



Akamai Cannabis Clinic
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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.



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

Fr: Randy Gonce, Executive Director of Hawaii Cannabis Industry Association

Re: Testimony **In STRONG Support of House Bill (HB) 2260**

RELATING TO CANNABIS

Amends the circumstances under which medical cannabis may be transported by and between dispensaries. Increases the allowable number of plants for production centers. Increases the number of production centers that may be allowed under a dispensary license. Increases the number of retail dispensing locations that may be allowed under a dispensary license. Redefines the term "medical cannabis production center" to include any series of structures located within the same secured perimeter fence-line. Requires the Department of Health to establish the fee structure for the submission of applications for additional production centers and retail dispensing locations and for dispensary-to-dispensary sales. Amends the Department of Health's duties with respect to the establishment of standards.

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

The Hawai'i Cannabis Industry Association is the trade association for the state's licensed medical cannabis dispensaries. HICIA **supports HB2260** 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 production and retail facilities; **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**, provide clarification on where to designate the demarcation for "medical cannabis production center."



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.¹

The dispensaries seek the authority to increase the amount of retail locations from **two** to **three** and increase the amount of production facilities from **two** to **three**. However, the bill also gives the DOH the discretion to approve an additional **two retail** (5 total), DOH would also be authorized to increase production facility plant count by 2500 (maximum of 7500 plants) at the two production centers, or allow a licensee to have three production facilities at 5000 plants. In either event, the licensee would have no more than 15,000 plants.

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. With 35,000 patients statewide, Hawaii's dispensaries are only serving 13,000 patients leaving 20,000+ medical cannabis patients to obtain their medication from untested and unregulated sources. 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. We are requesting a reasonable increase in licensee footprint to be able to provide clean, tested, safe, regulated (and taxed) cannabis medicine to current and future patients.

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 additional retail facilities will help increase

¹ 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).



legal access for qualified patients, their caregivers and out-of-state patients. All eight licenses have agreed that this is best for patients and the industry as a whole.

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. Increased production limits also allow for licensees to move towards meeting the economies of scale needed to bring medicine prices closer to competition levels to the illicit market.

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.

Finally, the bill amends the definition of “medical cannabis production center” to clarify that this should be measured by the perimeter of the area, not by the number of structures. This is necessary because there has been inconsistent interpretation of what constitutes a “center” with one licensee having two structures on the same footprint and adjacent to one another counted as their two production facilities.



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.

The law on the federal prohibition on transport is unclear, and in fact, our attorney, Former Attorney General David Louie, has found that inter-state transport of **Schedule I substances may be likely be transported for medical, scientific, or other “legitimate” purposes as approved by the Attorney General.**² Additionally, See the following article in the Boston Globe.

[:https://www.bostonglobe.com/business/2017/10/25/state-eyes-flight-rule-ship-marijuana-islands/WDMRa9NnyyIz5Z301Oc0AK/story.html](https://www.bostonglobe.com/business/2017/10/25/state-eyes-flight-rule-ship-marijuana-islands/WDMRa9NnyyIz5Z301Oc0AK/story.html)

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.”³

² See attached memorandum below

³ 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.



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.

The bill would permit a dispensary to sell 1600 ounces or 100 lbs to another dispensary. This 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 their patient base for at least 30 days.

Thank you for the opportunity to testify.

(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.

Hawai'i Cannabis Industry Association (HICIA)
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KOBAYASHI SUGITA & GODA, LLP
Attorneys at Law

MEMORANDUM

Date: October 13, 2021
To: Hawaii Cannabis Industry Association
From: Kobayashi, Sugita & Goda, LLP
Re: HiCIA – Schedule I substance transport by plane

I. DISCUSSION

A. **Generally, the United States Code and Code of Federal Regulations prohibit transportation of Schedule I substances by aircraft.**

The United States Code and Code of Federal Regulations provide the rules and regulations governing transportation of Schedule I substances. Under 21 U.S.C. § 812, marijuana (marihuana) is a Schedule I controlled substance.¹ Thus, any person or entity transporting marijuana by aircraft must comply with the United States Code and Code of Federal Regulations.

