



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

**Testimony in SUPPORT of S.B. 3356
RELATING TO MEDICAL CANNABIS.**

SENATOR JARRETT KEOHOKALOOLE, CHAIR
SENATE COMMITTEE ON HEALTH

Hearing Date: Wednesday, February 9, 2022

Room Number: Video Conf.

1 **Fiscal Implications:** None.

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

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

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

1 **Offered Amendments:** Beginning on page 1 line 15 and continuing through page 4 line 10:

2 SECTION 2. Section 329D-6, Hawaii Revised Statutes, is amended by amending subsection (n)
3 and inserting a new subsection (o) to read as follows and renumbering the following subsections:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 ~~(o) The department is authorized to allow a dispensary to dispense cannabis or~~
22 ~~manufactured cannabis products to a qualifying in-state patient or in-state primary caregiver of a~~

1 qualifying in-state patient outside of the dispensary's retail store building but on the dispensary's
2 premises. The department shall promulgate a written policy and procedure detailing the
3 circumstances for which on-premises dispensing may be allowed and any dispensing
4 requirements."



To: Senator Jarrett Keohokalole, Chair
Senator Rosalyn Baker, Vice-Chair
Members of the Senate Health Committee

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

Re: **Testimony In Support on Senate Bill (HB) 3356**

RELATING TO CANNABIS

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

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

The Hawai'i Cannabis Industry Association is the trade association for the state's licensed medical cannabis dispensaries. HICIA **supports SB3356** which will provide a limited expansion for patients to receive their medical cannabis or manufactured cannabis products in a safe and secure alternative to entering the retail dispensary.

During the pandemic, it became essential for dispensaries to provide additional safety protocols and protective equipment/barriers to ensure social distancing, as well as change the procedures for patients to access the retail facility and how many patients can be in the same area. Many patients, even if in full protective gear and safety protocols, still felt anxious coming into the retail area and risking any exposure as some of them suffer from the high-risk illnesses or even have diagnosed anxiety.

As such, this bill proposes to allow patients to obtain their medical cannabis by staying in their vehicle and having their online, electronic or telephone orders delivered to them without having to leave the safety of their own vehicle. Security requirements, identification verification and designated pick-up areas monitored by camera help ensure dispensaries will only deliver the pre-ordered allowed cannabis to be hand delivered to the actual patient.

Even when the pandemic ends, we still see this as a viable alternative for many patients suffering from a debilitating condition that makes walking to and from the retail facility difficult.

Finally, all protocols, processes and delivery area will be subject to Department of Health approval and inspection. As such, the DOH will have the discretion to ensure that this is done in a safe and secure manner.

Hawai'i Cannabis Industry Association (HICIA)
220 S King St #1600, Honolulu, HI 96813
www.808hicia.com



Thank you for the opportunity to testify.

Hawai'i Cannabis Industry Association (HICIA)
220 S King St #1600, Honolulu, HI 96813
www.808hicia.com

SB-3356

Submitted on: 2/6/2022 11:04:30 PM

Testimony for HTH on 2/9/2022 1:35:00 PM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|--------------|---|--------------------|----------------------------|
| DeVaughn | Testifying for Marijuana Policy Project | Support | Yes |

Comments:

Dear Chair Keohokalole, Vice Chair Baker and Members of the Health Committee:

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

MPP supports SB3356. SB3356 would allow curbside delivery for medical cannabis patients. Since the pandemic began in 2020, every state with an operational medical cannabis program has allowed curbside delivery, with the exception of Hawaii, Arkansas, Louisiana and North Dakota.

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

We urge the committee to support this measure.

Sincerely,

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

Senior Legislative Counsel

Marijuana Policy Project

Honolulu, HI

(808) 445-6229

dward@mpp.org



February 8, 2022

To: Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair
Members of the Senate Committee on Health

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

Re: **TESTIMONY IN SUPPORT OF SENATE BILL 3356**

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

MGT supports Senate Bill 3356 authorizing the Department of Health to approve in-vehicle receipt of medical cannabis products by licensed dispensaries. The biosecurity protocols MGT implemented in consultation with the Department in 2020 in response to the COVID-19 pandemic informed the need for this measure.

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

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

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

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

SB 3356 will give the Department the tools that are desperately needed to help licensed dispensaries protect the health and welfare of our registered patients and front line employees in these treacherous times. We therefore urge your favorable consideration of SB3356.

Mahalo.

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



August 6, 2020

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

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

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

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

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

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

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

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

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

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



Dispensary Personnel Require Additional Protection

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

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

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

Requested Waiver to Regulation Relevant to Curbside Pickup:

HAR§11-850-33 Retail dispensing locations.

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

Timely Approval is Requested

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

DAVID Y. IGE
GOVERNOR OF HAWAII



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

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

In reply, please refer to:
File:

October 14, 2020

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

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

Aloha Dr. Park,

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

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

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

Sincerely,

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

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

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

SB-3356

Submitted on: 2/8/2022 8:30:25 AM

Testimony for HTH on 2/9/2022 1:35:00 PM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Samuel Mitchell | Individual | Support | No |

Comments: I support SB3356 because sick people need to allowed to use their cars for pickup.

Aloha Lawmakers,

I OPPOSE SB3356.



Every year Hawaii passes legislation, like SB 3356, which makes it easier for local patients and tourists to “acquire” an adequate amount of cannabis... if a person can afford to buy it.

However, **Hawaii has never had any legislation to help low-income patients** acquire their adequate supply of medical cannabis.

Hawaii’s original, vanguard legislation, was based on compassion, now it seems it’s based on profit, corporate-control, and tourism.

**Poor citizens have been completely left out!
Please create a program for poor patients to
acquire their medical cannabis.**

Then worry about tourists not having to get out of their cars on their way from the airport to their hotel, so they can light up faster.

Mahalo,

Mary Whispering Wind
Orchidland, Hawaii