
A BILL FOR AN ACT

RELATING TO CANNABIS.

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

1 PART I

2 SECTION 1. The legislature finds that access for
3 qualifying patients and primary caregivers to medical cannabis
4 and particularly licensed medical cannabis dispensaries remains
5 challenging due to limited access to medical providers, delays
6 in obtaining allowed access to enter and purchase medical
7 cannabis, and the availability of cannabis through a thriving
8 illicit market.

9 The legislature further finds that registration for the
10 medical cannabis program has decreased in the last few years.
11 While the number of registered medical cannabis patients reached
12 its peak in August 2021, with 35,444 card-holding patients,
13 since then, the number of patients has decreased over fifteen
14 per cent to 30,035 by November 2024. This appears to indicate
15 that residents are shifting away from licensed medical cannabis
16 dispensaries, and instead are obtaining their medical cannabis
17 from elsewhere due to administrative barriers, delays in



1 registering, and the ease and lower costs in obtaining cannabis
2 elsewhere.

3 The legislature also finds that this apparent shift away
4 from licensed medical cannabis dispensaries toward the illicit
5 market undermines the purposes of the medical cannabis program
6 in ensuring patient safety, product safety, and public safety.

7 The legislature additionally finds that Act 34, Session
8 Laws of Hawaii 2021, amended existing law governing physicians
9 by eliminating the requirement for a physician-patient
10 relationship to be established by an initial in-person
11 consultation, and authorized the relationship to be established
12 via telehealth.

13 Accordingly, the purpose of this part is to expand access
14 to care by easing some of the requirements under the Uniform
15 Controlled Substances Act and law governing the State's medical
16 cannabis dispensary system.

17 SECTION 2. Section 329-121, Hawaii Revised Statutes, is
18 amended by amending the definition of "debilitating medical
19 condition" to read as follows:

20 ""Debilitating medical condition" means[+]



- ~~(1) Cancer, glaucoma, lupus, epilepsy, multiple sclerosis, rheumatoid arthritis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions;~~
- ~~(2) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:~~
- ~~(A) Cachexia or wasting syndrome;~~
 - ~~(B) Severe pain;~~
 - ~~(C) Severe nausea;~~
 - ~~(D) Seizures, including those characteristic of epilepsy;~~
 - ~~(E) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis or Crohn's disease; or~~
 - ~~(F) Post-traumatic stress disorder; or~~
- ~~(3) Any other medical condition approved by the department of health pursuant to administrative rules in response to a request from a physician or advanced practice registered nurse or potentially qualifying patient.]~~



1 any condition determined by the certifying physician or advanced
2 practice registered nurse to be appropriate for the medical use
3 of cannabis."

4 SECTION 3. Section 329D-1, Hawaii Revised Statutes, is
5 amended by amending the definition of "waiting room" to read as
6 follows:

7 "Waiting room" means a designated area at the public
8 entrance of a retail dispensing location that may be accessed by
9 a member of the general public who is waiting for, assisting, or
10 accompanying a qualifying patient, primary caregiver, qualifying
11 out-of-state patient, or caregiver of a qualifying out-of-state
12 patient who enters or remains on the premises of a retail
13 dispensing location for the purpose of a transaction conducted
14 pursuant to sections 329D-6 and 329D-13; provided that the
15 storage, display, and retail sale of cannabis and manufactured
16 cannabis products shall be prohibited within the waiting room
17 area. "Waiting room" includes an area where hemp can be sold,
18 including but not limited to hemp products and accessories to
19 the use of medical cannabis, such as rolling papers, rolling
20 trays, grinders, and vaporizers."



SECTION 4. Section 329-123, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Physicians or advanced practice registered nurses who issue written certifications shall provide, in each written certification, the name, address, patient identification number, and other identifying information of the qualifying patient.

The department of health shall require, in rules adopted pursuant to chapter 91, that all written certifications comply with a designated form completed by or on behalf of a qualifying patient. The form shall require information from the applicant, primary caregiver, and physician or advanced practice registered nurse as specifically required or permitted by this chapter.

