

STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
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**Testimony COMMENTING on SB451
RELATING TO MEDICAL CANNABIS.**

SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Hearing Date: Monday, Feb. 6, 2023 Room Number: 225

1 **Fiscal Implications:** N/A.

2 **Department Testimony:** The Department of Health (DOH) appreciates the intent of this
3 measure to establish a cultivation facility license that allows cultivators to grow cannabis for sale
4 only to licensed medical cannabis dispensaries. Licensing small cultivation facilities will provide
5 an opportunity for dispensary licensees to expand the variety of cannabis strains that are
6 available to patients as well as relieve dispensary licensees from producing multiple strains
7 themselves. This measure will also provide a pathway for smaller business operators to enter the
8 legal medical cannabis industry. DOH provides COMMENTS with the following concerns and
9 need for clarification:

10 This measure proposes an amendment to section 329D-3 to require a cultivation facility license
11 applicant to possess “an agreement with an existing dispensary, licensed by the State, to which
12 sales of the cultivator’s medical cannabis will be made and such agreement can be amended
13 annually...” [Section 5, page 12, lines 16-20]. However, as written, it is unclear what would
14 happen, should the agreement with the dispensary end. Would the cultivator lose their license?
15 What would be the disposition of the plants or any harvested plant material?

16 Section 6 of this measure inserts “cultivation facility” throughout the facility operations
17 requirements in section 329D-6. However, there are no amendments addressing security
18 requirements for cultivation facilities, analogous to the dispensary facility requirements in

1 section 329D-6(f) or restrictions on who can touch or handle cannabis in cultivation facilities,
2 analogous to the dispensary facility requirements in 329D-6(g). DOH is highly concerned that
3 not having security requirements such as an enclosed indoor facility, alarm system, etc., presents
4 a great security risk to the facility and its employees, as well as a risk of theft or diversion. DOH
5 is also concerned that no restrictions are placed on who may touch or handle cultivation center
6 cannabis, especially in conjunction with the lack of security requirements.

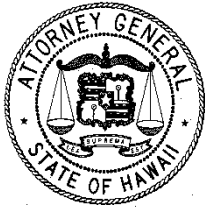
7 Section 6 also makes amendments to section 329D-6(r) that, as written, appear to allow a
8 cultivation facility to purchase manufactured cannabis products from either a dispensary or
9 another cultivation facility or a dispensary to purchase manufactured cannabis products from a
10 cultivation facility. This does not comport with the stated purpose of cultivation facility licenses
11 to only “plant, cultivate, grow, and harvest cannabis.”

12 Finally, DOH notes that there is no amendment to section 329D-19 to include cultivation facility
13 records under the offense for knowingly altering or falsifying records. DOH is concerned that
14 failing to include a deterrent could increase the risk of noncompliance with state laws.

15 Thank you for the opportunity to testify.

16 **Offered Amendments:**

17



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

S.B. NO. 451, RELATING TO MEDICAL CANNABIS.

BEFORE THE:

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

DATE: Monday, February 6, 2023 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Andrew Goff, Deputy Attorney General

Chair San Buenaventura and Members of the Committee:

The Department of the Attorney General (Department) offers the following comments.

The bill would establish a "cannabis cultivation facility" license that would allow licensees to commercially grow cannabis for wholesale to licensed dispensaries (Cultivation Licensee). The bill adds a section to chapter 329D, Hawaii Revised Statutes (HRS), that would explicitly authorize a Cultivation Licensee to "plant, cultivate, grow, and harvest cannabis" and "sell its product only to medical cannabis dispensaries licensed under [chapter 329D, HRS]" (page 1, lines 8-12). However, it is unclear whether a Cultivation Licensee would also be allowed to manufacture cannabis products, such as edibles or concentrates, for sale to licensed dispensaries.

While the bill does not explicitly address manufactured cannabis products, it does amend section 329D-6(r), HRS, to imply that a cultivation facility may sell or purchase both cannabis and manufactured cannabis products from another dispensary or cultivation facility. For example, page 24, lines 7 through 11, states: "[t]he department may authorize a dispensary or cultivation facility to purchase cannabis and manufactured cannabis products from another dispensary or cultivation facility" If the intent is to limit Cultivation Licensees to selling cannabis only, it is recommended that the references to "cultivation facility" be removed from page 24, line 7, through page 25, line 11. If the Legislature is inclined to implement explicit controls on

transportation and sale limits for Cultivation Licensees, the Department would be happy to work on a specific provision that could be included in this bill. For clarity, it is also recommended that a provision be added to the new section as follows: "A cultivation facility shall not manufacture, produce, purchase, or sell a manufactured cannabis product."

