JOSH GREEN, M.D.
GOVERNOR OF HAWAI'I
KE KIA'ÂINA O KA MOKU'ÂINA 'O HAWAI'I

KENNETH S. FINK, M.D., M.G.A., M.P.H.
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
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Testimony in OPPOSITION to SB2461 SD2 HD1
RELATING TO MEDICAL CANNABIS

REPRESENTATIVE KYLE T. YAMASHITA, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: 03/28/2024 Room Number: 308

Fiscal Implications: This measure will require additional resources and may impact the priorities identified in the Governor's Executive Budget Request for the Department of Health's appropriations and personnel priorities. As currently drafted, the Department of Health will require funding to contract for drafting of administrative rules at an estimated cost of $30,000.

Department Testimony: The Department of Health (department) Office of Medical Cannabis Control and Regulation (OMCCR) OPPOSES SB2461 SD2 HD1 which proposes amendments to Section 329D-6, HRS, and Section 329D-l0, HRS, and respectfully requests that the legislature defer this measure.

OMCCR OPPOSES the proposed amendment to section 329D-6 which removes the department's discretion to determine whether a dispensary-to-dispensary sale is necessary to ensure that qualifying patients have continuous access to cannabis for medical use. It should be noted that dispensary to dispensary sales have been in effect since July of 2023 and that a total of thirteen sales have been completed. A stated purpose of Act 309 SLH 2022 was to "amend the circumstances under which medical cannabis may be transported by and between dispensaries." In testifying on HB2260 during the 2022 legislative session, OMCCR asked that criteria on sales and transportation be in rules rather than codified in statute to allow OMCCR to maintain adequate oversight over these transactions. OMCCR maintains that this oversight is necessary because cannabis remains federally illegal. Many of these transactions require transport of

cannabis and manufactured cannabis products from one island to another in contravention of federal law, thus it remains the state's responsibility to regulate the medical cannabis dispensary system adequately and effectively. OMCCR OPPOSES the proposed amendment to Section 329D-6 as it will remove any discretion that OMCCR has in regulating dispensary-to-dispensary sales.

OMCCR also OPPOSES the amendment to section 329D-10 subsection (d) to require the adoption of rules no later than nine months after a product is permitted to be manufactured and distributed pursuant to subsection 329D-10(a). Specifying a time limit for rulemaking imposes an undue burden on OMCCR and removes OMCCR's ability to properly prioritize its activities. The OMCCR Medical Cannabis Dispensary Licensing Section (MCDLS) is currently staffed only by a Section Supervisor, an Office Assistant, and five (5) Surveyors. MCDLS is responsible for oversight of dispensary operations and medicinal cannabis products, cannabis testing, and since May 2023, hemp processor registration and regulation of hemp-cannabinoid consumer products. In addition to revising administrative rules, these duties include inspecting 37 licensed facilities, reviewing product manufacturing and packaging, ensuring compliance with laboratory testing, inventory tracking, and security requirements, investigating patient complaints, and responding to public and industry inquiries and open records requests. OMCCR OPPOSES the proposed amendment to section 329D-10 subsection (d) as imposing a strict time limit on rulemaking could force MCDLS to prioritize rulemaking over activities that protect the health and safety of patients and the public.

Should the legislature impose a nine-month time limit on dispensary rulemaking, OMCCR requests $30,000 in funding for a contractor to draft rule language, cross-check for alignment with statute, potential interaction with or impact on other rules, and prepare the Ramseyer and standard format versions for submission. The contractor will be necessary to ensure that OMCCR does not have to divert staff from patient, product, and public safety activities to focus on rulemaking.

Thank you for the opportunity to testify.

Offered Amendments: None

To: Representative Kyle Yamashita, Chair
Representative Lisa Kitagawa, Vice-Chair
Members of the Finance Committee

r: TY Cheng, Chairman, Hawaii Cannabis Industry Association

Re: Testimony **In SUPPORT** of **Senate Bill (SB) 2461 SD2 HD1**

RELATING TO MEDICAL CANNABIS.
Specifically authorizes a medical cannabis dispensary to purchase cannabis and manufactured cannabis products from another dispensary. Requires the Department of Health to adopt rules regarding medical cannabis products within a certain time. Effective 7/1/3000. (HD1)

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

The Hawaii Cannabis Industry Association (HICIA) is an industry group representing medical cannabis dispensary licensee interests in Hawaii. HICIA **SUPPORTS SB2461 SD2 HD1** as this bill may affect the medical cannabis dispensary program by expediting wholesale transactions between existing medical cannabis dispensary licensees and allowing the sale of cannabis products (i.e. prerolls) previously approved by legislators.