The form shall require the address of the location where the cannabis is grown and shall appear on the registry card issued by the department of health. The certifying physician or advanced practice registered nurse shall be required to have a bona fide physician-patient relationship or bona fide advanced practice registered nurse-patient relationship, as applicable, with the qualifying patient[-]; provided that nothing under this part shall require that the bona fide physician-patient relationship or bona fide advanced practice registered



1 nurse-patient relationship be established by conducting an
2 initial in-person consultation; provided further that the
3 written certification under this subsection shall originate from
4 within the State. All current active medical cannabis permits
5 shall be honored through their expiration date."

6 SECTION 5. Section 329-126, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) For purposes of this section, a bona fide
9 physician-patient relationship may be established via
10 telehealth, as defined in section 453-1.3(j), and a bona fide
11 advanced practice registered nurse-patient relationship may be
12 established via telehealth, as defined in section 457-2;
13 provided that nothing under this part shall require that
14 treatment recommendations that include certifying a patient for
15 the medical use of cannabis via telehealth [~~shall~~] be allowed
16 only after an initial in-person consultation between the
17 certifying physician or advanced practice registered nurse and
18 the patient."

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



1 "(r) A dispensary may purchase cannabis and manufactured
2 cannabis products from another dispensary. The department shall
3 authorize a dispensary to purchase cannabis and manufactured
4 cannabis products from another dispensary in a manner prescribed
5 by the department by rules adopted pursuant to section 329D-27;
6 provided that:

7 (1) The selling dispensary may transport not more than
8 eight hundred ounces, or other amounts with prior
9 approval by the department, of cannabis or
10 manufactured cannabis products to the purchasing
11 dispensary within a thirty-day period; provided
12 further that cannabis and manufactured cannabis
13 products purchased pursuant to this section intended
14 for:

15 (A) Direct retail sale to the patient shall meet all
16 applicable packaging, labeling, and testing
17 requirements at the time of transport to the
18 purchasing licensee's production center or one of
19 its retail locations; and

20 (B) Further manufacturing by the purchasing
21 dispensary at the time of transportation shall be



1 transported to the purchasing licensee's
2 production center;

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

7 (3) The selling dispensary shall submit a transport
8 manifest of the cannabis or manufactured cannabis
9 products to be sold to the department before the sale
10 is made, after which the selling dispensary may
11 immediately proceed with the transfer of the cannabis
12 or manufactured cannabis products; and

13 ~~[(3)]~~ (4) Nothing in this subsection shall relieve any
14 dispensary of its responsibilities and obligations
15 under this chapter and chapter 329."

16 SECTION 7. Section 453-1.3, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) Treatment recommendations made via telehealth,
19 including issuing a prescription via electronic means, shall be
20 held to the same standards of appropriate practice as those in
21 traditional physician-patient settings that do not include



1 [4]an[4] in-person visit but in which prescribing is
2 appropriate, including on-call telephone encounters and
3 encounters for which a follow-up visit is arranged. Issuing a
4 prescription based solely on an online questionnaire is not
5 treatment for the purposes of this section and does not
6 constitute an acceptable standard of care. For the purposes of
7 prescribing opiates ~~[or certifying a patient for the medical use~~
8 ~~of cannabis]~~, a physician-patient relationship shall only be
9 established after an in-person consultation between the
10 prescribing physician and the patient."

11 PART II

12 SECTION 8. Chapter 329D, Hawaii Revised Statutes, is
13 amended by adding two new sections to be appropriately
14 designated and to read as follows:

15 "§329D- Unauthorized operation of a dispensary; criminal
16 penalty. (a) No person shall intentionally, knowingly, or
17 recklessly operate a dispensary without a license from the
18 department pursuant to this chapter.

19 (b) No person shall intentionally, knowingly, or
20 recklessly operate any search platform, web hosting services,
21 social media platform, or other entity that posts information



1 advertising the sale of cannabis products by an unlicensed
2 person or entity engaged in the production, manufacture, or sale
3 of cannabis or manufactured cannabis products without a license
4 pursuant to this chapter.

5 (c) The department shall issue a cease and desist notice
6 to any person or entity who violates subsection (a) or (b);
7 provided that the cease and desist notice shall be issued before
8 initiating criminal proceedings.