Additionally, the bill would exempt cannabis cultivation facilities from "any of the regulatory requirements under chapter 141" (page 3, lines 12-14). Chapter 141, HRS, is administered by the Department of Agriculture (DOA) and contains the authority for the DOA to adopt rules regarding the inspection, quarantining, and eradication of plants or plant products that may be diseased or contain pests that may be injurious, harmful, or detrimental to the agricultural or horticultural industries or the forests of the State (section 141-2, HRS). The chapter also includes regulatory controls for invasive species (sections 141-3 through 141-3.6, HRS), agricultural theft (section 141-8, HRS), and the commercial hemp program (sections 141-42 and 141-43, HRS). If the intent of the Legislature is to exempt a specific action performed by a cannabis cultivation facility from regulatory laws, it is recommended that the wording on page 3, lines 12-14, be changed to specify the action and allow the remainder of DOA regulatory controls to remain in place.

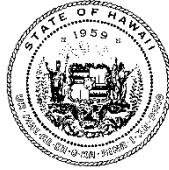
Also, the bill amends section 329D-6(n), HRS, to read "[a] dispensary shall [sic] or cultivation facility be prohibited from off-premises delivery of cannabis or manufactured cannabis products to a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient" (page 23, lines 4-8). In order to prevent the implication that a Cultivation Licensee can sell cannabis or manufactured cannabis products directly to patients, it is recommended that the reference to cultivation facility be removed from page 23, lines 4-8.

Finally, on page 40, lines 1-4, the bill amends section 329D-16(a)(3)(D), HRS, to read "[t]he person is escorted by an individual licensee or registered employee of the dispensary or facility at all times while [~~in the dispensary facility;~~] on the premises". In order to maintain consistency with the rest of the amendments, it is recommended that page 40, lines 1-4, be amended to read: "[t]he person is escorted by an individual

licensee or registered employee of the dispensary or cultivation facility at all times while
~~[in the dispensary facility;]~~ on the premises."

Thank you for the opportunity to provide comments.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



BONNIE KAHAKUI
ACTING ADMINISTRATOR

STATE OF HAWAI'I | KA MOKU'ĀINA O HAWAI'I
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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEE
ON
HEALTH AND HUMAN SERVICES
February 6, 2023, 1:00pm

SENATE BILL 451
RELATING TO MEDICAL CANNABIS

Chair San Buenaventura, Vice Chair Aquino, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 451. The State Procurement Office (SPO) opposes the 103D, Hawaii Revised Statutes (HRS), exemption language on Section 6, page 18, lines 13-15 as set forth below:

“(2) The procurement of the computer software tracking system established pursuant to this subsection shall be exempt from chapter 103D; provided that:”

The SPO testifies that the computer software tracking system for this program should be competitively procured.

Chapter 103D, HRS, Hawaii Public Procurement Code (Code), is the State's single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a level playing field, government disclosure, and transparency in the procurement and contracting process vital to good government.

Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in awarding of contracts. To legislate that any one entity should be exempt from compliance with both Chapter 103D and 103F, HRS, conveys a sense of disproportionate equality in the law's application.

Exemptions to the Code mean that all procurements made with taxpayer monies will not have the same oversight, accountability and transparency requirements mandated by those

procurements processes provided in the code. It means that there is no requirement for due diligence, proper planning, or consideration of protections for the state in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. As such, Agencies can choose whether to compete any procurement or go directly to one contractor. As a result, leveraging economies of scale and cost savings efficiencies found in the consistent application of the procurement code are lost. It also means Agencies are not required to adhere to the code's procurement integrity laws.

The National Association of State Procurement Officials (NASPO) states that “Businesses suffer when there is inconsistency in procurement laws and regulations. Complex, arcane procurement rules of numerous jurisdictions discourage competition by raising the costs to businesses to understand and comply with these different rules. Higher costs are recovered through the prices offered by a smaller pool of competitors, resulting in unnecessarily inflated costs to state and local governments.”

When public bodies are removed from the Hawaii Public Procurement Code, it results in the harm described above. As these entities create their own procurement rules, businesses are forced to track their various practices. Moreover, a public body often can no longer achieve the benefits of aggregation by using another public body's contract because different state laws and regulations may apply to the various public bodies making compliance more difficult.

Each year new procurement laws are applied to state agencies causing state agency contracts to become more complex and costly, while other public bodies, such as agencies with strong legislative influence, are exempted. Relieving some public bodies from some laws by exempting or excluding them from compliance with a common set of legal requirements creates an imbalance wherein the competitive environment becomes different among the various jurisdictions and the entire procurement process becomes less efficient and costlier for the state and vendors.

The agency should either competitively solicit or consider using SPO contracts such as the SPO Vendor List 17-18 NASPO ValuePoint Cloud Solutions (offers PaaS, SaaS and IaaS solutions) and SPO Price List 23-08 NASPO ValuePoint Software Value-Added Resellers, which are posted on the SPO's website at <https://spo.hawaii.gov/for-vendors/contract-awards/price-vendor-lists/>

Thank you.



February 5, 2023

To: Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair
Members of the Senate Committee on Health & Human Resources

From: David C. Cole, General Manager

Re: TESTIMONY in Support of Senate Bill 451

Maui Grown Therapies (MGT) is licensed by the Department of Health pursuant to HRS 329D to cultivate, manufacture and dispense medical cannabis and medical cannabis manufactured products to registered patients. In 2022 MGT served 5,364 unique patients on Maui.