Generally, Schedule I substances cannot be transported by aircraft. Under 49 U.S.C. § 80302(b)(1), a person may not “transport [marijuana] in an aircraft.” *Id.*; *see* 19 C.F.R. § 122.167. Further, it is “unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States to . . . possess [marijuana] with intent to distribute.” 21 U.S.C. § 959; *see* 21 U.S.C. § 960(a). Hawaii law defines the “intent to distribute” as the intent to “sell, transfer, prescribe, give, or deliver to another, or to leave, barter, or exchange with another, or to offer or agree to do the same.” Haw. Rev. Stat. § 712-1240. Therefore, a person typically cannot transport marijuana by aircraft with the intent to sell, transfer, or deliver, etc., the product upon arrival.

¹ The findings required for Schedule I controlled substances are as follows: (A) The drug or other substance has a high potential for abuse. (B) The drug or other substance has no currently accepted medical use in treatment in the United States. (C) There is a lack of accepted safety for use of the drug or other substance under medical supervision. 21 U.S.C. § 812.

- B. However, Schedule I substances can likely be transported for medical, scientific, or other “legitimate” purposes as approved by the Attorney General.**

There may be exceptions to the rules against transportation of marijuana by aircraft. Under 21 U.S.C. §§ 952-54, Schedule I substances necessary to provide medical, scientific, or other “legitimate” purposes may be imported, exported, and transshipped. The Attorney General has authority to determine which substances serve “legitimate” purposes and under what circumstances such substances may be transported. *Id.*; *see* 21 U.S.C. §§ 821, 871. Aircrafts are permissible means of transportation for Schedule I substances serving “legitimate” purposes. 21 U.S.C. § 954. Thus, marijuana can likely be transported by aircraft when serving medical, scientific, or other “legitimate” purposes.

Marijuana serving “legitimate” purposes can likely be transported by aircraft only if it “is part of the cargo entered in the manifest or part of the official supplies of the . . . aircraft.” 21 U.S.C. §§ 825, 955. “When an unmanifested narcotic drug or marihuana is found on board of, or having been unladen from, a vessel, vehicle, or aircraft, the penalties . . . shall be applied without exception and without regard to any question of negligence or responsibility.” 19 C.F.R. § 162.65; *see* 19 C.F.R. § 122.161. Accordingly, marijuana serving “legitimate” purposes can likely be transported by aircraft only with proper identification in the aircraft’s manifest.

II. CONCLUSION

Generally, Schedule I substances cannot be transported by aircraft. However, Schedule I substances can likely be transported by aircraft for medical, scientific, or other “legitimate” purposes as approved by the Attorney General.

III. CITATIONS

Relevant federal statutes:

[10 U.S.C. § 912a. Art. 112a. Wrongful use, possession, etc., of controlled substance \(Military Law\)](#)

[19 U.S.C. § 1595a. Aiding unlawful importation.](#)

[19 U.S.C. § 1703. Seizure and forfeiture of vessels.](#)

[21 U.S.C. § 812. Schedules of controlled substances.](#)

[21 U.S.C. § 821. Rules and regulations.](#)

[21 U.S.C. § 825. Labeling and packaging.](#)

[21 U.S.C. § 871. Attorney General.](#)

[21 U.S.C. § 881. Forfeitures.](#)

[21 U.S.C. § 885. Burden of proof; liabilities.](#)

[21 U.S.C. § 952. Importation of controlled substances.](#)

[21 U.S.C. § 953. Exportation of controlled substances.](#)

[21 U.S.C. § 954. Transshipment and in-transit shipment of controlled substances.](#)

[21 U.S.C. § 955. Possession on board vessels, etc., arriving in or departing from United States.](#)

[21 U.S.C. § 957. Persons required to register.](#)

[21 U.S.C. § 959. Possession, manufacture, or distribution of controlled substance.](#)

[21 U.S.C. § 960. Prohibited acts A.](#)

[49 U.S.C. § 46317. Criminal penalty for pilots operating in air transportation without an airman's certificate.](#)

[49 U.S.C. § 80302. Prohibitions.](#)

Relevant federal regulations:

[14 C.F.R. § 91.19. Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.](#)

[14 C.F.R. § 121.15. Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.](#)

[14 C.F.R. § 125.39. Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.](#)

[14 C.F.R. § 133.14. Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.](#)

[14 C.F.R. § 135.41. Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.](#)

[14 C.F.R. § 137.23. Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.](#)

[14 C.F.R. § 141.18. Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.](#)