9 (d) Any person who violates subsection (a) shall be guilty
10 of a class C felony. Any person who violates subsection (b)
11 shall be guilty of a misdemeanor.

12 (e) It shall be an affirmative defense to subsection (b)
13 that the person operating any search platform, web hosting
14 services, social media platform, or other entity that posts
15 information advertising the sale of cannabis products had
16 requested, examined, and reasonably relied upon a license that
17 appeared to have been issued by the department that was shown by
18 the unlicensed person or unlicensed entity engaged in the
19 production, manufacture, or sale of cannabis or manufactured
20 cannabis products establishing that the unlicensed person or
21 unlicensed entity was licensed by the department to engage in



the production, manufacture, or sale of cannabis or manufactured cannabis products pursuant to this chapter. The failure of the person operating any search platform, web hosting services, social media platform, or other entity that posts information advertising the sale of cannabis products to request and examine a license issued by the department from the unlicensed person or unlicensed entity engaged in the production, manufacture, or sale of cannabis or manufactured cannabis products before providing access to any search platform, web hosting services, social media platform, or other entity that posts information advertising the sale of cannabis products shall be construed against the person operating any search platform, web hosting services, social media platform, or other entity that posts information advertising the sale of cannabis products and form a conclusive basis for the person's violation of this section.

(f) This section shall not apply to:

(1) Hemp processors, hemp product retailers, or hemp produce retailers with a valid permit under chapter 328G; or



1 (2) Primary qualified caregivers registered under chapter
2 329 who are acting within the scope of their permit or
3 registration.

4 §329D- Cannabis cultivator; license required. (a)
5 Notwithstanding section 329D-24, it shall be unlawful for any
6 person to cultivate cannabis without a license from the
7 department pursuant to this section.

8 (b) A cannabis cultivator license shall authorize:

9 (1) The acquisition and cultivation of cannabis plants,
10 seeds, cuttings, or clones; and

11 (2) The distribution of cannabis plants and cannabis
12 flower to a medical cannabis dispensary.

13 (c) The department shall issue not more than one cannabis
14 cultivator license for each person.

15 (d) The maximum number of cannabis cultivator licenses
16 that may be issued by the department to the public shall not
17 exceed licenses.

18 (e) The maximum size of plant canopy the department may
19 authorize for each cannabis cultivator license shall
20 be square feet of plant canopy for indoor cultivations
21 and square feet of plant canopy for outdoor cultivations,



1 or a maximum plant count of mature cannabis plants for
2 each cannabis cultivator license.

3 (f) A person issued a cannabis cultivator license under
4 this section shall meet all production facility and processing
5 requirements under this chapter.

6 (g) For the purposes of this section, "plant canopy" means
7 the square footage dedicated to flowering plants that are wider
8 or taller than twelve inches. "Plant canopy" does not include
9 areas such as space used for the storage of fertilizers,
10 pesticides, or other products, quarantine, or office space."

11 SECTION 9. Section 28-131, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) The purpose of the drug nuisance abatement unit shall
14 be to provide for the effective enforcement and prosecution of
15 those violations of the drug nuisance abatement laws under
16 chapter 712, part V but only for offenses related to drugs and
17 intoxicating compounds as provided under chapter 712, part IV[-]
18 and violations of chapter 329D as provided under section
19 712-1270. The drug nuisance [+]abatement[+] unit may also
20 review and take appropriate action on drug nuisance complaints



1 of any citizen of the State, or drug nuisances that are
2 discovered by the unit in carrying out its activities."

3 SECTION 10. Section 321-30.1, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

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

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

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

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

17 (5) To fund public education as required by section
18 329D-26;

19 (6) To fund substance abuse prevention and education
20 programs; [and]



1 (7) To fund programs for the mitigation and abatement of
2 nuisances relating to chapter 329D; and

3 [~~(7)~~] (8) For any other expenditure necessary, consistent
4 with this chapter and chapter 329D, to implement
5 medical cannabis registry and regulation programs."

