTERED MEDICAL CANNABIS PATIENTS

Aloha and thank you for considering this request for regulatory waiver. Like most others in Hawai'i, all of us at Maui Grown Therapies are deeply concerned about the dramatic spike in confirmed coronavirus cases since orders for sheltering at home were lifted on May 7. Thus, we are asking once again for serious consideration of our request for regulatory waiver to allow registered patients to choose contactless purchase through curbside pickup from our dispensary.

Hawai'i remains the only legal medical cannabis state of 36 that has not enacted any special protections for its registered patients during this pandemic. The reasons we submit this request now are:

Medical Cannabis Patients are at Higher Risk from Exposure to COVID-19

According to the state's Medical Cannabis Registry¹, the average age of a registered patient in Hawai'i is over the age of 51. The CDC states that as people age, their risk for severe illness from COVID-19 increases. Many of our patients are well past retirement age and our oldest patient is in his mid-90s. The risk of getting severely ill from COVID-19 increases with age; 8 out of 10 COVID-19-related deaths reported in the USA have been among adults over the age of 65.

Every Hawai'i medical cannabis patient must be certified to have a qualifying medical condition including: cancer, positive status for HIV or AIDS or an auto-immune disease such as lupus or rheumatoid arthritis. By definition, Hawai'i's medical cannabis patients fall into the CDC's definition of "groups at higher risk for severe illness" from exposure to the coronavirus.² We are also deeply concerned about patients with compromised immune systems including those undergoing chemotherapy and a rapidly growing number who are under great stress because of the pandemic. We know that chronic stress also weakens the immune system.

¹ State of Hawaii, Department of Health, Medical Cannabis Registry Program, Program Statistics, June 30, 2020

² <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>



Dispensary Personnel Require Additional Protection

As workers providing an essential medical service, members of our staff interact with several medical cannabis patients every day. At this time, the only way a registered patient or caregiver may purchase medical cannabis is inside of a dispensary. Because of this, patients who are experiencing flu-like symptoms may not be forthcoming about their condition so they may access their preferred medication. This puts our staff members at greater risk of exposure to COVID-19.

Some of our staff members have decided the risk is too great for themselves or older family members with whom they live, so have opted to resign. It is our obligation to safely serve patients with fully staffed operations; our responsibility as a good employer is to provide the safest working conditions possible for our employees.

We request suspension of the regulation requiring the transfer of medical cannabis to occur within a licensed dispensary building so that patients may pre-order and pre-pay, arrive to our dispensary premises, and wait in their vehicle for an authorized member of our staff to deliver their order without making contact or risking exposure to coronavirus.

Requested Waiver to Regulation Relevant to Curbside Pickup:

HAR§11-850-33 Retail dispensing locations.

(c) Retail dispensing locations shall: (1) Remain locked at all times; (2) Be open for dispensing only between 8:00 a.m. and 8:00p.m., Hawaii-Aleutian Standard Time, Monday through Saturday; (3) Be in an enclosed indoor facility;

Timely Approval is Requested

With O'ahu coronavirus infection rates increasing exponentially, the reopening of Hawai'i public schools expected on August 17, 2020 and growing numbers of tourists arriving from heavily infected states, we respectfully appeal for timely approval of this request for regulatory waiver. Operational changes and patient communication both require sufficient preparation time and neither should be rushed under "crisis" conditions.

DAVID Y. IGE
GOVERNOR OF HAWAII



ELIZABETH A. CHAR, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:

October 14, 2020

Gregory Park, M.D.
Chief Compliance Officer
Maui Grown Therapies
44 Pa'a Street
Kahului, HI 96732

RE: Request for Regulatory Waiver to Better Protect the Health of Registered Medical Cannabis Patients

Aloha Dr. Park,

Thank you for your letter dated August 6, 2020 regarding a waiver to allow curbside pickup of medical cannabis products by registered patients.

It is my understanding that the Department of Health (DOH) does not have statutory authority to authorize curbside pickup. This will require Governor Ige to suspend certain security requirements of Chapter 329D, HRS. As such, I have asked Michele Nakata, Medical Cannabis Dispensary Licensing Supervisor, to work with the Deputy Attorney General assigned to the Office of Medical Cannabis Control and Regulation, to identify the applicable provisions of Chapter 329D, HRS that will need to be suspended and the specific requirements that would be required to allow for curbside pickup. We will present these to Governor Ige for his consideration.