[19 C.F.R. § 122.161. In general.](#)

[19 C.F.R. § 122.167. Aviation smuggling.](#)

[19 C.F.R. § 162.65. Penalties for failure to manifest narcotic drugs or marihuana.](#)

[21 C.F.R. § 1301.25. Registration regarding ocean vessels, aircraft, and other entities.](#)

[21 C.F.R. § 1312.01. Scope of part 1312.](#)

HB-2260

Submitted on: 2/6/2022 10:07:51 PM

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

Submitted By	Organization	Testifier Position	Remote Testimony Requested
DeVaughn Ward	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 HB2260. HB2260 would provide increased access for medical cannabis patients. A robust medical market that has a variety of products and places to purchase them is crucial in ensuring patients have the medicine they need. We believe the provisions of HB2260 would help achieve those aims.

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



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

From: Bill Jarvis, Chief Executive Officer of Noa Botanicals
Re: Testimony in Strong Support of House Bill (HB) 2260

Dear Chair, Vice-Chair and Members of the Committee

My name is Bill Jarvis and I'm the CEO of Noa Botanicals, past Chair of HICIA (the Hawaii Cannabis Industry Association) and the current Vice-Chair of HICIA. Noa Botanicals is one of the eight medical cannabis licensees in Hawaii, and one of the largest in the state.

Noa Botanicals strongly supports HB 2260.

As a licensee that has already invested in the capped limit of three dispensaries, Noa's patients often ask when we will be building new locations, and unfortunately, our answer is "we don't know". Our patients seek choices, more convenient locations, and the comfort of knowing they are being given access to safe medicine, anywhere in their live, work, play triangle.

HB 2260's intent is simple. It allows licensees to add additional locations, providing safe, convenient access for patients. These additional locations will also provide for better economies of scale allowing operators to deliver safe medicine at competitive prices. Second, it allows additional plant counts or production locations to compete against the unlimited plant counts and production locations afforded to the illicit market, and to supply the additional retail dispensary locations the medicine to meet patient need. Finally, it allows for wholesale commerce between licensees to provide insurance against the inevitable product shortages that occur when dealing with any agriculture product.

Today, patients currently have little access to convenient locations, or affordable options, and often find themselves, for the sake of convenience or cost, buying untested products from the illicit market. Contrary to popular belief, the illicit market is the dominant player in the industry when compared to the legal, licensed market.

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As an industry, medical cannabis licensees, now operating in their fifth year, have struggled under the weight of high taxation (higher than any other industry), heavy regulatory burdens such as capped locations, limited plant counts or production facilities, an inability to advertise, and an illicit market that is thriving as a parallel industry offering untested products, collecting an untaxed revenue stream, in an unregulated business environment. An analogy I often use to describe the disparity between the licensed and illicit unlicensed market is to imagine if a restaurant and nightclub opened in Waikiki and spent \$10M going through a lengthy buildout process, received all necessary planning and building permit approvals, applied for food and beverage permits, was subject to constant inspection, license fee costs, etc., only to find an illegal speakeasy open right next door, with no obligation to satisfy regulators, pay taxes, or provide healthy and safe food to patrons. Such a business would be shut down in days, allowing the legal entity to operate on a level playing field with other legitimate operators. The licensed medical cannabis operators have no such luxury of a level playing field in the businesses we operate. That being said, we seek no advantage over our larger illicit competitors, merely the ability to compete at our expense and risk.

As licensed operators committed to our industry, we've invested deeply to fulfill the legislative intent of safe convenient access of medical cannabis to patients. As a veteran of many start-up ventures for over 40 years, I can honestly say that cutting the start-up path through the jungle of this industry is more expensive, more challenging, and offers a weaker investment thesis when compared to any other venture I've been involved in. In fact, many licensees report that they have not returned any capital at all to investors and do not see the ability to do so for years, if at all. These predominately local investors dared to support a notion of safe access, and believed cannabis offered a more patient-centric option to traditional, and often addictive alternatives.

Certainly, even the staunchest supporters of our industry would struggle to make the case that we've fulfilled the original legislative intent of medical cannabis legalization. As a company, Noa is still committed to fulfilling that vision, and we humbly ask for the ability to do so. The passage of HB 2260 provides safe and convenient access for patients, creates jobs, and provides tax revenue for the State of Hawaii. Noa Botanicals strongly supports HB 2260.



