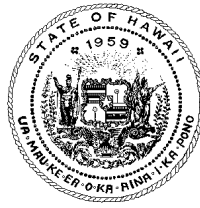


DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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MAX N. OTANI
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No. _____

TESTIMONY ON HOUSE BILL 477, HOUSE DRAFT 2
RELATING TO CANNABIS.

By
Max N. Otani, Director

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair

Thursday, February 25, 2021; 1:00 p.m.
Via Videoconference

Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Department of Public Safety (PSD) offers comments on House Bill (HB) 477, House Draft (HD) 2, which proposes several changes to Hawaii's medical cannabis dispensary program. The Department's comments focus on two important areas.

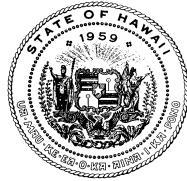
First, the Department notes that HB 477, HD 2 clarifies the authority of the Department of Health, as well as law enforcement's authority, at the request of the Department of Health, to administratively inspect medical cannabis grow sites under this measure. Compliance is an important cornerstone for the success of the State's legitimate medical cannabis programs. This clarification will promote increased compliance.

Second, the Department also notes that HB 477, HD 2 deleted the earlier allowance that permitted the use of interisland air transportation to support dispensary to dispensary sales of cannabis. The removal of the earlier allowance to use interisland air transportation significantly reduces the possibility that federal law enforcement authorities will interdict medical cannabis sent by interisland air transportation. Moreover, this will also ensure

that people, who may be confused over the differences in state and federal law, are not arrested by federal law enforcement authorities.

Thank you for the opportunity to present this testimony.

DAVID Y. IGE
GOVERNOR OF HAWAII



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

**STATE OF HAWAII
DEPARTMENT OF HEALTH**

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**Testimony COMMENTING on H.B.0477 HD2
RELATING TO CANNABIS**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: Thursday, February 25, 2021 Room Number: Via Videoconference

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. Permitting licensees to purchase cannabis and
4 manufactured cannabis products from each other and increasing the number of licensed facilities
5 will require a minimum of two (2) additional Surveyors and one (1) additional Office Assistant,
6 and supplemental mileage and interisland travel at an estimated cost of \$295,000, to maintain
7 adequate regulatory oversight to ensure patient, product, and public safety.

8 **Department Testimony:** The Department of Health (DOH) appreciates the intent of H.B. 477
9 H.D.2 to improve patient access, patient safety, and product safety by: (1) authorizing DOH to
10 allow licensed dispensary-to-dispensary sales of cannabis or manufactured cannabis products; (2)
11 increasing the allowable number of production centers and retail dispensing locations per license;
12 (3) placing limits on caregiver cultivation after December 31, 2021; (4) placing limits on patient
13 cultivation after December 31, 2021; (5) clarifying DOH authority to verify compliance or
14 request assistance with verifying compliance with chapter 329, HRS; (6) clarifying that
15 dispensary-to-dispensary sales transports may only occur between licensees on the same island

1 until such time that federal law allows for interisland transport of cannabis; and (7) clarifying
2 that transport of cannabis for laboratory testing to another county or island is permissible only if
3 no certified testing laboratory is located on that county or island. Additional personnel and
4 operational costs will be required to implement these measures. DOH provides the following

5 COMMENTS:

- 6 (1) **Allowing dispensary-to-dispensary sales of cannabis or manufactured cannabis**
7 **products will increase DOH's regulatory burden.** Although this request would
8 support patient access in the event that a licensee suffers an unexpected disruption to their
9 supply chain, which impacted their supply, DOH remains concerned about the increased
10 regulatory burden required to monitor the additional transports. The licensees currently
11 average about 10 transports a week between their production centers and retail locations.
12 To ensure accountability for all cannabis and manufactured cannabis products
13 transported, DOH Surveyors: (1) review transport manifests documenting inventory type
14 and quantity transported, transport personnel, vehicle used, route taken, and estimated
15 duration, (2) review video surveillance of licensee packing, loading, unloading, and
16 unpacking of the transport containers; and (3) conduct investigations anytime an
17 inventory discrepancy is identified. DOH will require additional Surveyor positions for
18 this increased regulatory activity. DOH appreciates the legislature's recognition of
19 product and patient safety concerns by the proposed amendment to section 329D-9(b).
- 20 (2) **Increasing the allowable number of production centers and retail dispensing**
21 **locations per licensee is not needed at this time and will increase DOH's regulatory**
22 **burden.** Only three (3) of the eight (8) licensees have used their current allotment of

1 production centers or retail dispensing locations. Also, only an average of 36% of
2 registered patients made purchases from dispensaries in 2020. Should additional patient
3 access be needed, DOH suggests reopening a solicitation for additional licensees instead.
4 DOH has existing authority to issue additional licenses based on patient need. Additional
5 licensees would create market pressure which could help to lower product costs. In either
6 case, DOH will require additional Surveyor positions and operational funds to provide
7 adequate regulatory oversight of additional licensees or facilities. DOH inspects each
8 licensed facility at least once every eight (8) weeks. The existing two (2) Surveyor
9 positions are already inadequate for the current 26 facilities and another 5 facilities are
10 planned for this year.

11 **(3) Limitations on caregiver cultivation comports with Patient Registry data.** DOH

12 SUPPORTS the proposed amendment to section 329-130(a) to limit caregiver cultivation
13 after December 31, 2021. According to patient registry data as of January 31, 2021, 94.4%
14 of registered patients have expressed their intent to cultivate cannabis for and by themselves.
15 Therefore, restricting caregivers' authorization to grow cannabis on islands with dispensaries
16 will impact only 5.6 % of registered patients. Caregivers of qualifying patients who are
17 minors or an adult lacking legal capacity, as well as caregivers of qualifying patients on
18 Molokai and Lanai will maintain their ability to cultivate for these patients. DOH recognizes
19 that barriers to access regulated and tested cannabis and manufactured cannabis products via
20 licensed dispensaries exist and home cultivation will remain an option for patients.

21 **(4) Limitations on patient and caregiver cultivation will address DOH concerns related to**
22 **large, unregulated cannabis cultivation sites under the guise of home cultivation.** DOH

1 SUPPORTS the proposed amendment to section 329-130(a) to limit the number of patients
2 and caregivers that can register to a single cultivation site. This will allow no more than
3 twenty (20) plants to be grown at a single site and will address existing large, unregulated
4 cultivation sites. There are currently 98 sites that are registered to between 5-30 patients
5 which could maintain 50-300 plants and at least one site registered to 409 patients, a potential
6 of 4,090 plants. According to patient registry data as of January 31, 2021, this limitation will
7 impact only about 12% of registered patients. DOH has received ongoing and numerous
8 complaints from both patients and the public regarding uncontrolled cultivations under the
9 guise of home cultivation. These include: patients reporting that they felt coerced into
10 signing their “growing rights” over to collectives; medical providers reporting that “growers”
11 were soliciting patients outside their office offering to reimburse patients for the cost of their
12 medical use certification in exchange for their “growing rights;” patients without designated
13 caregivers being asked to provide “growers” with their driver’s license; property
14 management companies requesting DOH to stop authorizing certain grow sites for cultivation
15 of cannabis in contravention to lease agreements; and noxious smells of cannabis plants.