The Department of Health (the "DOH") has been reluctant to support the medical cannabis program. The DOH did not implement rules in accordance with the legislative wishes of lawmakers and previously passed laws. Instead, the DOH has either implemented rules that are not within the spirit of the law (i.e. requiring conditions on when and why a wholesale transaction between licenses may occur); or have wholly disregarded newly passed laws (i.e. leaving out rules on allowing cannabis pre-roll sales and allowing members of the public to enter a dispensary lobby when assisting a disabled 329 patient). HB1952 addresses the glaring unilateral additions and omissions by requiring the DOH to issue rules in a timely manner. In a previous House testimony on this companion bill (HB1952), the DOH admitted to an institutional culture of anti-smoking which prevented them from issuing rules to allow for the manufacture and sale of cannabis prerolls even though the legislature amended the law to allow for prerolls as a manufactured cannabis product in 2022.

There are 5 other US States with medical cannabis sales-only programs that have rules that allow for the sale and manufacture of cannabis pre-rolls. Previously, I have provided pre-roll rules from medical-only markets such as Florida, Oklahoma, and South Dakota that require lab testing of finished products in order to restrict tobacco and flavor additives. I previously provided examples of these rules to the Committee on Health and Homelessness for the companion bill HB1952.

The DOH is an administrator and should not pick and choose what laws to implement when such laws are duly ratified because it does not agree with the policies of the legislative branch.

Thank you for the opportunity to testify.

Aloha,

TY Cheng

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

TESTIMONY ON SENATE BILL 2461 SD2 HD1
RELATING TO MEDICAL CANNABIS
By
Clifton Otto, MD

House Committee on Finance
Representative Kyle T. Yamashita, Chair
Representative Lisa Kitagawa, Vice Chair

Thursday, March 28, 2024; 2:00 PM
State Capitol, Room 308 & Videoconference

Thank you for the opportunity to provide COMMENTS on this measure.

Please consider the following amendments to support the department's mission to protect public health:

1. Maintain department discretion over interisland wholesaling of cannabis products.
2. Allow dispensaries to sell dry herb vaporizers to discourage smoking.
3. Allow department discretion over rules that conflict with its mission.

DISCRETION OVER INTERISLAND WHOLESALING:

SECTION 2. Section 329D-6, Hawaii Revised Statutes, is amended by amending subsection (r) to read as follows:

"(r) A dispensary may purchase cannabis and manufactured cannabis products from another dispensary. The department [~~may~~] [~~shall~~] may authorize a dispensary to purchase cannabis and manufactured cannabis products from another dispensary in a

manner prescribed by the department by rules adopted pursuant to section 329D-27; provided that:

[~~(1) The purchasing dispensary establishes to the department's satisfaction that:~~

~~(A) The purchase is necessary to ensure that qualifying patients have continuous access to cannabis for medical use; or~~

~~(B) The cannabis and manufactured cannabis products are for medical, scientific, or other legitimate purposes approved by the State;~~

~~(2)~~] (1) The selling dispensary may transport no more than eight hundred ounces, or other amounts with prior approval by the department, of cannabis or manufactured cannabis products to the purchasing dispensary within a thirty-day period;

[~~(3)~~] (2) The cannabis and manufactured cannabis products are transported between the dispensaries for medical[~~,~~] sales, scientific[~~,~~] use, or other legitimate purposes approved by the State; and

[~~(4)~~] (3) Nothing in this subsection shall relieve any dispensary of its responsibilities and obligations under this chapter and chapter 329 and with the understanding that state law and its protections do not apply outside of the jurisdictional limits of the State."

DRY HERB VAPORIZERS AND DISCRETION OVER RULES:

SECTION 3. Section 329D-10, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The types of medical cannabis products that a dispensary may [~~be manufactured and distributed~~] manufacture and distribute pursuant to this chapter shall be limited to:

(1) Capsules;

(2) Lozenges;

(3) Pills;

(4) Oils and oil extracts;

(5) Tinctures;

(6) Ointments and skin lotions;

(7) Transdermal patches;

(8) Pre-filled and sealed containers used to aerosolize and deliver cannabis orally or by inhalation, such as an inhaler, nebulizer, or device that provides safe pulmonary administration; provided that:

(A) Containers need not be manufactured by the licensed dispensary but shall be filled with cannabis, cannabis oils, or cannabis extracts manufactured by the licensed dispensary or purchased from another dispensary pursuant to section 329D-6(r); but shall not contain

nicotine, tobacco-related products, or any other non-cannabis derived products; and

(B) For devices that provide safe pulmonary administration:

(i) The heating element of the device, if any, shall be made of inert materials such as glass, ceramic, or stainless steel, and not of plastic or rubber;

(ii) The device shall be distributed solely for use with single-use, pre-filled, tamper-resistant, sealed containers that do not contain nicotine or other tobacco products;

(iii) There shall be a temperature control on the device that is regulated to prevent the combustion of cannabis oil; and

(iv) The device need not be manufactured by the licensed dispensary;

(9) Pre-rolled cannabis flower products, as specified by the department;

(10) Pre-filled commercially available dry herb vaporizers, grinders, and dosing capsules;

[~~(10)~~] (11) Edible cannabis products, as specified by the department; and

[~~(11)~~] (12) Other products as specified by the department."

2. By amending subsection (d) to read:

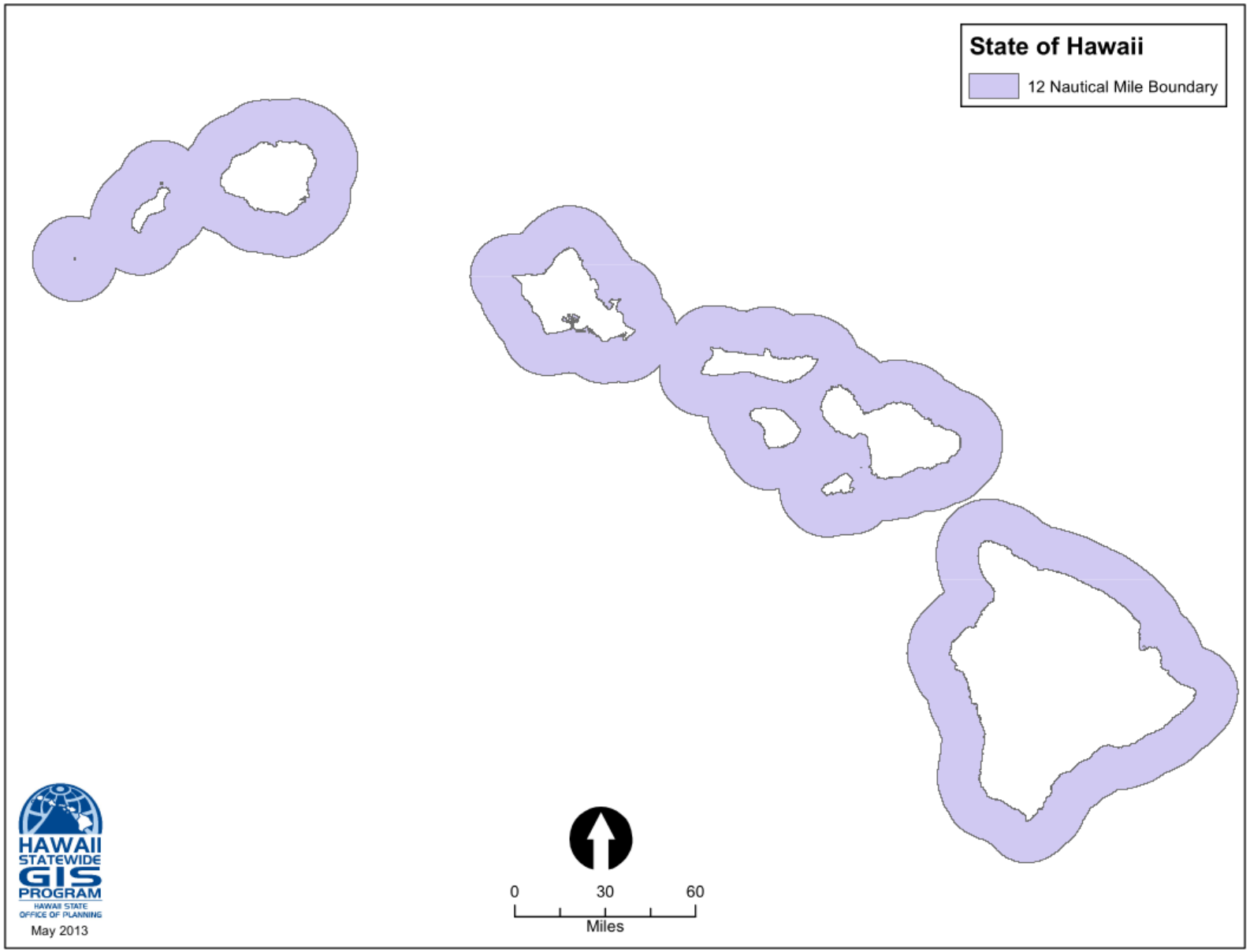
"(d) Any medical cannabis product manufactured and distributed pursuant to this chapter shall be regulated and approved by the department and meet all requirements of rules adopted pursuant to this chapter; provided that the department shall establish requirements for child-resistant packaging and accurate and proper labeling. All rules adopted pursuant to this section shall be adopted no later than nine months after a product is permitted to be manufactured and distributed pursuant to subsection (a), unless such rules conflict with the department's mission to protect public health."