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

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

Re: Testimony In STRONG Support of House Bill (HB) 2260

RELATING TO CANNABIS

Amends the circumstances under which medical cannabis may be transported by and between dispensaries. Increases the allowable number of plants for production centers. Increases the number of production centers that may be allowed under a dispensary license. Increases the number of retail dispensing locations that may be allowed under a dispensary license. Redefines the term "medical cannabis production center" to include any series of structures located within the same secured perimeter fence-line. Requires the Department of Health to establish the fee structure for the submission of applications for additional production centers and retail dispensing locations and for dispensary-to-dispensary sales. Amends the Department of Health's duties with respect to the establishment of standards.

Dear Chairs, Vice-Chairs and Members of the Committee:

Green Aloha is one of the 8 State Licensed Medical Cannabis operations. Our company currently employs 24 Kauai residents. We submit testimony today in strong support for this bill. This 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.

The founding goal of the Dispensary Program was to provide safe tested cannabis medicine to as many patients in Hawaii as possible. Hawaii was one of the leaders in the Nation in acknowledging that Cannabis is real legitimate medicine over 20 yrs ago. The Dispensary program was a big step forward treating it like real medicine by setting strict safety standards and providing patients with safe access points, staffed by people with the training and knowledge to help guide patients. However, the Dispensary program has struggled to achieve this goal as it is still being dwarfed by the illicit market that is flourishing in Hawaii. This illicit market is completely unregulated, untaxed, has no licensing fees or safe testing requirements and thus has a significant competitive advantage in pricing over the Dispensary Program. Allowing for additional retail locations along with increased production resulting in economy of



scale and thus lowering prices will allow us to reach more patients with more convenience and affordable options for the patients.

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 5 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. To fully service the patient base of Kauai, we would need to produce 3 to 5 times the current production amounts. This would require at least two additional Production Centers of the current size or a rule change to allow multiple buildings within one secured property to count as one Production Center, combined with a significantly increased plant count. This 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. An increased plant count would allow us to achieve economies of scale to lower prices and compete with the unregulated illicit markets. Increased production centers will also mean more new good paying jobs for Kauai.

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 immediately open more stores, adding good paying jobs to the community. It will expand patient access to a wider variety of products, 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). Biotrack, the state tracking software is already able to handle wholesale transfers and kind provide real time tracking data and red flag alerts to the regulatory authorities that would limit the additional burden that this would require.

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. This would also add good paying new jobs to the Kauai economy. 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 over 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 2022 still trying to find ways to ensure that the ones who need this medicine receive the best medicine they can get in our state.



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. The founding goal of the Dispensary Program was to provide safe tested cannabis medicine to as many patients in Hawaii as possible. The provisions in this bill are needed to allow us to meet this goal.

Thank you for the opportunity to testify.

Warmest Aloha,

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



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: Chris Cole, Director of Product Development

Re: TESTIMONY IN SUPPORT OF HOUSE BILL 2260

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.

Expanding patient access and affordable product pricing are top of mind for MGT. This measure serves both objectives.

Enhancing Patient Access. On August 8, 2017, MGT became the first medical cannabis dispensary in Hawai'i to serve registered patients. When the pandemic took hold in March 2020, we adjusted the Company's dispensing model to provide 'touch-less' service by appointment and, in 2021, opened a second 'express' dispensary serving West Maui. Our experience so far indicates that a new dispensary significantly boosts patient access, from serving less than 50% of registered patients to serving over 70% in the first year. MGT is planning to open a third express dispensary serving Upcountry Maui next month. Although Maui's population is relatively small, the registered patient population is geographically dispersed with many urging more convenient access to Maui's licensed dispensaries.

Affordable Product Pricing. Efficient scaling of upstream operations is the key to reducing product costs for patients. Hence, MGT strongly supports the language in HB2260 that would redefine medical cannabis 'Production Center' as 'any series of structures located within the same perimeter fence-line'.

Every medical cannabis product MGT dispenses is grown, processed & packaged at our 8-acre, zero emissions production facility in Upcountry Maui. Comprised of buildings sharing the same highly fortified — and capital intensive — security infrastructure, MGT's production campus can rapidly scale to affordably meet Maui's patient needs within the plant limitations allowed by law. See attachment.