Thank you for your patience in awaiting our response and for your interest in protecting the health of our registered patient population.

Sincerely,

A handwritten signature in black ink, appearing to read "Danette Wong Tomiyasu".

Danette Wong Tomiyasu, M.B.A.
Deputy Director, Health Resources Administration

cc: Elizabeth Char, M.D., Director of Health
Michele Nakata, J.D., Office of Medical Cannabis Control and Regulation



Akamai Cannabis Clinic
3615 Harding Ave, Suite 304
Honolulu, HI 96816

TESTIMONY ON HOUSE BILL 2260
RELATING TO CANNABIS

By
Clifton Otto, MD

House Committee on Health, Human Services, & Homelessness
Representative Ryan I. Yamane, Chair
Representative Adrian K. Tam, Vice Chair

Tuesday, February 8, 2022; 9:00 PM
State Capitol, Room 329 & Videoconference

Offering **COMMENTS**: Thank you for the unanimous support of [HCR132](#) last Session. Unfortunately, DOH did not comply with this request, which means that further legislative action is required.

Please don't make the mistake of authorizing further violation of federal drug law without taking steps to end the ongoing conflict with the federal regulation of marijuana.

Adding the following amendment would be a worthwhile progression, even if the only result is that the Legislature can say that it has done everything possible to resolve this unnecessary conflict:

SECTION 8. The following sub-section is amended to read as follows:

[§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; provided that the department shall also file for a federal exemption under [21 CFR 1307.03](#) and [21 CFR 1308.43](#) for the state authorized use of cannabis in Hawaii.

Thank you.

HB-1578

Submitted on: 2/6/2022 10:42:14 PM

Testimony for HHH on 2/8/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
DeVaughn	Marijuana Policy Project	Support	Yes

Comments:

Dear Chair Yamane, Vice Chair Tam & Health, Human Services and Homelessness Committee members:

My name is DeVaughn Ward, and I am the senior legislative counsel at the Marijuana Policy Project, the largest marijuana policy reform organization in the United States. MPP has been working to improve marijuana policy for more than 20 years.

MPP supports HB1578. HB1578 would allow curbside delivery for medical cannabis patients. Since the pandemic began in 2020, every state with an operational medical cannabis program has allowed curbside delivery, with the exception of Hawaii, Arkansas, Louisiana and North Dakota.

Curbside delivery has been recommended by health professionals to limit unnecessary contact. This option is particularly important for immunocompromised patients that require limited contact when accessing their medical cannabis. As lawmakers continue to advise the public to remain vigilant in preventing the spread of COVID, curbside delivery is a necessary option so that patients have access to their medicine in a manner that is consistent with public health.

We urge the committee to support this measure.

Sincerely,

DeVaughn L. Ward, Esq. (he/him)

Senior Legislative Counsel

Marijuana Policy Project

Honolulu, HI

(808) 445-6229

dward@mpp.org

HB-1578

Submitted on: 2/4/2022 9:05:45 AM

Testimony for HHH on 2/8/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mike Golojuch, Sr.	Individual	Support	No

Comments:

I support HB1578.

Mike Golojuch, Sr.



HawaiianEthos

To: Representative Ryan Yamane, Chair
Representative Adrian Tam, Vice-Chair
Members of the House Health, Human Services and Homelessness Committee

Fr: Noah Phillips, Chief Compliance Officer – Hawaiian Ethos

Re: Testimony **In Support of House Bill (HB) 1578**
RELATING TO CANNABIS

Authorizes the Department of Health to approve in-vehicle receipt of medical cannabis and medical cannabis products on or near the premises of dispensaries under certain conditions.

Dear Chair Yamane, Vice-Chair Tam, and Members of the Committee:

As one of Hawaii’s Medical Cannabis Licensees, Hawaiian Ethos **supports HB1578** which will provide qualified patients greater ease of access to their medicine.

The last two years have made it clear that additional rule changes are necessary to adequately address the challenges highlighted by the COVID-19 pandemic. Many patients who are at high risk to the effects of COVID-19 or are physically challenged from entering the retail dispensary space would be far better served by allowing licensed dispensary employees to deliver legally purchased product to patients’ vehicles in the immediate vicinity of the dispensary. Such a change would enable dispensaries to discretely and efficiently care for patients who are unable to enter the dispensary premises.

Thank you for the opportunity to testify.

Noah Phillips