SECTION 4. Section 329-1, Hawaii Revised Statutes, is amended as follows:

"Drug paraphernalia" does not include fentanyl test strips, or commercially available dry herb vaporizers, grinders, or dosing capsules sold by state-licensed dispensaries.

SECTION [~~4~~] 5. Statutory material to be repealed is bracketed 5 and stricken. New statutory material is underscored.

SECTION [~~5~~] 6. This Act shall take effect on July 1, 3000.


State of Hawaii
12 Nautical Mile Boundary
HAWAII STATEWIDE GIS PROGRAM
HAWAII STATE OFFICE OF PLANNING
May 2013
0
30
60
Miles

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: March 27, 2024

TO: Representative Kyle Yamashita
Chair, Committee on Finance

Representative Lisa Kitagawa
Vice Chair, Committee on Finance

Submitted Via Capitol Website

FROM: Jena Matila

RE: **S.B. 2461, S.D. 2, H.D. 1 – Relating to Medical Cannabis**
Hearing Date: Wednesday, March 28, 2024 at 2:00 p.m.
Conference Room: 309

Dear Chair Yamashita, Vice Chair Kitagawa, and members of the Committee:

We submit this testimony on behalf of Cure Oahu in **support** of S.B. 2461, S.D. 2, H.D. 1. Cure Oahu is a vertically integrated licensed dispensary that has been operating in the State of Hawaii since 2018, with two retail locations in the Kapahulu and Kapolei areas.

S.B. 2461, S.D. 2, H.D. 1, amends the dispensary program law to resolve matters that have arisen since the passage of Act 309 (SLH 2022) and Act 108 (SLH 2023). Specifically, the bill seeks to allow dispensary to dispensary sales to move forward and allow for the sale of cannabis products approved by the Legislature by putting a timeline on rulemaking.

Despite the legislative intent of Acts 309 and 108 to allow wholesale between dispensaries more freely, wholesale currently occurs on an emergency basis with an under 30 days request and approval process, or on a prove of need basis requiring over 30 days request and approval process. Current rules also give the Department of Health full discretion to reject requests with no specific timeline to respond. This limited wholesale approach impairs dispensaries' ability to do future planning, share manufacturing capabilities or specialize in equipment or products without facing significant risk of potential wholesale request rejections. Wholesale expands patient access to a variety of formulations, products and strains without sacrificing safety and consistency, and should be more widely supported. On a related matter, the sale of pre-rolled cannabis flower products was authorized under Act 108, but it it is still uncertain when sales will begin. As a result, patients do not have access to this option.

First Hawaiian Center
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Honolulu, HI 96813

T 808-539-0400
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To address these issues and potential future delays, we respectfully request the committee adopt the following amendments in Section 3(2) of the bill at page 6, line 3, highlighted and bolded below:

SECTION 3. Section 329D-10, Hawaii Revised Statutes, is amended as follows:

...

2. By amending subsection (d) to read:

"(d) Any medical cannabis product manufactured and distributed pursuant to this chapter shall be regulated and approved by the department and meet all requirements of rules adopted pursuant to this chapter; provided that the department shall establish requirements for child-resistant packaging and accurate and proper labeling. All rules adopted pursuant to this section shall be adopted no later than nine months after a product is permitted to be manufactured and distributed pursuant to subsection (a). **If no rules are adopted, dispensaries may manufacture and distribute medical cannabis products until rules are adopted, provided that:**

(1) The product shall pass current Hawaii testing requirements for medical cannabis products pursuant to 329D-8 and related provisions;

(2) Products shall not contain prohibited ingredients pursuant to current Hawaii standards for medical cannabis products;

(3) Products shall not exceed a total of one thousand milligrams of tetrahydrocannabinol per pack or container;

(4) Products shall comply with current Hawaii advertising, packaging, and labeling requirements for medical cannabis products pursuant to 329D-11 and related provisions; and

(5) Products shall comply with current Hawaii manufacturing practice and quality control standards for medical cannabis products pursuant to 329D-9 and related provisions.