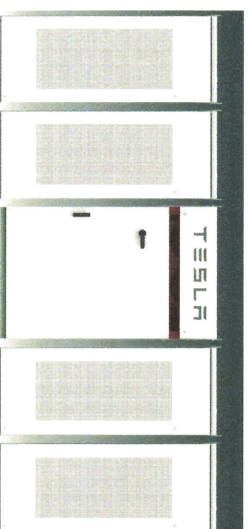
MGT's ability to expand production at this site is constrained by the current definition of production center as an 'enclosed indoor facility' under HRS 329D. Expanding the definition to include 'any series of structures located with the same secured perimeter fence-line', as HB2260 would do, would provide the flexibility needed for MGT to rapidly scale production and reduce product costs. And, because any additional production structures would be located within the same secured property, this change would not impose a regulatory burden upon the Department of Health.

Mahalo for your consideration.

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



Industrial Automation System



2MWh's Tesla Battery Storage

Maui Grown Production Center is completely off-grid and consumes over 3 megawatt-hours of power each day from its own photovoltaic micro-grid with 1 megawatt of PV and 2 megawatt-hours of Tesla Powerpack energy storage powering over 60 tons of air conditioning, dehumidification, fans and over 300 high output grow lights.



1 Megawatt Photovoltaic Farm

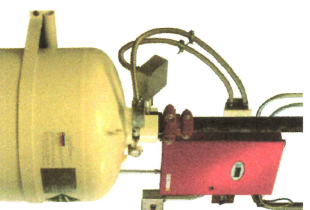
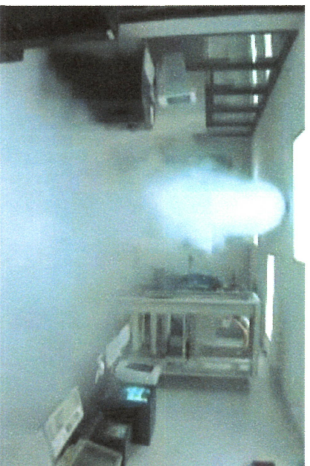


High intensity grow lights

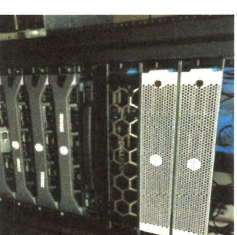
All grow lights, supply, exhaust, circulation fans and greenhouse shades are controlled by an industrial automation system to regulate the growing cycle in the indoor grow rooms and light transmitting greenhouses.

Security is provided by Avigilon with over 120 advanced CCTV cameras, 20 terabytes of video storage linked to card readers to access all doors in the facility, logging all activity for the most secure and accountable environment.

Laboratory areas are protected with FM-200 Clean Agent Fire Suppression System for instant response to a fire alarm event without causing any damage to equipment or product.



FM200 Clean Agent Fire Suppression System



Avigilon CCTV and Access Control System

HB-2260

Submitted on: 2/7/2022 8:47:04 AM

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

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Tai Cheng	Aloha Green Holdings Inc.	Support	Yes

Comments:

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

Fr: Tai Cheng, President of Aloha Green Holdings Inc.
Re: Testimony In STRONG Support of House Bill (HB) 2260

RELATING TO CANNABIS

Amends the circumstances under which medical cannabis may be transported by and between dispensaries. Increases the allowable number of plants for production centers. Increases the number of production centers that may be allowed under a dispensary license. Increases the number of retail dispensing locations that may be allowed under a dispensary license. Redefines the term "medical cannabis production center" to include any series of structures located within the same secured perimeter fence-line. Requires the Department of Health to establish the fee structure for the submission of applications for additional production centers and retail dispensing locations and for dispensary-to-dispensary sales. Amends the Department of Health's duties with respect to the establishment of standards.

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

Aloha Green Apothecary is one of the licensed medical cannabis dispensaries Oahu. Aloha Green supports HB2260 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.

I am available to answer any questions over Zoom about improving patient access and the success of the medical cannabis dispensary program.



