

JAN 24 2024

A BILL FOR AN ACT

RELATING TO MENTAL HEALTH TREATMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that, in clinical trials,
2 psilocybin has shown promising potential for treating mental
3 health conditions. Research suggests that psilocybin may be
4 effective in reducing symptoms and improving outcomes for
5 conditions such as depression, anxiety, post-traumatic stress
6 disorder, and addiction. Studies have demonstrated psilocybin's
7 ability to induce profound and transformative experiences,
8 leading to increased neural plasticity and psychological
9 flexibility, reduced depressive and anxious states, and enhanced
10 emotional processing. There is sufficient medical and anecdotal
11 evidence to support the proposition that these conditions may
12 respond favorably to the regulated and therapeutic use of
13 psilocybin.

14 The legislature understands that scientific evidence on the
15 medicinal benefits of psilocybin should be recognized. The
16 legislature further recognizes that the Federal Drug
17 Administration has twice granted psilocybin breakthrough therapy



1 designation in 2018 and 2019 for mental health treatments and
2 will likely approve the medical use of psilocybin for treatment-
3 resistant depression and other ailments in the next few years.
4 Additionally, a number of states are already taking the
5 initiative to license and regulate the use of psilocybin for
6 medical and wellness purposes. Voter initiatives permitting the
7 medical use of psilocybin have passed in Colorado and Oregon,
8 and current complementary state initiatives are being considered
9 in California, New York, Connecticut, Iowa, Missouri, Illinois,
10 Kentucky, Nevada, Montana, Virginia, Massachusetts, Vermont, New
11 Hampshire, Maine, Washington, and the District of Columbia.
12 Bills to create task forces, committees, or working groups,
13 along with bills to authorize research on psilocybin have been
14 created in many more states.

15 Accordingly, the purpose of this Act is to ensure that
16 people who struggle with trauma and treatment-resistant mental
17 health ailments are not penalized by the State for the use of
18 psilocybin for therapeutic purposes when the patient's licensed
19 mental health professional provides a professional
20 recommendation that the benefits of therapeutic use of



1 psilocybin would likely outweigh the health risks for the
2 qualifying patient.

3 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
4 amended by adding a new part to be appropriately designated and
5 to read as follows:

6 "PART . THERAPEUTIC USE OF PSILOCYBIN

7 §329-A Definitions. As used in this part:

8 "Administration session" means a session during which a
9 qualifying patient purchases, consumes, and experiences the
10 effects of psilocybin under the supervision of a facilitator.

11 "Debilitating mental health condition" includes:

- 12 (1) Post-traumatic stress disorder;
- 13 (2) Treatment-resistant depression or major depressive
14 disorder;
- 15 (3) End-of-life anxiety, existential stress, and
16 demoralization;
- 17 (4) Anorexia, bulimia, and other eating disorders;
- 18 (5) Addiction;
- 19 (6) Obsessive compulsive disorder; and
- 20 (7) Any other mental health condition approved by the
21 department of health pursuant to administrative rules.



1 adopted in response to a request from a potential
2 qualifying patient or licensed mental health
3 professional.

4 "Facilitator" means an individual who facilitates the
5 administration of psilocybin to one or more qualifying patients
6 in the State.

7 "Genuine therapeutic relationship" means a relationship
8 between a licensed mental health professional and a qualifying
9 patient in which the patient has been in communication with the
10 licensed mental health professional for at least six months,
11 during which time the qualifying patient attended at least
12 twelve sessions with the mental health professional.

13 "Integration session" means a meeting between a qualifying
14 patient and a facilitator in which the facilitator provides
15 ongoing care to the qualifying patient and informs the
16 qualifying patient about additional peer support and other
17 resources.

18 "Licensed mental health professional" includes physicians
19 licensed pursuant to chapter 453, psychiatrists, therapists,
20 nurse practitioners, or social workers.



1 "Preparation session" means a meeting between a qualifying
2 patient and a facilitator that occurs before the qualifying
3 patient participates in an administration session.

4 "Psilocybin" includes psilocybin and psilocin.

5 "Qualifying patient" means a person who has been identified
6 by a licensed mental health professional as having a
7 debilitating mental health condition.