6 SECTION 11. Section 329-123, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) Physicians or advanced practice registered nurses who
9 issue written certifications shall provide, in each written
10 certification, the name, address, patient identification number,
11 and other identifying information of the qualifying patient.

12 The department of health shall require, in rules adopted
13 pursuant to chapter 91, that all written certifications comply
14 with a designated form completed by or on behalf of a qualifying
15 patient. The form shall require information from the applicant,
16 primary caregiver, and physician or advanced practice registered
17 nurse as specifically required or permitted by this chapter.

18 The form shall require the address of the location where the
19 cannabis is grown and shall appear on the registry card issued
20 by the department of health. The certifying physician or
21 advanced practice registered nurse shall be required to have a



1 bona fide physician-patient relationship or bona fide advanced
2 practice registered nurse-patient relationship, as applicable,
3 with the qualifying patient. All current active medical
4 cannabis permits shall be honored through their expiration date.
5 Any fees assessed by a certifying physician or advanced practice
6 registered nurse to issue a written certification for a
7 qualifying patient shall not exceed an amount equal to three
8 times the amount of the fee charged by the department of health
9 to issue a registration certificate pursuant to subsection (b)."

10 SECTION 12. There is appropriated out of the medical
11 cannabis registry and regulation special fund the sum of
12 \$ or so much thereof as may be necessary for fiscal
13 year 2025-2026 and the same sum or so much thereof as may be
14 necessary for fiscal year 2026-2027 for the department of the
15 attorney general to enforce, and mitigate nuisances relating to,
16 chapter 329D, Hawaii Revised Statutes.

17 The sums appropriated shall be expended by the attorney
18 general for the purposes of this part.

19 PART III



1 SECTION 13. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 14. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 15. This Act shall take effect on December 31,
7 2050; provided that section 8 shall take effect on January 1,
8 2027; provided further that the amendments made to section
9 453-1.3(c), Hawaii Revised Statutes, by section 7 of this Act
10 shall not be repealed when that section is reenacted on
11 December 31, 2025, pursuant to section 8 of Act 107, Session
12 Laws of Hawaii 2023.



Report Title:

DOH; Medical Cannabis; Access; Provider-Patient Relationships; Certification; Inter-Dispensary Sales; Cannabis Cultivator; Licensure; Requirement; Cease and Desist Notice; Penalty; Violations; Affirmative Defense; Conclusive Basis; Medical Cannabis Registry and Regulation Special Fund; Exceptions; Appropriations

Description:

Amends the definition of "debilitating medical condition" under the Uniform Controlled Substances Act. Amends the definition of "waiting room" under the Medical Cannabis Dispensary System law. Repeals the requirement that a provider-patient relationship be established in person. Allows dispensaries to purchase cannabis and manufactured cannabis products from another dispensary for direct retail sale to a patient and further manufacturing by the purchasing dispensaries and establishes requirements for transport. Prohibits persons from operating a medical cannabis dispensary or cultivating cannabis without a license from the Department of Health or providing certain services to persons or entities engaging in unlicensed cannabis operations. Requires the Department of Health to issue a cease and desist notice to violators before initiating criminal proceedings. Establishes criminal penalties. Establishes an affirmative defense for, and a conclusive basis for certain violations. Establishes exceptions. Establishes a cannabis cultivator license to authorize the cultivation and distribution of cannabis plants. Requires the Department of Health to only issue one cannabis cultivator license for each person. Establishes limits on: (1) the number of cannabis cultivator licenses the Department of Health may issue; (2) the maximum size of plant canopy for indoor and outdoor cultivations for each cannabis cultivator license; and (3) the maximum plant count of mature cannabis plants for each cannabis cultivator license. Requires persons issued a cannabis cultivator license to meet the same facility and processing requirements under chapter 329D, HRS. Authorizes expenditures from the Medical Cannabis Registry and Regulation Special Fund to fund programs for the mitigation and abatement of nuisances relating to chapter 329D, HRS. Appropriates funds out of the Medical Cannabis Registry and Regulation Special Fund for the Department of Attorney General to enforce, and mitigate



nuisances relating to, chapter 329D, HRS. Effective 12/31/2050.
(SD2)

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