Friday, February 4, 2022

Testimony in Support of HB2260 - Additional Cannabis Retail Locations, Production, and Business to Business Wholesale

Name

Spencer Fry

Email

spencercharles43@gmail.com

Add your testimony here. It can be as simple as "I support this bill" or as personal as you would like

I support this bill



Friday, February 4, 2022

Testimony in Support of HB2260 - Additional Cannabis Retail Locations, Production, and Business to Business Wholesale

Name

Trevor Hagerman

Email

trevorhagerman32@gmail.com

Add your testimony here. It can be as simple as "I support this bill" or as personal as you would like

I support this bill



Saturday, February 5, 2022

Testimony in Support of HB2260 - Additional Cannabis Retail Locations, Production, and Business to Business Wholesale

Name

Nathan Oguma

Email

Gamechanger357@gmail.com

Add your testimony here. It can be as simple as "I support this bill" or as personal as you would like

i support this bill



Friday, February 4, 2022

Testimony in Support of HB2260 - Additional Cannabis Retail Locations, Production, and Business to Business Wholesale

Name

Barbara Donios

Email

jbadonios@gmail.com

Add your testimony here. It can be as simple as "I support this bill" or as personal as you would like

I support this bill. As someone who lives in Waipahu, it is a long frustrating drive to downtown Honolulu. Since at least half of the population lives on the west side, legislators should stop treating us as if we're not as important as "townies." We make as much money as they do, but have half the amenities.



Saturday, February 5, 2022

Testimony in Support of HB2260 - Additional Cannabis Retail Locations, Production, and Business to Business Wholesale

Name

Christopher Tilghman

Email

christophertilghman@gmail.com

Add your testimony here. It can be as simple as "I support this bill" or as personal as you would like

I support this bill



Saturday, February 5, 2022

Testimony in Support of HB2260 - Additional Cannabis Retail Locations, Production, and Business to Business Wholesale

Name

Dana Nottage

Email

danan@hawaii.rr.com

Add your testimony here. It can be as simple as "I support this bill" or as personal as you would like

The legislature of Hawai'i simultaneously legalizes marijuana and makes it prohibitively difficult for patients to access. Stop all legislative barriers which treat marijuana differently from any other prescription medication.



Saturday, February 5, 2022

Testimony in Support of HB2260 - Additional Cannabis Retail Locations, Production, and Business to Business Wholesale

Name

Danielle LaBelle

Email

dlabelle1@gmail.com

Add your testimony here. It can be as simple as "I support this bill" or as personal as you would like

I support this bill because medical cannabis has helped so many people. With more locations and companies it will impact so many more lives in a positive way. And! The money the state makes will go to better use.



Saturday, February 5, 2022

Testimony in Support of HB2260 - Additional Cannabis Retail Locations, Production, and Business to Business Wholesale

Name

Loriann Tavares

Email

tlori880@gmail.com

Add your testimony here. It can be as simple as "I support this bill" or as personal as you would like

If not for my card, I would be in more pain than usual.



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

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

Re: Testimony in STRONG Support of House Bill (HB) 2260 RELATING TO CANNABIS

Amends the circumstances under which medical cannabis may be transported by and between dispensaries. Increases the allowable number of plants for production centers. Increases the number of production centers that may be allowed under a dispensary license. Increases the number of retail dispensing locations that may be allowed under a dispensary license. Redefines the term "medical cannabis production center" to include any series of structures located within the same secured perimeter fence-line. Requires the Department of Health to establish the fee structure for the submission of applications for additional production centers and retail dispensing locations and for dispensary-to-dispensary sales. Amends the Department of Health's duties with respect to the establishment of standards.

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 65+ Big Island residents. We submit testimony today in **support of HB2260**. HB2260 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.

Big Island Grown believes 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.

Retail

Both Big Island licensees have built out all three-retail locations 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, or plant count.

Production

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 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

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



where licensees are not able to satisfy the demand of their retail location(s) even with 2 production facilities operational, so redefining medical cannabis production center to include any series of structures located within the same secured perimeter fence-line will help address this.

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.

Thank you for the opportunity to testify.

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



HawaiianEthos

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

Fr: Noah Phillips - Hawaiian Ethos

Re: Testimony **In STRONG Support of House Bill (HB) 2260** RELATING TO CANNABIS

Amends the circumstances under which medical cannabis may be transported by and between dispensaries. Increases the allowable number of plants for production centers. Increases the number of production centers that may be allowed under a dispensary license. Increases the number of retail dispensing locations that may be allowed under a dispensary license. Redefines the term "medical cannabis production center" to include any series of structures located within the same secured perimeter fence-line. Requires the Department of Health to establish the fee structure for the submission of applications for additional production centers and retail dispensing locations and for dispensary-to-dispensary sales. Amends the Department of Health's duties with respect to the establishment of standards.