The proposed language does not prevent the Department from enacting rules at any time to state all necessary program requirements for products, nor does it infringe upon the Department's rights of enforcement for any action it believes are not in the spirit of the law or rules. At the same time, the proposed language also facilities product sales in a manner that must meet or exceed current program requirements already in place for product safety and quality.

We respectfully ask that these amendments be included in the bill. Thank you for the opportunity to submit testimony.

HawaiianEthos

Date: March 28, 2024

To: Representative Kyle Yamashita, Chair House Committee on Finance
Representative Lisa Kitagawa, Vice Chair House Committee on Finance

Fr: Noah Phillips - Hawaiian Ethos

Re: Testimony **In STRONG Support** of **House Bill (SB) 2461**

RELATING TO MEDICAL CANNABIS Specifically authorizes a medical cannabis dispensary to purchase cannabis and manufactured cannabis products from another dispensary. Requires the Department of Health to adopt rules regarding medical cannabis products within a certain time.

Dear Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

Hawaiian Ethos **supports SB2461** as an important bill for enhancement of the State's medical cannabis dispensary program. Hawaiian Ethos is a vertically integrated licensed dispensary operating in the State of Hawai'i since 2018, with three retail locations in the Hilo, Kona, and Waimea areas on the Island of Hawai'i.

We strongly support the non-discretionary ability to wholesale amongst the other medical cannabis licenses. Allowing for the wholesale of cannabis products between licensees allows providers to greatly increase the necessary product diversity that patients have access to in the licensed dispensaries of their area. As the only provider of completely solventless medical cannabis products, Hawaiian Ethos is uniquely positioned to provide these clean solventless options to patients across all of the Hawaiian islands. All medical cannabis patients' needs are different and so too are their needs for different product delivery methods and formulations of their medicine i.e. Advil, Tylenol, or Aleve. In order to create a healthy cannabis marketplace where all patients have the choice to select a product most suited to their unique medical needs, licensees must be able to more freely share in the manufacturing proficiencies of each other, as the required manufacturing of these different product types are often costly and difficult for any single company to undertake alone.

In order to facilitate timely patient access to their medicine, we respectfully request the committee adopt the following amendments in Section 3(2) of the bill at page 6, line 3, highlighted and bolded below:

SECTION 3. Section 329D-10, Hawaii Revised Statutes, is amended as follows:

2. By amending subsection (d) to read:
"(d) Any medical cannabis product manufactured and distributed pursuant to this chapter shall be regulated and approved by the department and meet all requirements of rules adopted pursuant to this chapter; provided that the department shall establish requirements for child-resistant packaging and accurate and proper labeling. All rules adopted pursuant to this section shall be adopted no later than nine months

after a product is permitted to be manufactured and distributed pursuant to subsection (a). If no rules are adopted, dispensaries may manufacture and distribute medical cannabis products until rules are adopted, provided that:

(A) The cannabis plant or concentrate material used in the product passes current Hawaii testing requirements for other medical cannabis products pursuant to 329D-8;

(B) Products contain no prohibited ingredients pursuant to current Hawaii standards for other medical cannabis products;

(C) Products do not exceed 1,000mg of total tetrahydrocannabinol per pack or container;

(A) Products comply with current Hawaii advertising, packaging, and labeling requirements for other medical cannabis products pursuant to 329D-11

(D) Products comply with current Hawaii manufacturing practice and quality control standards for other medical cannabis products.

Thank you for the opportunity to testify.

Noah Phillips, on Behalf of Hawaiian Ethos

SB-2461-HD-1
Submitted on: 3/27/2024 3:51:49 PM
Testimony for FIN on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ann Chung	Individual	Support	In Person

Comments:

On behalf of Pono Life Maui, one of eight medical cannabis dispensaries licensed by the Dept of Health to provide safe, legal access to medical cannabis for Hawai‘i-registered patients, we write in SUPPORT of SB2461.

We strongly support SB 2461 that will improve the dispensary program law to resolve matters that have arisen since its passage. These amendments will allow dispensary to dispensary sales to move forward and allow for the sale of cannabis products (in particular pre-rolled flower cannabis products) approved by the Legislature by putting a timeline on rulemaking.