MGT **supports** Senate Bill 451, which would create a new category of cultivation license regulated by the Department of Health.

As a general principle, the broadening of a stakeholder base in an emerging industry can *accelerate innovation, deepen community engagement, and boost economic vitality*. SB 451 takes a prudent step towards achieving these benefits by bringing new stakeholders into Hawai'i's nascent cannabis industry without comprising product integrity and public health.

In terms of innovation, a community of cultivators sharing insights and methods can accelerate the pace and quality of new product offerings for our patients. Network effects available through diversification of upstream operations will outperform solo operators over time, assuming alignment of incentives and consistent application of the law.

Hawai'i's agricultural sector can only be strengthened if our farmers are able to offer high value specialty crops to sustain them. Agriculture is an inherently risky business and challenges are frequent and potentially catastrophic. It's never a question of IF a crop failure happens, but when and for how long. MGT welcomes the opportunity to work with licensed growers to strengthen Maui's economic base, diversify risk, and celebrate our island's agricultural heritage.

Finally, for those that believe adding growers to Hawai'i's licensed cannabis system will introduce unneeded competition, I submit the greater threat is from the massive illicit markets that are oversupplying the markets on the mainland and dumping untested and often contaminated products in our islands.¹

Bottom line: We must stand together to make "Hawai'i Grown" very special, or we will fail apart.

¹ St. John. Paige. The reality of legal weed in California: Huge illegal grows, violence, worker

LATE

SB-451

Submitted on: 2/5/2023 9:13:25 PM

Testimony for HHS on 2/6/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tai Cheng	Testifying for Aloha Green Holdings Inc.	Support	Written Testimony Only

Comments:

To: Senator Joy A. San Buenaventura, Chair

Senator Henry J.C. Aquino, Vice-Chair

Members of the Committee on Health and Human Services

Fr: Tai Cheng, President of Aloha Green Holdings Inc.

Re: Testimony In Support of Senate Bill (SB) 451

RELATING TO MEDICAL CANNABIS.

Establishes a cultivation facility license that allows cultivators to grow cannabis for sale only to licensed medical cannabis dispensaries. Establishes requirements for license applications and qualifications for applicants and licensees. Limits the number of cannabis plants grown at each cultivation facility to one thousand. Authorizes the Department of Health to determine the number of cultivation licenses to be issued. Allows one cultivation license to be issued per tax map key number. Allows cultivation facilities to be established on lands zoned for certain uses. Requires the Office of Medical and Cannabis Control and Regulation to administer the licensure and regulation of cultivation facilities. Establishes requirements for cultivation facility operations, including plant tracking and testing. Establishes penalties for violations related to the unauthorized access of cultivation facilities and diversion of product. Requires the Department of Health to disclose certain information regarding cultivation facilities upon request of law enforcement. Subjects cultivation facilities to certain inspections, audits, and reporting requirements.

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

Aloha Green Apothecary is a state licensed medical cannabis dispensary licensee operating on Oahu. Aloha Green Supports with COMMENTS this bill which will affect how medical cannabis dispensaries operate.

There is currently no form of wholesale allowed in the medical cannabis dispensary program which allows cultivation only licenses to sell and transport cannabis to medical cannabis dispensaries. Rules for wholesale must be implemented before such a program is authorized.

We also would ask that the arbitrary rule of no more than one license per five hundred registered qualifying patients residing in any single county be amended to "one license per five hundred registered qualifying patients who purchase cannabis from a medical cannabis dispensary residing in any single county" as the majority of registered patients do not purchase from medical cannabis dispensaries. The Department of Health Patient Registry is able to provide these statistics.

As a medical dispensary whose annual renewal fee went from \$50,000 a year to \$310,000 a year (est.) this year; we ask that the annual renewal fee of \$10,000 be subject to amendment by the Department of Health so as the medical cannabis dispensary licensees are not left subsidizing the entire program.

Finally, we suggest that the Department of Health should be asked to apply a social equity component to the merit-based application scoring so as to prioritize social equity applicants as suggested by the Department of Health Cannabis Dual Use Task Force.

Thank you for the opportunity to testify with comments.

LATE

SB-451

Submitted on: 2/6/2023 12:30:48 AM

Testimony for HHS on 2/6/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ruth Love	Individual	Comments	Written Testimony Only

Comments:

Why should there be a limit on the number of plants grown or a limit to the number of licenses per tax map key? Who decides who the chosen licensee is? Why not let the market determine the number of growers and quantity of plants grown. The government doesn't say who can grow taro or how many taro they can grow. Why do it with cannabis? No need for the government to micromanage.

Thank you,

Mrs. Ruth Love

LATE

SB-451

Submitted on: 2/6/2023 1:00:25 PM

Testimony for HHS on 2/6/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John James Lester	Individual	Oppose	Written Testimony Only

Comments:

I OPPOSE SB451 as I see this as opening the doors to abuse of a controlled substance and an increase in our islands being inundated with speculators buying and using land for the growing of marijuana. Please vote no

John Lester

Maui Hawaii