8 "Therapeutic use" means the acquisition, possession,
9 cultivation, use, distribution, or transportation of psilocybin,
10 psilocybin derivatives, or paraphernalia relating to the
11 administration of psilocybin to alleviate the symptoms or
12 effects of a qualifying patient's mental health condition. As
13 used in this definition, the term "distribution" means the
14 transfer of psilocybin, psilocybin derivatives, and psilocybin
15 paraphernalia from the primary caregiver or facilitator to the
16 qualifying patient.

17 "Written certification" or "written certificate" means the
18 qualifying patient's medical records or a statement signed by a
19 qualifying patient's licensed mental health professional,
20 stating that in the licensed mental health professional's
21 professional opinion, the qualifying patient has a debilitating



1 mental health condition and the potential benefits of the
2 therapeutic use of psilocybin would likely outweigh the health
3 risks for the qualifying patient.

4 **§329-B Therapeutic use of psilocybin; conditions of use.**

5 (a) Notwithstanding any law to the contrary, the therapeutic
6 use of psilocybin by a qualifying patient shall be permitted
7 only if:

8 (1) The qualifying patient has been identified by a
9 licensed mental health professional as having a
10 debilitating mental health condition;

11 (2) The qualifying patient's licensed mental health
12 professional has issued a written certificate
13 authorized under this part to the qualifying patient;
14 and

15 (3) The amount of psilocybin to be administered does not
16 exceed five grams per session.

17 (b) The authorization for the therapeutic use of
18 psilocybin in this section shall not apply to:

19 (1) The therapeutic use of psilocybin that endangers the
20 health or well-being of another person;

21 (2) The therapeutic use of psilocybin:



- 1 (A) In a school bus, public bus, or any moving
- 2 vehicle;
- 3 (B) In the workplace of one's employment;
- 4 (C) On any school grounds;
- 5 (D) At any public park, public beach, public
- 6 recreation center, or recreation or youth center;
- 7 or
- 8 (E) At any other place open to the public; and
- 9 (3) The use of psilocybin by a qualifying patient or
- 10 primary caregiver for purposes other than therapeutic
- 11 use permitted by this chapter.
- 12 (c) Each qualifying patient shall have only one primary
- 13 caregiver at any given time and each primary caregiver shall be
- 14 responsible for the care of only one qualifying patient at any
- 15 given time.
- 16 (d) Each qualifying patient shall attend a preparation
- 17 session prior to attending any administration or integration
- 18 session. After completion of the preparation and administration
- 19 sessions, the applicable facilitator shall offer to provide the
- 20 qualifying patient with an integration session; provided that



1 nothing herein shall be construed as requiring the qualifying
2 patient to participate in an integration session.

3 (e) The qualifying patient shall determine the location at
4 which the preparation, administration, and integration sessions
5 shall be held; provided that, in making this determination, the
6 qualifying patient may seek guidance from the facilitator.

7 **§329-C Written certification; validity.** Each written
8 certification issued pursuant to this part shall be valid for
9 one year from the date of signing by the qualifying patient's
10 licensed mental health professional.

11 **§329-D Insurance requirements.** Nothing in this part shall
12 be construed as requiring insurance coverage for the therapeutic
13 use of psilocybin.

14 **§329-E Facilitator eligibility requirements.** Each
15 facilitator shall:

- 16 (1) Be twenty-one years of age or older;
- 17 (2) Have received a high school diploma or equivalent
18 degree;
- 19 (3) Complete a psychedelic integration training program
20 having a curriculum approved by office of wellness and
21 resilience;



- 1 (4) Be a resident of the State; and
- 2 (5) Support each client during the three components of
- 3 psilocybin services, including a preparation session,
- 4 an administration session, and an integration session
- 5 without directing the qualifying patient's experience;
- 6 provided that nothing herein shall be construed as
- 7 requiring the facilitator to be physically present for
- 8 the administration of psilocybin to the applicable
- 9 qualifying patient.