16 **(5) Clarification of DOH authority to verify compliance or request assistance with**
17 **verifying compliance with registered grow sites requirements.** DOH SUPPORTS the
18 proposed amendment to section 329-130(a) to explicitly state that DOH, or law enforcement
19 upon request by DOH, may make administrative inspections of registered grow sites.
20 Although existing authority was present, this amendment will minimize any confusion
21 regarding the authority to enforce compliance moving forward.

1 (6) **Clarification that dispensary-to-dispensary sales transports are limited to licensees on**
2 **the same island at this time.** DOH SUPPORTS the proposed amendments to section 329-
3 122(f) to clarify that until such time as federal law permits interisland transport of cannabis
4 and manufactured cannabis products, any transport for the purpose of dispensary-to-
5 dispensary sales is limited to licensees located on the same island.

6 (7) **Clarification that interisland transport related to laboratory testing is permissible only**
7 **if no certified testing laboratory is located on the same island as the dispensary whose**
8 **product is being tested.** DOH SUPPORTS the proposed amendment to 329D-6(m) to
9 clarify that interisland transport of cannabis and manufactured cannabis products for the
10 purpose of mandatory laboratory testing is permitted only if no certified laboratory is located
11 in the county or on the island where the dispensary is located.

12 **Offered Amendments and Alternate Language:**

13 To support DOH need for additional resources to maintain regulatory oversight over the licensed
14 dispensaries, **DOH requests the following amendments to H.B. 477 H.D.2:**

15 **Section 329D-4 Medical cannabis dispensaries; license application procedure and**
16 **certification; fees.**

17 (c) A nonrefundable application fee [~~of \$5,000~~] for each license application shall be
18 submitted to the department by certified or cashier's check. Within seven days of
19 approval, a dispensary license fee [~~of \$75,000~~] for each license shall be submitted to the
20 department by certified of cashier's check or the department shall issue a license to the
21 next qualified applicant.

1 (n) A dispensary license may be renewed annually by payment of an annual renewal fee
2 [~~of \$50,000~~] and subject to verification by the department through an unannounced
3 inspection that the individual licensee and entity licensee continue to meet all licensing
4 requirements from the date the initial licenses were issued.

5 **Section 329D-7 Medical cannabis dispensaries rules.** The department shall establish
6 standards with respect to:

7 (2) A fee structure for the submission of applications and renewals of licenses to
8 dispensaries; [~~provided that the department shall consider the market conditions in each~~
9 ~~county in determining the license renewal fee amounts~~] a fee structure for the submission
10 of applications for each additional production center and each additional retail dispensing
11 location; provided that the department shall consider the market conditions in each
12 county in determining the license renewal fee amounts;

13 To clarify that administrative inspections include onsite inspections, **DOH requests the**
14 **following amendment (highlighted) to the proposed amendment of 329-130(a) in Section 3,**
15 **page 6, line 16:**

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

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

20 (2) By cultivating cannabis in an amount that does not exceed an adequate supply for the
21 qualifying patient, pursuant to section 329-122; provided that each location used to
22 cultivate cannabis shall be used by no more than [~~five~~] two qualifying patients; and

1 provided further that the department, or law enforcement upon the request of the
2 department, may make administrative inspections, including onsite inspections, of
3 registered grow sites to verify compliance with the requirements of this chapter pursuant
4 to authority under this chapter.

5 Should the committee decide to move forward with allowing dispensary-to-dispensary sales,

6 **DOH requests the following amendments to H.B. 477 H.D.2:**

7 Strike the proposed amendment to section 329D-6(n) on page 18, lines 3-4, referring to
8 dispensary-to-dispensary sales as unnecessary, and maintain the original language, “A
9 dispensary shall be prohibited from off-premises delivery of cannabis or manufactured
10 cannabis products to a qualifying patient, primary caregiver, qualifying out-of-state patient,
11 or caregiver of a qualifying out-of-state patient.

12 **Section 329D-7 Medical cannabis dispensaries rules.** The department shall establish
13 standards with respect to:

14 (2) A fee structure for the submission of applications and renewals of licenses to
15 dispensaries; [~~provided that the department shall consider the market conditions in each~~
16 ~~county in determining the license renewal fee amounts]~~ a fee structure for the submission
17 of applications for each additional production center and each additional retail dispensing
18 location; a fee structure for dispensary-to-dispensary sales; provided that the department
19 shall consider the market conditions in each county in determining the license renewal
20 fee amounts;

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



Akamai Cannabis Clinic
3615 Harding Ave, Suite 304
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TESTIMONY ON HOUSE BILL 477 HOUSE DRAFT 2
RELATING TO CANNABIS

By
Clifton Otto, MD

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair

Thursday, February 25, 2021; 1:00 PM
State Capitol, Videoconference

Thank you for the opportunity to COMMENT on this measure.

Hawaii's Medical Cannabis Program will never be successful as long as it must operate under the misconception that the state authorized use of cannabis for medical purposes in Hawaii violates federal law.

The federal Schedule I list is an administrative rule, not a law, and administrative rules do not pre-empt an authority reserved to the states by the U.S. Constitution to decide how controlled substances are used within the state.

Therefore, I respectfully recommend that the following statutory amendment be added to this bill to help end the current conflict with the federal regulation of marijuana:

SECTION 8b. The following section is added to read as follows:

"§329-132 Regarding the state authorized use of cannabis.

The department of health shall submit to the administrator of the United States Department of Justice, Drug Enforcement Administration, Diversion Control Division:

[1] An application for immediate relief pursuant to title 21 Code of Federal Regulations section 1307.03 to the Office of

Diversion Control. This application shall state that part IX of chapter 329, Hawaii Revised Statutes, and chapter 329D, Hawaii Revised Statutes, create an exemption from federal drug laws and do not create any positive conflict pursuant to title 21 United States Code Annotated section 903; and that the federal scheduling of marijuana does not apply to the state authorized use of cannabis. The application shall also include a proposed rule containing the following: "The listing of marijuana as a controlled substance does not apply to the state authorized use of marijuana, and persons using marijuana in compliance with state law are exempt from registration"; and

[2] A petition for permanent relief pursuant to title 21 Code of Federal Regulations section 1308.43. This petition shall state that part IX of chapter 329, Hawaii Revised Statutes, and chapter 329D, Hawaii Revised Statutes, create an exemption from federal drug laws and do not create any positive conflict pursuant to title 21 United States Code Annotated section 903; and that the federal scheduling of marijuana does not apply to the state authorized use of cannabis. The petition shall also include a proposed rule containing the following:

"The listing of marijuana as a controlled substance does not apply to the state authorized use of marijuana, and persons

using marijuana in compliance with state law are exempt from registration.""