Dear Chair, Vice-Chair, and Members of the committee:

Hawaiian Ethos **supports HB2260** as an important bill for enhancement of the State's medical cannabis dispensary program.

We support the ability to wholesale amongst the other medical cannabis licenses. Allowing for the wholesale of cannabis products between licensees would greatly increase the product diversity that patients have access to in licensed dispensaries. All medical cannabis patients' needs are different and so too are their needs for different product delivery methods and formulations of their medicine. In order to create a healthy cannabis marketplace where all patients have the choice to select a product most suited to their unique medical needs, licensees should be able to share in the manufacturing proficiencies of each other, as the required manufacturing of these different product types are often costly and difficult for any one company to undertake alone.

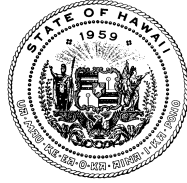
We support the increased number of retail locations. The current number of allowed medical dispensaries are not enough to cover the geographical dispersion of patients on the Island of Hawai'i. More dispensary locations are necessary to reduce the distances that many Hawai'i Island residents are must to travel in order to access licensed dispensaries.

Lastly, we support the proposal for DOH to provide further clarity around the definitions and parameters for constitutes as a "medical cannabis production center".

Thank you for the opportunity to testify.

Noah Phillips

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
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on H.B. 2260
RELATING TO CANNABIS.**

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

Hearing Date: Tuesday, February 8, 2022

Room Number: Video Conf.

1 **Fiscal Implications:** This measure will require additional resources and may impact the
2 priorities identified in the Governor's Executive Budget Request for the Department of Health's
3 appropriations and personnel priorities. If this bill passes as currently drafted or amended, it will
4 require a minimum of two (2) additional Surveyors, one (1) additional Office Assistant, and
5 supplemental mileage and interisland travel at an estimated cost of \$300,000, to maintain
6 adequate regulatory oversight to ensure patient, product, and public safety.

7 **Department Testimony:** Thank you for the opportunity to testify on this measure with
8 COMMENTS noting a mix of support and opposition.

9 The purpose of this bill is to:

- 10 1. Allow sale and transport of medical cannabis between licensed dispensaries;
- 11 2. Increase plant counts for production centers from 5,000 plants to 7,500 plants at a single
12 production center;
- 13 3. Increase the number of production centers for each licensee from two (2) to three (3);
- 14 4. Allow the Department to increase the number of retail stores for each licensee from three
15 (3) to four (4);

- 1 5. Re-define a medical cannabis production center to include any series of structures located
- 2 within the same secured perimeter fence-line;
- 3 6. Require the Department to establish fees for applications for additional production
- 4 centers and retail stores and for dispensary to dispensary sales; and
- 5 7. Amend the Department's duties on the establishment of standards.

6

7 The Department's position on each of these proposals is as follows:

- 8 1. Sale and Transport Between Dispensaries: **Support** as long as additional resources are
- 9 approved that do not jeopardize the Governor's budget. Staff resources are needed for the
- 10 added regulatory oversight that will be required to track sales and transportations. The
- 11 Department appreciates that this bill will authorize the Department to allow dispensaries
- 12 to purchase and transport products pursuant to rule making.
- 13 2. Increase Plant Count: **Oppose** any specific number in statute. Instead, the Department
- 14 proposes for the Legislature to eliminate plant count in statute and requests authorization
- 15 for the Department to set growing criteria such as the number of plants per square foot or
- 16 some other measure in administrative rules. The number of plants in a single production
- 17 center is limited by the size of the production center which may be limited by the amount
- 18 of investment capital the dispensary has to build a production center and which may be
- 19 further limited by the size and cost of real property in Hawaii on which to build a
- 20 production center. Each dispensary could be different. As a result, the number of plants
- 21 in a production center becomes self-limiting rather than state-limiting. If a dispensary is
- 22 successful and has the capital and real property to expand the production center to

1 accommodate more plants, and as long as all plants continue to be properly tracked, an
2 increase in plant count can be allowed.