We respectfully request the committee adopt the amendments in Section 3(2) of the bill at page 6, line 3:

SECTION 3. Section 329D-10, Hawaii Revised Statutes, is amended as follows:

…

2. By amending subsection (d) to read:

"(d) Any medical cannabis product manufactured and distributed pursuant to this chapter shall be regulated and approved by the department and meet all requirements of rules adopted pursuant to this

chapter; provided that the department shall establish requirements for child-resistant packaging and accurate and proper labeling. All rules adopted pursuant to this section shall be adopted no later than nine months after a product is permitted to be manufactured and distributed pursuant to subsection (a). If no rules are adopted, dispensaries may manufacture and distribute medical cannabis products until rules are adopted, provided that:

(1) The product shall pass current Hawaii testing requirements for medical cannabis products pursuant to 329D-8 and related provisions;

(2) Products shall not contain prohibited ingredients pursuant to current Hawaii standards for medical cannabis products;

(3) Products shall not exceed a total of one thousand milligrams of tetrahydrocannabinol per pack or container;

(4) Products shall comply with current Hawaii advertising, packaging, and labeling requirements for medical cannabis products pursuant to 329D-11 and related provisions; and

(5) Products shall comply with current Hawaii manufacturing practice and quality control standards for medical cannabis products pursuant to 329D-9 and related provisions.

Please note the proposed amendment does not prevent DOH from enacting rules at any time.

Jeffrey Hong
CEO
Techmana LLC

Date: 3/27/2024

To: Representative Kyle Yamashita, Chair Committee on Finance

Dear Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

My name is Jeff Hong I am the CEO of Techmana LLC. Techmana is a Hawai‘i based software development and cybersecurity company. I testify in **strong support of SB2461, SD2, HD1.** We need consistency and timeliness from our regulators. As the owner of a small business I have experienced our regulatory agencies slowing our business community. I have additional professional perspectives as Board Chair of Hawaiian Ethos, a medical cannabis licensee, and as Chair of the Honolulu Liquor Commission. I testify only in a personal capacity.

I have a lot of empathy for the Department of Health. Almost every issue surrounding cannabis has a corollary I experience in the Liquor Commission. The Commission is also understaffed. Despite our best efforts it currently takes over nine months to approve a new license. I see the cannabis/liquor corollary here with the policy on **cannabis pre-rolls** and **margarita machines**.

Serving margaritas from slushy machines currently requires explicit approval by the Liquor Commission at a public hearing. This is an example of a regulator slowing our business community. It is within the Commission’s authority to automatically permit slushy machines. The administrative rules do not exist, and slushy machines are not covered in HRS 281, Liquor Laws of Hawaii. The legislature could provide clarity and prioritization by permitting slushy

machines in statute. After statutory approval bars would purchase slushy machines but would have to wait for promulgation of administrative rules on cleaning and storage from the Commission before initial use. The liquor service community would ask for relief if their slushy machines were sitting idle for a year waiting for the Commission to publish administrative rules. In another cannabis corollary the Federal alcohol regulatory agency (TTB) only provides for a 24 hour "safe harbor" on rectified drinks like slushies and infusions. The Commission offers a warning when it grants waivers for storage of pre-mixed drink for multiple days. The TTB could still hold the bar in violation of Federal law despite the Commission's approval.

Hawaiian Ethos conducted research and invested in the equipment to support pre-rolls over a year ago based on statutory permission granted in 2022. We are returning to the legislature with the other members of the cannabis community to ask for legislative support to provide clear prioritization and direction to streamline procedures. We appreciate the extent that the agency is trying to provide safe-harbor to our operations. We acknowledge that we operate with an element of risk.

Mahalo for the opportunity to testify.

Sincerely,

Jeffrey Hong

SB-2461-HD-1
Submitted on: 3/25/2024 5:40:51 PM
Testimony for FIN on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Individual	Support	Written Testimony Only

Comments:

I support SB2461. Please pass this bill.

Mike Golojuch, Sr.

SB-2461-HD-1
Submitted on: 3/26/2024 10:03:50 PM
Testimony for FIN on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Andy Kagemoto	Individual	Support	Written Testimony Only

Comments:

Testifying in support. Thank you Chair Yamashita, Vice Chair Kitagawa, and committee members for your attention to SB2461! Aloha.

SB-2461-HD-1
Submitted on: 3/26/2024 10:12:47 PM
Testimony for FIN on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Honda	Individual	Support	Written Testimony Only

Comments:

Support