Second, federal drug law already provides an exemption for the carriage of cannabis aboard aircraft if authorized under state law ([14 CFR 91.19](#)), so there is no reason to use language in this bill that ignores the impact that the state authorized use of cannabis in Hawaii has upon the federal regulation of marijuana, especially in an island state such as ours.

Therefore, I recommend the following amendment to this bill at page 3, line 11:

(4) Dispensaries as permitted by section 329D-6(r); with the understanding that federal drug law provides an exemption for the carriage of cannabis aboard aircraft if authorized under state law [~~provided that so long as federal law prohibits transportation of medical cannabis over a body of water, a selling dispensary may only sell and transport up to three thousand grams of cannabis or manufactured cannabis products to a purchasing dispensary located on the same island as the selling dispensary~~] ; or

Third, private patient collectives perform a vital function for patients who require organic cannabis medicine and who are unable to afford high dispensary prices, cannot maintain consistent treatment protocols using dispensary products that change frequently in their selection, have legitimate concerns about dispensary product safety, and cannot grow for themselves.

Instead of doing away with these collectives, they should be protected, and brought under proper regulatory control.

Therefore, I recommend the following amendment to this bill at page 7, line 9:

(2) By cultivating cannabis in an amount that does not exceed an adequate supply for the qualifying patient, pursuant to section 329-122; provided that each new location used to cultivate cannabis shall be used by no more than ~~[five]~~ ~~[two]~~ nine qualifying patients and that any existing locations shall be granted grandfather rights until location ownership changes or the location owner no longer wishes to continue; and provided further that the department ~~[,or law enforcement upon the request of the department,]~~ may make requests to location owners for administrative inspections of registered grow sites to verify compliance with the requirements of this chapter pursuant to authority under this chapter. ~~[After December 31, [2023,] 2021, no primary caregiver shall be authorized to cultivate cannabis for any qualifying patient.]”~~

Fourth, the problems we are facing with regards to dispensary and grow site regulation are not because of a lack of staffing. It is because the Health Resources Administration (HRA), where the Office of Medical Cannabis Control and Regulation (OMCCR) currently resides, does not have the experience or expertise necessary to provide adequate regulatory oversight. The Environmental Health Administration (EHA), which contains the Food Safety Branch, is the proper place for OMCCR.

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

“§329D-2.5 Office of medical cannabis control and regulation; established; duties. (a) There is established within the department the office of medical cannabis control and regulation, which shall report to the deputy director of environmental health administration effective September 1, 2021 [~~health resources administration~~].

Fifth, any changes to the dispensary statute will require new dispensary administrative rules, which need to be available for public comment. The Department of Health must adopt final dispensary rules as soon as possible to allow re-instatement of Chapter 91 administrative procedures.

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

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

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

(c) The department may amend the interim rules, and the amendments shall be exempt from chapters 91 and 201M, to

effectuate the purposes of this chapter; provided that any amended interim rules shall remain in effect until September 1, 2021 [~~July 1, 2025~~], or until rules are adopted pursuant to subsection (a), whichever occurs sooner.”

And finally, OMCCR is in desperate need of a Medical Cannabis Advisory Board to provide local scientific and medical expertise that can help guide department decision making on cannabis related issues.

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

§321-30.1 Medical cannabis registry and regulation special fund; established.

(a) There is established within the state treasury the medical cannabis registry and regulation special fund. The fund shall be expended at the discretion of the director of health:

(1) To establish and regulate a system of medical cannabis dispensaries in the State;

(2) To offset the cost of the processing and issuance of patient registry identification certificates and primary caregiver registration certificates;

(3) To fund positions and operating costs authorized by the legislature;

(4) To establish and manage a secure and confidential database;

(5) To fund public education as required by section 329D-26;

(6) To fund substance abuse prevention and education programs; and

(7) For any other expenditure necessary, consistent with this chapter and chapter 329D, to implement medical cannabis registry and regulation programs.

(8) To establish and fund a Medical Cannabis Advisory Board.

Thank you for considering these amendment recommendations.

Aloha.



To: Representative Sylvia Luke, Chair
Representative Ty Cullen, Vice-Chair
Members of the House Finance Committee

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

Re: **Testimony In Support of House Bill (HB) 477, House Draft (HD) 2**
RELATING TO CANNABIS

Authorizes the department of health to allow a licensed dispensary to purchase up to three thousand grams of medical cannabis or manufactured cannabis products from another licensed dispensary to ensure ongoing qualifying patient access. Increases the allowable number of production centers and retail dispensing locations per dispensary license. Places certain limits on where qualifying patients can obtain medical cannabis or manufactured cannabis products after 12/31/21. Prohibits primary caregivers from cultivating cannabis for qualifying patients after 12/31/21. Permits inspections of registered grow sites by department of health or law enforcement to verify compliance with cannabis plant limits for cultivation by qualifying patients. Limits dispensary-to-dispensary sales to those located on the same island, as long as federal law prohibits the transportation of medical cannabis over a body of water.

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

The Hawai'i Cannabis Industry Association, formerly known as the Hawai'i Educational Association for Therapeutic Health, represents all eight of the state's licensed medical cannabis dispensaries. HICIA **supports HB477, HD2** as an important bill for the dispensary industry in order to enhance the medical cannabis dispensary program with additional facilities to strengthen patient access, product controls and safety, and provide improvements to the administration of the program.

There are three main issues that this bill aims to change: **FIRST**, allow each licensee to increase the number of facilities currently allowed from two (2) production facilities and (2) two retail facilities; and **SECOND**, allow the Department of Health (DOH) to permit a licensee to sell and transport medical cannabis and medical cannabis products to another licensee and **THIRD** moves up the date from the end of 2023 to the end of this year in 2021 to no longer allow caregivers to grow cannabis on behalf of qualified patients.

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 **five** and increase the amount of production facilities from **two** to **four**. The dispensaries believe this is necessary to strengthen the legal cannabis industry and help secure a stronger position and footing, especially as it faces continued pressure from the illicit and completely unregulated (and untaxed) black market. According to New Frontier Data, the dispensaries provided only 5.2% of the total cannabis consumed in Hawaii in 2020 which means 95% was provided by the illicit market. Another data platform, BDSA Analytics, estimated the illicit market in Hawaii to be approximately 10x the size of the legal medical market in 2020. 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 our footprint to be able to provide clean, tested, safe, regulated (and taxed) cannabis medicine.

Some licensees have built out all 3 retail locations, and still have underserved patient populations, such as Big Island. Although some licensees have yet to build out their maximum allotted retail locations (due to various different circumstances such as which island the license operates on, business plan considerations, and patient population location), the licensees are in agreement that additional retail facilities will help increase 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.

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).



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

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

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

SALES BETWEEN LICENSEES

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

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

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

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



Therefore, we had proposed amendments, and are pleased to see that the prior committee adopted language that prohibits interisland transport only as long as it continues to be prohibited by federal law.

In fact, the law on transport appears to be uncertain. See the following article in the Boston Globe.