3 3. Increase Number of Production Centers: **Oppose** as not needed especially if the plant
4 count limit is eliminated in statute. Presumably, dispensaries want an increase in the
5 number of production centers to grow more plants. But if the plant count limit is
6 eliminated, this would appear to eliminate the need for an additional production center.
7 Licensees are allowed two (2) production centers for a total of 16 production centers for
8 all eight (8) licensees. Currently there are only 12 production centers in operation or
9 about to be placed in service, equating to 75% of all allowed centers. In addition, during
10 calendar year 2021, more than half of the amount of medical cannabis grown by weight
11 statewide was grown by two (2) dispensaries with one (1) production center each.

12 4. Increase Number of Retail Store Locations: **Support** one (1) additional retail store
13 location as long as additional resources are approved that do not jeopardize the
14 Governor's budget and the Department is allowed to continue to use the same criteria it
15 uses to allow dispensaries to open a 3rd store to serve rural or underserved areas.
16 Currently, of the 24 stores allowed, there are 19 retail store locations open or pending (18
17 open and 1 pending on Maui) or approximately 80% of the possible total locations
18 statewide. Big Island is at 100% of capacity with their two (2) licensees having all three
19 (3) stores open; Oahu is nearing 90% capacity with two (2) licensees having three (3)
20 stores and one (1) licensee just opened its 2nd store; Maui is at 66% capacity (1 licensee
21 has or will have 3 stores (2 open and 1 pending) while the other licensee only has 1
22 store); and Kauai is at 33% capacity with only one (1) licensee with one (1) store.

1 5. Re-define Production Center: **Oppose** as not needed. Except for one (1) licensee,
2 licensees with two (2) production centers have their production centers on a single tax
3 map key (TMK) location within the same perimeter security fence. Accepting this
4 redefinition of a production center would automatically mean that the two (2) production
5 centers would be considered a single center and dispensaries would be allowed to
6 automatically add another production center. However, as mentioned earlier on the
7 proposal to increase the number of production centers, the top two (2) producers in
8 calendar year 2021 produced more than half of the medical cannabis by weight with a
9 single production center each.

10 6. Establish Additional Fees: **Support** authorization for the Department to establish a fee
11 structure in rules except for fees for additional production centers which the Department
12 opposes as not needed.

13 7. Establishment of Standards: **Support**. Standards in other jurisdictions across the country
14 are continuously being examined and are included in the Department's recently revised
15 and approved administrative rules. The Department will continue to include or revise
16 standards as needed to ensure patient and product safety.

17
18 **Offered Amendments:** Request that the plant count per production center be eliminated from
19 statute. Beginning on page 6 line 1 of this measure and including the Department's opposition to
20 an additional production center:

21 SECTION 4. Section 329D—2, Hawaii Revised Statutes, is amended as follows:

1 1. By amending subsections (f) and (g) to read: “(f) ~~[Up to two]~~ [No more than three]
2 production centers shall be allowed under each dispensary license; provided that~~[-, except as~~
3 ~~otherwise specified in subsection (k), each production center shall be limited to no more than~~
4 ~~[three] five thousand cannabis plants] the department shall establish limitations in plant
5 cultivation within each production center. For purposes of this subsection, “plant” means a
6 cannabis plant that is greater than twelve vertical inches in height from where the base of the
7 stalk emerges from the growth medium to the tallest point of the plant, or greater than twelve
8 horizontal inches in width from the end of one branch to the end of another branch; provided that
9 multiple stalks emanating from the same root ball or root system shall be considered part of the
10 same single plant.~~

11 ...

12 ~~“(k) Notwithstanding any provision of subsection (f) to the contrary, the department may~~
13 ~~[determine whether] allow any dispensary [licensee shall be allowed] licensee an additional two~~
14 ~~thousand five hundred cannabis plants at each of the licensee’s production centers[-]; provided~~
15 ~~that the licensee shall be not be allowed more than two production centers. In no case shall a~~
16 ~~licensee be allowed more than [five] seven thousand five hundred plants at a single production~~
17 ~~center.~~

18 Thank you for the opportunity to testify with COMMENTS on this measure.

HB-2260

Submitted on: 2/7/2022 7:28:20 PM

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

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Me Fuimaono- Poe	Individual	Support	Yes

Comments:

Thank you