10 **§329-F Qualifying patient or primary caregiver**

11 **protections.** (a) Each qualifying patient or primary caregiver

12 may assert the therapeutic use of psilocybin as an affirmative

13 defense to any prosecution involving psilocybin under this

14 chapter or chapter 712; provided that the qualifying patient or

15 primary caregiver shall have complied with the requirements of

16 this part.

17 (b) No qualifying patient or primary caregiver who fails

18 to comply with the scope of the therapeutic use of psilocybin

19 permitted under this part shall be afforded the protections

20 against searches and seizures pertaining to the misapplication

21 of the therapeutic use of psilocybin.



1 (c) No person shall be subject to arrest or prosecution
2 solely for being in the presence or vicinity of any therapeutic
3 use of psilocybin permitted under this part.

4 **§329-G Licensed mental health professional protections.**

5 No licensed mental health professional shall be subject to
6 arrest or prosecution, penalized in any manner, or denied any
7 right or privilege for providing a written certification for the
8 therapeutic use of psilocybin for a qualifying patient; provided
9 that:

10 (1) The licensed mental health professional has diagnosed
11 the qualifying patient as having a debilitating mental
12 health condition;

13 (2) The licensed mental health professional has explained
14 the potential risks and benefits of the therapeutic
15 use of psilocybin;

16 (3) The written certification was based upon the licensed
17 mental health professional's professional opinion
18 after having completed a full assessment of the
19 qualifying patient's mental health history and current
20 mental health condition made in the course of a bona
21 fide healthcare provider-patient relationship; and



1 (4) The licensed mental health professional has complied
2 with the registration requirements of section 329-C.

3 **§329-H Seized property.** (a) Any psilocybin, psilocybin
4 paraphernalia, or other property seized from a qualifying
5 patient or primary caregiver in connection with a claimed
6 therapeutic use of psilocybin under this part shall be returned
7 immediately upon the determination by a court that the
8 qualifying patient or primary caregiver is entitled to the
9 protections of this part, as evidenced by a decision not to
10 prosecute, a dismissal of charges, or an acquittal.

11 (b) Any law enforcement agency that seizes any live plants
12 or fungi as evidence shall not be responsible for the care and
13 maintenance of the plants or fungi.

14 **§329-I Fraudulent misrepresentation; penalty.** (a)
15 Notwithstanding any law to the contrary, fraudulent
16 misrepresentation to a law enforcement official of any fact or
17 circumstance relating to:

18 (1) The therapeutic use of psilocybin to avoid arrest or
19 prosecution under this part or chapter 712 shall be a
20 petty misdemeanor and subject to a fine of \$500; and



1 (2) The issuance of a written certificate for the
2 therapeutic use of psilocybin by a licensed mental
3 health professional that is not in compliance with
4 this part shall be a misdemeanor; provided that this
5 penalty shall be in addition to any other penalties
6 that may apply for the non-therapeutic use of
7 psilocybin.

8 (b) Nothing in this section shall be construed as
9 precluding the conviction of any person for any offense under
10 part V of chapter 710."

11 SECTION 3. Section 453-8, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) In addition to any other actions authorized by law,
14 any license to practice medicine and surgery may be revoked,
15 limited, or suspended by the board at any time in a proceeding
16 before the board, or may be denied, for any cause authorized by
17 law, including but not limited to the following:

18 (1) Procuring, or aiding or abetting in procuring, an
19 abortion that is unlawful under the laws of this State
20 or that would be unlawful under the laws of this State
21 if performed within this State;



- 1 (2) Employing any person to solicit patients for one's
- 2 self;
- 3 (3) Engaging in false, fraudulent, or deceptive
- 4 advertising, including but not limited to:
- 5 (A) Making excessive claims of expertise in one or
- 6 more medical specialty fields;
- 7 (B) Assuring a permanent cure for an incurable
- 8 disease; or
- 9 (C) Making any untruthful and improbable statement in
- 10 advertising one's medical or surgical practice or
- 11 business;
- 12 (4) Being habituated to the excessive use of drugs or
- 13 alcohol; or being addicted to, dependent on, or a
- 14 habitual user of a narcotic, barbiturate, amphetamine,
- 15 hallucinogen, or other drug having similar effects;
- 16 (5) Practicing medicine while the ability to practice is
- 17 impaired by alcohol, drugs, physical disability, or
- 18 mental instability;
- 19 (6) Procuring a license through fraud, misrepresentation,
- 20 or deceit, or knowingly permitting an unlicensed
- 21 person to perform activities requiring a license;