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

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

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, as reflected in current language above, has a limit on transport from a dispensary to a dispensary of 3,000 grams of product. 3,000 grams for manufactured products is reasonable, however, 3,000 grams of cannabis would not be enough to satisfy flower demand for some dispensaries for a day. The current law allows patients to receive 4 oz (113 grams) every 15 days for a total of 8 oz (226 grams) per 30 days. 3,000 grams of flower would essentially satisfy the demand of only 13 patients equivalent to less than 1% of any dispensary’s patient base. We would respectfully request that the Committee increase this to **45,560 grams (1600 ounces or 100 lbs)**. A 100lb limit would allow dispensaries to ensure that in the case of crop failure or other

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

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

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



foreseeable circumstance that devastates or eliminates an entire cannabis crop for a dispensary, they are still able to serve a total of 200 patients for 30 days.

Thank you for the opportunity to testify.



To: Representative Sylvia Luke, Chair
Representative Ty Cullen, Vice-Chair
Members of the House Finance Committee

Fr: Casey Rothstein, President, COO, Green Aloha Ltd.

Re: **Testimony In Support of House Bill (HB) 477, House Draft (HD) 2**
RELATING TO CANNABIS

Authorizes the department of health to allow a licensed dispensary to purchase up to three thousand grams of medical cannabis or manufactured cannabis products from another licensed dispensary to ensure ongoing qualifying patient access. Increases the allowable number of production centers and retail dispensing locations per dispensary license. Places certain limits on where qualifying patients can obtain medical cannabis or manufactured cannabis products after 12/31/21. Prohibits primary caregivers from cultivating cannabis for qualifying patients after 12/31/21. Permits inspections of registered grow sites by department of health or law enforcement to verify compliance with cannabis plant limits for cultivation by qualifying patients. Limits dispensary-to-dispensary sales to those located on the same island, as long as federal law prohibits the transportation of medical cannabis over a body of water.

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

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

There is a need to expand patient access to regulated cannabis. This is a consumer safety issue first and foremost. It is an undeniable fact that recreational cannabis is already in Hawaii, and has been for a long time. It is called the illicit market and it is flourishing. No license is required. It is completely unregulated, and untaxed with an unlimited number of grow sites and dispensing locations. There are no annual fees or audits, **no product testing requirements**, and absolutely no accountability or oversight from any State agency. HB477 will strengthen the legal cannabis industry by securing a stronger position and footing, especially as it faces continued pressure from the illicit and completely unregulated and untaxed black and gray cannabis market.

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



regulated (and taxed) cannabis medicine to our island community at a price that can compete with the black market.

PRODUCTION

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

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

RETAIL

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

We understand that this industry can be controversial and the conversation around cannabis in Hawaii is one that holds varying different opinions. But if there is one thing everyone can agree on with this topic it is: the cannabis illicit market in Hawaii is thriving in every community. Unregulated, untaxed, and untested products are being sold. What we are proposing and asking here today, is a reasonable expansion of the current LEGAL program that is providing the highest standard of quality and clean medicine to registered medical patients. The State of



Hawaii was a leader in the entire nation agreeing 20 years ago that cannabis has very real and tangible medicinal purposes. They solidified this by implementing our law in the year 2000 allowing medical cannabis in our state. We are now here in 2021 still trying to find ways to ensure that the ones who need this medicine receive the best medicine they can get in our state.

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



To: Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice-Chair
Members of the House Committee on Finance

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

Re: **Testimony In Support of HB477, House Draft (HD) 2**
RELATING TO CANNABIS

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

Dear Chair Luke, Vice-Chair Ty J.K. Cullen, and Members of the Committee:

Big Island Grown Dispensaries is one of eight dispensary licensees in the State. We operate a production facility and 3 retail locations on the Big Island of Hawaii. Our medical cannabis operation currently employs 60+ Big Island residents. We submit testimony today in **support of HB477 HD2. HB477 is an important bill for the legal cannabis industry in order to reinforce the medical cannabis dispensary program and legal infrastructure with additional facilities to strengthen patient access to clean, tested, safe cannabis medicine through regulated channels.**

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

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

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

PRODUCTION

One size does not fit all.

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

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



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

While there are some licensees not able to meet demand with the current allowable production, there are others able to scale up to assist within the current system. For example, Big Island Grown currently supplies greater than 20% of total cannabis weight in the State across all product categories sold in the dispensary system using only 25% of our allotted production capability (50% of one production facility in operations). This means we are able to scale up to a 4x minimum to meet wholesale needs of other licenses.

RETAIL

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

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

Delivery was a proposed solution last session, but met with resistance, so we respectfully request your support with this measure.

INTER ISLAND WHOLESALE BETWEEN LICENSEES

The foundation for a thriving medical program stimulated and fed by a diverse pipeline of products available to patients across the State. This is the single most important provision the industry needs. It is basic infrastructure that every successful cannabis program in the country has.

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. **Until lawmakers, regulators, and others are ready for program expansion wholesale can bridge this gap and provide regulated, tested, taxed products to patients across the State.**

All sales and purchases of cannabis and manufactured cannabis products would fall under the same regulations we operate under, and be subject to the data collection and reporting requirements of the computer software tracking system outlined in section 329D-6(j). We support the ability of the selling



dispensary to transport cannabis or manufactured cannabis products to another county or another island, for the limited purpose of completing its sale to the purchasing dispensary. The bill also proposes to authorize intrastate transport for this purpose. Please refer to 14 CFR 91.19(b) below to support this provision in this bill.

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

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

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

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

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

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

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

SEEDS & CLONES (removed)

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

Please reconsider adding a seed and clones provision back to this bill, especially in light of current language in the HD2 version of this bill (see below).

SECTION 3. Section 329-130, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

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

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



Seeds and clones would be even more important to offer patients as an option. Offering seeds and clones through the dispensary system would benefit patients that will ultimately choose to grow for themselves for a number of reasons including geographical distance, financial, or cultural. We seek the ability to provide safe and proven genetics to this group of 329 cardholders by dispensing proven phenotyped clones that are clean and tested. This enables a patient to obtain strains with the medicinal properties for which they are seeking while minimizing the risk of unwanted pests and pathogens, such as powdery mildew, from being introduced into a home grow environment.

Thank you for the opportunity to testify.

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



Dedicated to safe, responsible, humane and effective drug policies since 1993

TESTIMONY IN OPPOSITION TO HB 477, HD 2

TO: Chair Luke, Vice Chair Cullen & House Finance Committee Members

FROM: Nikos Leverenz
DPFH Board President

DATE: February 25, 2021 (1:00 PM)

Drug Policy Forum of Hawai'i (DPFH) is **opposed** to HB 477, HD 2, on the basis that it accelerates the sunset date authorizing the production and distribution of medical cannabis by primary caregivers, which should be eliminated, from December 31, 2023 to the end of this calendar year; limits the number of plants a caregiver may cultivate for a patient; limits the number of patients a care provider from five to two; and authorizes law enforcement to “make administrative inspections of registered grow sites.”

The Legislature should prioritize the interests of those patients who are better able to access needed medical cannabis through a care provider, including the elderly, disabled, those who live in rural areas, and those of little or no economic means.

The continued economic downturn due to ongoing COVID-19 pandemic has hit working families and those with limited incomes especially hard. **This bill will substantially worsen the situation of many elderly and rural patients by limiting and then precluding them from accessing needed medical cannabis from a care provider.** Many care providers are known to patients, can grow cultivars that work best for a given patient over time, and can provide delivery to those who have limited mobility due to disability or lack of adequate transportation.

Kupuna who are situated in rural areas of the state like Puna, Pāhala, Ocean View, Hāna and other areas on Maui not near Kahului, areas on Kaua'i not near Kapa'a, and even the Westside and North Shore of O'ahu would be placed at a significant disadvantage based solely on geography. Even with public transportation, which is limited on the Neighbor Islands, many kupuna are unable to get around their islands with ease.

When the limited economic means and chronic pain faced by many rural patients are also considered the restrictions provided in this bill would effectively end their access to legal medical cannabis through a care provider at the end of this calendar year.

This kind of exclusion will provide an incentive for these impacted patients to allow their registrations to expire and participate in a shadow market totally beyond the purview of law, placing them at risk of arrest, prosecution, and incarceration.

The Department of Health (DOH) should have adequate staff resources to make inspections of non-dispensary grow sites. The Legislature should not provide DOH with the authority to trigger the use of state or local law enforcement in these inspections as it is unwarranted and effectively lays the groundwork for the increased criminalization of medical cannabis.

With the Legislature recently facilitating access to dispensaries by out-of-state medical cannabis patients, which DPFH supports, it would be most unfortunate if Hawaii's medical cannabis landscape was unduly altered to shortchange the needs of its most vulnerable local patients.

DPFH strongly supports those provisions of the bill that allow dispensary-to-dispensary sales of cannabis and manufactured cannabis products as this will allow patients who are able to access dispensaries greater regular access to a variety of cultivars at any given point in time.

Thank you for the opportunity to testify on this measure.

Hawaii Patients Union

Hawaii Patients Union | 18-1350 Volcano Rd, #303 Mountain View, HI 96771

TESTIMONY ON H.B. NO. 477 H.D. 2 RELATING TO CONTROLLED SUBSTANCES

Senate Finance Committee
Senator Sylvia Luke, Chair
Senator Ty J.K. Cullen, Vice Chair
Thursday, February 25, 2021 1:00pm

On Behalf of Patients Who Rely on Medical Cannabis and Members of the Hawaii Patients Union We Are Calling For Strong Opposition To H.B. NO. 477 H.D. 2 and it's companion, S.B. NO. 1332 S.D. 1.

Aloha Chair Luke, Vice Chair Cullin and members of the committee. Thank you for accepting our testimony in Opposition of H.B. NO. 477 H.D. 2.

According to the Department of Health(DOH), **64% of Cannabis purchases occur outside of retail dispensaries.** This bill would in section 3 "**Prohibit primary caregivers from cultivating cannabis for a qualifying patient after December 31, 2021;**"

Yet 2,607 licensed Cannabis caregivers plant, cultivate, harvest, process and give/trade medicine to patients. Hundreds of registered doctors and nurses support their efforts by recommending Cannabis to treat Cannabis-treatable diseases. This growing, empathetic and compassionate medical community works together for patient healthcare.

18,945 patients in our state have legally registered grow sites while 9,525 patients do not report a grow site. Trading among patients is the primary legal activity making medicine available to 64% of patients. Trading is a legal activity and necessity to keep prices affordable in Hawaii.

If this finance committee wants to understand the market forces of Cannabis regulation, look to other states that have legalized Cannabis. For example, when California. Upon legalization in January 2018 the registered grower population rose to over 50,000. Since that time the database has shrunk to 9,000 growers. Some ([estimate 2,592](#)) nearly the same number of licensed California growers as Hawaii caregivers. We can expect a similar drop in licensed patients if a patient

license does not allow growing. California is now moving away from heavy regulations while Hawaii moves towards increased regulation and now incarcerations.

A majority of patients we speak to believe that growing Cannabis is a God given right. Continued misunderstanding of natural law will not help patients heal in our communities. Please try to understand the correlation between criminalizing multi-generational growers and social consequences. Families who trade Cannabis may be less likely to rely on social programs. But families are broken by long, expensive court proceedings and prison sentences.

This is not the time to increase costs in our public defender's offices, courthouses or swat teams on drug raids. Unless this committee already realizes the implications of increasing budgets only to have them over-budgeted when the federal government legalizes Cannabis.

Section 4 of this bill "would limit where qualifying patients can obtain medical cannabis or manufactured cannabis products after December 31, 2021;"

When patients need to reduce pain and do not have money to buy Cannabis they buy alcohol, opioids and meth. Opioids, meth, alcohol and Cannabis are competitive commodities for reducing pain. Please refer to federal reports ([1](#) and [2](#)) on the last Hawaii meth epidemic to understand how HB477 could bolster this deadly, continued scenario ([3](#)).

Our home markets have survived natural disasters and a continued war on drugs. Make no mistake, your committee is engaged in one such battle that cannot be won through regulation.

The reason 64% of Cannabis purchases happen outside a dispensary is due to extremely competitive and mature market pricing structures. The home market extends lines of credit, offers more appropriate strains and naturally supports those most in need. Shutting down 64% of our emerging Cannabis economy would be an interesting action by a finance committee.

State regulations have overburdened dispensary investors. This leaves pricing mechanisms, safety reductions and lobbying as their only method to become profitable. Our market once settled is reducing in size in proportion to population data. Allowing dispensaries to segment into growing and retail operations will not create more local customers. Tourists are the primary market for dispensaries. When tourism normalizes, 8%-10% of them will buy from a

dispensary. While on vacation, their debilitating conditions will be eased on a beach at any price.

State regulations already cause patients to drive through military bases, national parks and other federal jurisdictions to obtain medicine at dispensaries. The cost of licensing, HIPAA violations and other privacy concerns are enough burden to reduce participation. We predict that licensed patient numbers will decline in direct proportion to the number of patients who only have a license so they can legally grow at home. They won't stop growing because you said so. No state committee will stop a neighbor from helping another neighbor obtain Cannabis. But you can criminalize their plant growing activity.

Our members have expressed the need for clarification of the state's intent on resolving the federal conflict between federal and state laws. Some very powerful federal employees suggest they will leave the state to successfully regulate Cannabis. But when the state of Hawaii sends multiple federal agencies to our homes to arrest us we lose trust in government. Many in our patient community believe the state collected their medical records (PHI) and intent to grow in the same record (PHR) so arrests could be made later. We would like to note that a state policy provides this mechanism, not an intention.