- 1 (7) Professional misconduct, hazardous negligence causing
2 bodily injury to another, or manifest incapacity in
3 the practice of medicine or surgery;
- 4 (8) Incompetence or multiple instances of negligence,
5 including but not limited to the consistent use of
6 medical service, which is inappropriate or
7 unnecessary;
- 8 (9) Conduct or practice contrary to recognized standards
9 of ethics of the medical profession as adopted by the
10 Hawaii Medical Association, the American Medical
11 Association, the Hawaii Association of Osteopathic
12 Physicians and Surgeons, or the American Osteopathic
13 Association;
- 14 (10) Violation of the conditions or limitations upon which
15 a limited or temporary license is issued;
- 16 (11) Revocation, suspension, or other disciplinary action
17 by another state or federal agency of a license,
18 certificate, or medical privilege, except when the
19 revocation, suspension, or other disciplinary action
20 was based on the provision or assistance in receipt or
21 provision of medical, surgical, pharmaceutical,



1 counseling, or referral services relating to the human
2 reproductive system, including but not limited to
3 services relating to pregnancy, contraception, or the
4 termination of a pregnancy, so long as the provision
5 or assistance in receipt or provision of the services
6 was in accordance with the laws of this State or would
7 have been in accordance with the laws of this State if
8 it occurred within this State;

9 (12) Conviction, whether by nolo contendere or otherwise,
10 of a penal offense substantially related to the
11 qualifications, functions, or duties of a physician or
12 osteopathic physician, notwithstanding any statutory
13 provision to the contrary, except when the conviction
14 was based on the provision or assistance in receipt or
15 provision of medical, surgical, pharmaceutical,
16 counseling, or referral services relating to the human
17 reproductive system, including but not limited to
18 services relating to pregnancy, contraception, or the
19 termination of a pregnancy, so long as the provision
20 or assistance in receipt or provision of the services
21 was in accordance with the laws of this State or would



1 have been in accordance with the laws of this State if
2 it occurred within this State;

3 (13) Violation of chapter 329, the uniform controlled
4 substances act, or any rule adopted thereunder except
5 as provided in [~~section~~] sections 329-122[+] and
6 329-B;

7 (14) Failure to report to the board, in writing, any
8 disciplinary decision issued against the licensee or
9 the applicant in another jurisdiction within thirty
10 days after the disciplinary decision is issued; or

11 (15) Submitting to or filing with the board any notice,
12 statement, or other document required under this
13 chapter, which is false or untrue or contains any
14 material misstatement or omission of fact."

15 SECTION 4. Section 712-1240.1, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§712-1240.1 Defense to promoting.** (1) It [~~is~~] shall be
18 a defense to prosecution for any offense defined in this part
19 that the person who possessed or distributed the dangerous,
20 harmful, or detrimental drug did so under authority of law as a



1 practitioner, as an ultimate user of the drug pursuant to a
2 lawful prescription, or as a person otherwise authorized by law.

3 (2) It [~~is~~] shall be an affirmative defense to prosecution
4 for any marijuana-related offense defined in this part that the
5 person who possessed or distributed the marijuana was authorized
6 to possess or distribute the marijuana for medical purposes
7 pursuant to part IX of chapter 329.

8 (3) It shall be an affirmative defense to prosecution for
9 any offense in this part that the person who possessed or
10 distributed the psilocybin was authorized to possess or
11 distribute the psilocybin for therapeutic purposes pursuant to
12 part of chapter 329."

13 SECTION 5. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 6. If any provision of this Act, or the
17 application thereof to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.



1 SECTION 7. In codifying the new sections added by
2 section 2 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 8. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 9. This Act shall take effect upon its approval.

8

INTRODUCED BY: 



S.B. NO. 3019

Report Title:

Psilocybin; Therapeutic Uses; Authorization

Description:

Authorizes, and establishes a regulatory framework for, the administration of psilocybin for therapeutic use.

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