Please know that the collection and dissemination of private health records was disclosed to the Hawaii Tribune Herald by law enforcement in the past. The Department of Health already provides this information to law enforcement. Should the state criminalize this activity after requiring disclosure, patients will pursue every option available to prevent the state from this abuse of power.

So in section 5 the state would "**Authorize the department of health or law enforcement, upon the request of the department, to conduct administrative inspections of registered grow sites to ensure compliance with cannabis plant limits;**" we know this means incarceration. Having failed to properly set rules as required has now resulted in laws on top of laws that no one understands. Especially not patients. We have more on our minds than prison.

**We need to prepare for legalization, not incarceration.
Please vote no on H.B. NO. 477 H.D. 2**

With and on behalf of patients, their caregivers and families across Hawaii we appreciate the ability to submit testimony to your Committee.

HB-477-HD-2

Submitted on: 2/24/2021 9:15:32 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tai Cheng	Aloha Green Holdings Inc.	Support	No

Comments:

We support passage of this omnibus bill and its efforts to improve the current medical cannabis program in Hawaii.

HB-477-HD-2

Submitted on: 2/23/2021 7:03:54 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Goljuch, Sr.	Individual	Support	No

Comments:

I support the passage of HB477.

HB-477-HD-2

Submitted on: 2/23/2021 11:10:47 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Paul Klink	Individual	Oppose	No

Comments:

As a full-time medical cannabis 329 patient advocate I am opposition of bill HB477 on my and on the behalf of the thousands of patients whom we also encourage/confirm to register and vote. THINK OF PATIENTS FlrsT!!!

HB-477-HD-2

Submitted on: 2/24/2021 4:46:33 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
kurt tsubota	Individual	Oppose	No

Comments:

I oppose HB477 mainly because i can't afford to buy my medicine from the dispenceries.

To: Committee on Finance
From: Jason Hanley

RE: HB477 (Comments)

Hearing: Thursday, February 25, 2021 at 1:00 p.m.
VIA VIDEOCONFERENCE/ Conference Room 308

Dear Rep. Sylvia Luke, Chair, Rep. Ty J.K. Cullen, Vice Chair and Members of the Committee,

I would like first like to thank the legislature for allowing me to submit testimony in regard to HB477. My name is Jason Hanley and I am a medical cannabis patient advocate in Hawaii. I provide lease property for medical patients to grow and process their own medical cannabis. I support parts of this bill but oppose others, so I would like to provide comment.

I oppose these portions of HB 477:

Limiting 329 cards to two per site. The leasing program or better know as a cooperative farm allows medical patients to grow their own 10 plants at a farm and work cooperatively with the landowner and other lessee to share the costs of growing cannabis for their own medical use.

Data we have collected at our farm has shown that most people in Hawaii do not have the space or means to grow their own medicine at home. Data collected at our farm also shows that most patients are consuming about 2-4 ounces a month of cannabis flower a month through various methods including edibles. The cost for a patient to buy this same flower from the dispensary would be approximately \$1,600.00 for four ounces and is unaffordable for the people who grow at our farm and most of the 20000 plus card holder in Hawaii. Each person is allowed 10 plants and can produce approximately 4 ounces a month, costing the lessee less than \$300 a month which is the cost of both the lease and growing materials.

Limiting the number of 329 cards at a grow site would put a lot of people in jeopardy with their health, as they heavily rely on these types of farms to grow their medical cannabis and treat symptoms such as depression, PTSD, etc. A lot of our lessees have removed themselves from pharmaceutical drugs and rely only on cannabis to treat their symptoms. I would employ the legislative body to reach out to myself and visit these farms to gain a better understanding of the needs of our 329 patients of Hawaii.

Limiting the number of cards to a grow site will put a large burden on dispensary owners at a risk of not having adequate supply to the thousands of people that would be forced to use the dispensaries if they cannot grow at a farm. As Hawaii moves forward in adopting new laws for a quick growing medical cannabis program, its is imperative to develop a program that takes care of the people.

Progressive cannabis states are learning from their mistake of limiting cards per site and now have thriving cannabis programs providing millions of tax dollars to help underfunded programs such as education, poverty relief, etc. These progressive **states have combined dispensaries and cooperative farms** to meet both the patients needs and the supply and demand needed for a future recreation market.

I also oppose using law enforcement to conduct compliance checks at 329 card holder sites.

My farm has been visited by folks calling themselves “the executive branch” entering our property forcefully and with up to TEN, m16 (gun) wielding officers—wearing bullet-proof vests inspecting us as helicopters surrounding the area. We are treated as if we are criminals instead of professional people following the laws. The enforcers provide no identification, no articles documenting their visit or removal of any plants.

The first time we we were visited it was called a “narcotics investigation” with the officers not following up with DOH to know our farm is a medical grow site. This type of entry into a farm by unidentified law enforcement is both invasive and dangerous to the patients that grow at the farm. When questioned the officers it was very obvious, they are not educated in the compliance checks and are still postured as if they are busting a non-compliant pot grower.

They stayed for 2 hours and left without further incident when they found no violations.

I DO support the use of DOH inspectors to make sure farms with 329 cards are in compliance.

Thank you for giving me this opportunity to provide testimony on this important bill. I am humbled by this experience and excited to possibly help Hawaii develop a cannabis program that the world can look up too. This goal can be achieved and provide 1000’s of jobs to the people of Hawaii.

The data collected from other progressive cannabis states will make life easy for Hawaii to adopt a great working system. I’m am here to help and have over thirty years of growing experience and have 5 years of data on how cooperative farms help people.

Please feel free to email me with any question.

Mahalo

Jason Hanley
Oahu resident
Email. Tulip_548@hotmail.com

HB-477-HD-2

Submitted on: 2/24/2021 9:08:42 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Janet Vincenti	Individual	Oppose	No

Comments:

To The Honorable Scott K. Saiki;

I am a long-term medical cannabis patient. I am 66 (almost 67) years old and on Social Security, so my income is fixed. Longterm medical problems hampered a lifelong effort to dodge or delay many a prognosis, but I found cannabis treatment decades ago to be beneficial in ways other treatment was not. After blood cancer at the age of ten, and years of compromised health conditions as a result of that diagnosis and aggressive treatment, I retired from a lucrative legal nursing position after a stroke and an additional diagnosis of Multiple Sclerosis at 62. When *traditional medicine/treatment* becomes too restrictive, or too expensive, it leaves *alternative medicine/treatment* as the only viable option, When that fails, as a retired Addiction Treatment Nurse (RN) for four years on Oahu (for The Salvation Army, just off the Pali Hywy 2007-2011) I can attest to the fact that you will create a much larger problem of patients seeking treatment that exists outside those aforementioned choices. I am living proof that one can function within the parameters of both life and law for a good balance of functional ability and productivity... but take that away from medical cannabis patients and you are creating a perfect storm for power and money that will snuff out the ability for many to live a quality of life that is otherwise beyond reach. You will push treatment back onto the streets and patients towards illegal (and often cheaper) options. This current consideration is a big step backwards.

Having been a Hospice nurse as well, it is seems criminal to take a patient's right to have their appointed caregiver hold the same grow rights for obvious reasons. When a patient needs a caregiver, that speaks volumes, meaning they'll most likely are unable to tend to that right to grow their own medical cannabis as has existed and does so in many other states in our country. If someone needs a caregiver, they more than likely also need that same person to take over as the homegrown provider too. This is as much about palliative care as it is symptom management for functioning patients.

Some states are cannabis legal for recreational use, but my written testimony addresses the needs of a medical cannabis patient as only a nurse can attest to with validation (as well as other licensed medical professionals). Not only is this proposed bill going to push cannabis use underground again, it is criminalizing it

again too. It will also reduce the quality of life cannabis patients depend on to perform simple activities of daily living by putting the control into the hands of the suppliers. In the streets, that is known as the drug dealers. Be it suppliers or dealers, they are the ones who profit by these proposals for regulation which takes cannabis medicinal benefits away from any patient.

Pharmaceutical medication nearly killed me in 2019 and cannabis use is what has kept me alive and functioning, managing a host of symptoms that would otherwise reduce my right to live a dignified life with MS. Do not allow profits over patients please! This began as a simple cultivated plant of God's earth, but it has turned into politics, big business, and big profit. Shame on those pushing to roll back advancements made in the field of medical cannabis use back to the dark ages and criminality. Don't patients suffer enough without the suffocating regulations that then become law? Does a patient have to be on their deathbed to fully exercise their belief and rights to treatment options? Shouldn't this be about symptom management and quality of life? If not, then what is it really about?

These proceedings should stand on patients over profit and not the other way around. Big businesses have always profited from the compromised health of others and is why our healthcare system remains chronically crippled. History will remember the choices made here today. I hope the needs of the patients seeking a safer and affordable option to symptom management are addressed here today and that the voices of the patients are heard loud and clear. Our country is watching.

**Janet Vincenti, RN (Ret)
(808) 237-0253**

ON THE FOLLOWING MEASURE: HB477, HD2, RELATING TO CANNABIS

COMMITTEE ON FINANCE

DATE: Thursday, February 25, 2021, 2021 TIME: 1:00PM

TESTIFIER: Brian Goldstein

POSITION: STRONG SUPPORT WITH COMMENTS

Chair Luke, Vice Chair Cullen and Members of the Committee:

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

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

allow owners of firearms to access medical cannabis.

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

According to HPD Chief, Susan Ballard,

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

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

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

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

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

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

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

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

HB-477-HD-2

Submitted on: 2/24/2021 9:39:53 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
donn viviani	Individual	Comments	No

Comments:

There are parts of this Bill I strongly object to. Cannabis is recognized by Hawaii as a medicine. This bill puts obstacles in the way of patients having access to their medicine, and in some cases preventing access completely. The intention of the Bill can't be to separate your constituents into those who can afford their medication and those who can't. My specific objections are:

Limiting the number of growers on a site to 2, hampers efficiency, drives up costs and will limit supply. This is not the way to ensure ALL your constituents have affordable and accessible medication.

DOH alone should perform inspections, law enforcement serves a different purpose and should have no initial role unless there is criminal activity.

Primary caregivers should be allowed to cultivate, otherwise we again create two classes, those who are able and those who need assistance

I support allowing dispensaries to sell seeds and cuttings facilitating patients ability to affordably grow their medication.

I support dispensaries being allowed to increase the number of production and retail sites so they can grow a larger variety of plants to meet patient needs.

I have a medical cannabis card. I am lucky to be well-off enough to get my medication from a dispensary. I can fend for myself... some others can't. Please consider their needs as a priority in this Bill

Donn Viviani Kailua

HB-477-HD-2

Submitted on: 2/24/2021 11:05:59 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Derrick Fujikawa	Individual	Oppose	No

Comments:

By limiting the number of patient grow sites per property, it will limit patients from growing their own medicine if there are more than two patients living at the address. Also, how do patients that cannot grow at their property grow their own medicine? I have found that by growing my own medicine, I am able to personally select the medicine that works best for me. Also, I am able to grow organically in contrast to the dispensaries that do not grow organically. The dispensaries also have limited number of medicinal strains that do not always help my symptoms. I ask that you repeal this bill.

To: The Committee on Finance

From: Wendy Gibson-Viviani RN/BSN

RE: HB477 (**Comments**)

Hearing: Thursday, February 25, 2021 at 1:00 p.m. VIA Videoconference/ Conf. Room 308

Aloha Rep. Sylvia Luke, Chair, Rep. Ty J.K. Cullen, Vice Chair and Honorable Members of the Committee,

My name is Wendy Gibson-Viviani. I am an active member of the American Cannabis Nurses Association and Cannabis Nurses Network, a Cannabis Nurse Educator and a medical cannabis patient advocate. I have worked as a healthcare professional in Hawai'i for 28 years. I was an alternate member on the HCR48 Task Force, tasked with developing recommendations for the establishment of a regulated statewide dispensary system for medical cannabis---which led to HB321 and ACT241.

While I support the parts of HB477 that improve the medical cannabis dispensaries, I object to the parts of this bill which I feel are potentially damaging to a good portion of the more than 30,000 patients in the patient registry—those who have chosen to grow their own plants.

I support allowing dispensaries to sell seeds (propagules) and cuttings as this could benefit patients who grow-their-own. I agree that the dispensaries should be allowed to increase the number of production and retail sites so they can grow a larger variety of plants to meet patient needs. Now that edibles are allowed, the dispensaries will need to grow more plants.

I absolutely **OBJECT** to the amendments that prohibit primary caregivers from cultivating cannabis after December 31, 2021. The original date for phasing out some and **NOT ALL** caregiver-growers was in 2023. Moving this date ahead by 2 years does not give patients or caregivers time to make the necessary adjustments to find new ways to grow their medicines.

Exceptions must be made to allow for some primary caregiver-growers for those who cannot grow for themselves. Examples include: patients who are children; the elderly; those who do not live on an island with a dispensary; those who live too far away to access dispensaries (who do not deliver) and those who cannot afford dispensary products.

I also OBJECT to authorizing Law enforcement assisted administrative inspections of registered grow sites for the purposes of verifying compliance. Patients report that past practice of law enforcement “inspections” means that a team of militarized, armed “Inspectors” show up for a SWAT-team style inspection. This is frightening to patients. The DOH will have to find better ways to conduct their inspections that do not include this style of inspection. This is not good for instilling trust in law enforcement and could lead to distrust of the DOH.

Cannabis is recognized as a medicine and patients are supposed to be treated as well as any other patient population. Allowing law enforcement to inspect a patient's medicines is wrong.

Law enforcement is not currently allowed to follow patients home from the pharmacy to count their pills to ensure they are in compliance with how much medicine they are allowed to have in their possession. And, they certainly should not be allowed to do it SWAT-team style.

I object to the REQUIREMENT that patients purchase their medicines from a licensed dispensary or grow on a site that **limits the number of growers to TWO**. This requirement will limit access to medicines that are currently WORKING for patients.

Currently, hundreds of patients lease plots at community-style grow sites. Allowing more growers per site allows for the cultivation of multiple types of cannabis. Cannabis is NOT a one-size, one-cultivar-fits-all plant. One type may be more useful for producing sleep, while another might be more useful for reducing anxiety or pain. Limiting the number of cards per grow site will limit access to hundreds if not thousands of patients. Patients can share their medicines with other patients at the site, ensuring an ongoing supply if someone's crop fails. Passing this bill will criminalize patients who are growing on sites that have stacked more than 2 cards—effective December 31, 2021.

The Federal government (DOJ) is currently prohibited from spending money on enforcement that interferes with State implementation of laws authorizing the use of medical marijuana. You will effectively strip patients of protections from prosecution---by making their grow site illegal.

Restricting a patient (or caregiver's) ability to stack cards is contrary to the original INTENTION of the bill that authorized a medical cannabis program in Hawaii—which is to improve patient access to quality medicines. I fought hard to help pass HB321 (ACT241) to allow for a dispensary system in Hawaii. I did not do so that dispensaries could plow down patient grow sites.

Patients and caregivers need to be able to continue to produce the quality medicines they know work for them. And, they can have them lab-tested for purity and strength—just as dispensaries can—if they question the quality. Requiring that patients purchase their medicines from a licensed dispensary is probably unconstitutional. It seems to me the equivalent of demanding that patients buy certain prescription medications from a CVS pharmacy. Many patients cannot afford dispensary medicines—which are expensive because of the massive over-regulation which makes production costly.

Please allow dispensary licensees to improve their services and increase production. Please do not allow reducing patient access to their medicines.

Thank you for the opportunity to provide comments on HB477.

Wendy Gibson-Viviani RN/BSN, Cannabis Nurse Educator
Member: American Cannabis Nurses Association and Cannabis Nurses Network

Kailua

To: Committee on Finance
From: Devin Funchess

RE: HB477 (Comments)

Hearing: Thursday, February 25, 2021 at 1:00 p.m.
VIA VIDEOCONFERENCE/ Conference Room 308

Dear Rep. Sylvia Luke, Chair, Rep. Ty J.K. Cullen, Vice Chair and Members of the Committee,

I would like first like to thank the legislature for allowing me to submit testimony in regard to HB477. My name is Jason Hanley and I am a medical cannabis patient advocate in Hawaii. I provide lease property for medical patients to grow and process their own medical cannabis. I support parts of this bill but oppose others, so I would like to provide comment.

I oppose these portions of HB 477:

Limiting 329 cards to two per site. The leasing program or better know as a cooperative farm allows medical patients to grow their own 10 plants at a farm and work cooperatively with the landowner and other lessee to share the costs of growing cannabis for their own medical use.

Data we have collected at our farm has shown that most people in Hawaii do not have the space or means to grow their own medicine at home. Data collected at our farm also shows that most patients are consuming about 2-4 ounces a month of cannabis flower a month through various methods including edibles. The cost for a patient to buy this same flower from the dispensary would be approximately \$1,600.00 for four ounces and is unaffordable for the people who grow at our farm and most of the 20000 plus card holder in Hawaii. Each person is allowed 10 plants and can produce approximately 4 ounces a month, costing the lessee less than \$300 a month which is the cost of both the lease and growing materials.

Limiting the number of 329 cards at a grow site would put a lot of people in jeopardy with their health, as they heavily rely on these types of farms to grow their medical cannabis and treat symptoms such as depression, PTSD, etc. A lot of our lessees have removed themselves from pharmaceutical drugs and rely only on cannabis to treat their symptoms. I would employ the legislative body to reach out to myself and visit these farms to gain a better understanding of the needs of our 329 patients of Hawaii.

Limiting the number of cards to a grow site will put a large burden on dispensary owners at a risk of not having adequate supply to the thousands of people that would be forced to use the dispensaries if they cannot grow at a farm. As Hawaii moves forward in adopting new laws for a quick growing medical cannabis program, its is imperative to develop a program that takes care of the people.

Progressive cannabis states are learning from their mistake of limiting cards per site and now have thriving cannabis programs providing millions of tax dollars to help underfunded programs such as education, poverty relief, etc. These progressive **states have combined dispensaries and cooperative farms** to meet both the patients needs and the supply and demand needed for a future recreation market.

I also oppose using law enforcement to conduct compliance checks at 329 card holder sites.

My farm has been visited by folks calling themselves “the executive branch” entering our property forcefully and with up to TEN, m16 (gun) wielding officers—wearing bullet-proof vests inspecting us as helicopters surrounding the area. We are treated as if we are criminals instead of professional people following the laws. The enforcers provide no identification, no articles documenting their visit or removal of any plants.

The first time we were visited it was called a “narcotics investigation” with the officers not following up with DOH to know our farm is a medical grow site. This type of entry into a farm by unidentified law enforcement is both invasive and dangerous to the patients that grow at the farm. When questioned the officers it was very obvious, they are not educated in the compliance checks and are still postured as if they are busting a non-compliant pot grower.

They stayed for 2 hours and left without further incident when they found no violations.

I DO support the use of DOH inspectors to make sure farms with 329 cards are in compliance.

Thank you for giving me this opportunity to provide testimony on this important bill. I am humbled by this experience and excited to possibly help Hawaii develop a cannabis program that the world can look up too. This goal can be achieved and provide 1000’s of jobs to the people of Hawaii.

The data collected from other progressive cannabis states will make life easy for Hawaii to adopt a great working system. I’m am here to help and have over thirty years of growing experience and have 5 years of data on how cooperative farms help people.

Please feel free to email me with any question.

Mahalo

Devin Funchess
Waianae resident
Email: funchessdevin@gmail.com

HB-477-HD-2

Submitted on: 2/24/2021 4:15:12 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mahealani Malepeai	Individual	Oppose	No

Comments:

I strongly oppose HB477. I am in opposition of (1) Authorize the department of health to allow a licensed dispensary to purchase up to three thousand grams of medical cannabis or manufactured cannabis products from another licensed dispensary located on the same island to ensure ongoing qualifying patient access; specially. Why not stimulate our local economy and allow local farmers licenses for this gap in supply. I am also in opposition of (4) Places certain limits on where qualifying patients can obtain medical cannabis or manufactured cannabis products after December 31, 2021; Patient rights matter. This would not ensure qualified patients access and adequate supply. I feel that forcing patients to pay high dispensary prices and limit medical use methods to dispensary supply is not fair to the person.

HB-477-HD-2

Submitted on: 2/24/2021 5:03:22 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Thaddeus Pham	Individual	Support	No

Comments:

Aloha Finance Committee,

I support this measure.

Mahalo,

Thaddeus Pham (he/him)

HB-477-HD-2

Submitted on: 2/24/2021 5:38:34 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
tianna johnson	Individual	Oppose	No

Comments:

I oppose bill HB477HD2